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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

AHMED EL HAIBE MOHAMED TAHER

(A-Number: )

Petitioner,

vs.

MARKWAYNE MULLIN, Secretary, U.S.

Department of Homeland Security;

TODD LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

PATRICK DIVVER, San Diego Field Office

Director, ICE;

WARDEN, OTAY MESA DETENTION

CENTER; and

TODD BLANCHE, Attorney General of the

United States

Respondents.

Case No. **'26CV3796 AGS DEB**

Agency No. 

**EMERGENCY PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241 AND MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT OF IMMEDIATE RELEASE**

[IMMEDIATE RELEASE REQUESTED]

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS AND
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**

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I. EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Ahmed El Haibe Mohamed Taher ("Petitioner"), an individual civilly incarcerated under color of federal authority at the Otay Mesa Detention Center in San Diego, California, respectfully petitions this Court for a Writ of Habeas Corpus directing Respondents to release him immediately under an Order of Supervision.
2. Petitioner is a national and citizen of Mauritania who has been ordered removed to **Uganda** pursuant to an Immigration Judge's order dated March 13, 2026. This order summarily pretermitted Petitioner's statutory applications for Asylum, Withholding of Removal, and protection under the Convention Against Torture ("CAT") based on a highly flawed administrative application of the U.S.-Uganda Asylum Cooperative Agreement ("ACA").
3. While the government claims authority to continue detaining Petitioner under 8 U.S.C. § 1231(a)(6), civil immigration detention is constitutionally permissible under the Fifth Amendment only so long as it bears a reasonable connection to its administrative regulatory purpose: effectuating an imminent deportation.
4. Petitioner seeks immediate habeas intervention because his removal to Uganda is a logistical and diplomatic impossibility. Furthermore, the agency has sought to insulate its unlawful detention from judicial review by constructing a bad-faith record of "non-cooperation," attempting to force an unrepresented, non-English-speaking detainee to execute complex travel applications without the assistance of his retained counsel.
5. The government lacks any functional operational pipeline or explicit clearance to deport a Mauritanian atheist national to Uganda under an unexecuted third-country administrative agreement. Because his removal is not significantly likely in the

1 reasonably foreseeable future, his ongoing bodily confinement is purely punitive,
2 arbitrary, and unlawful *ab initio* under *Zadvydas v. Davis*, 533 U.S. 678 (2001) and
3 *Clark v. Martinez*, 543 U.S. 371 (2005).

4
5 **JURISDICTION AND JURISDICTION-STRIPPING REBUTTAL**

6 6. This Court has subject-matter jurisdiction over this Petition pursuant to 28 U.S.C. §
7 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of
8 the United States Constitution (the Suspension Clause).

9 7. Anticipating Respondents' conventional defensive motion, Petitioner explicitly states
10 that **8 U.S.C. § 1252(g)** does not strip this Court of jurisdiction. Petitioner is **not**
11 challenging the validity or execution of the core removal order itself, which resides
12 under the jurisdiction of the Court of Appeals. Rather, Petitioner challenges the
13 **constitutionality and statutory boundary of his physical executive detention**. The
14 Supreme Court has repeatedly affirmed that district courts retain habeas jurisdiction
15 to review challenges to post-removal-order civil detention. *Zadvydas*, 533 U.S. at
16 688.

17
18 **VENUE**

19 7. Venue is proper in the Southern District of California under 28 U.S.C. § 1391(e) and
20 28 U.S.C. § 2241(a) because Petitioner is physically confined within this judicial
21 district at the Otay Mesa Detention Center, and his immediate physical and
22 constructive custodians reside and operate within this district.

23
24 **PARTIES**

25 8. **Petitioner** Ahmed El Haibe Mohamed Taher () is a citizen of
26 Mauritania currently civilly detained at the Otay Mesa Detention Center, San Diego,
27 CA.
28

1 9. **Respondent Warden, Otay Mesa Detention Center**, is the immediate physical
2 custodian of Petitioner.

3 10. **Respondent Field Office Director** (ICE Enforcement and Removal Operations
4 ("ERO"), San Diego Field Office) is the constructive legal custodian of Petitioner
5 with immediate operational authority to issue an Order of Supervision (Form I-
6 220B).

7 11. **Respondents Secretary of DHS, Director of ICE, and Attorney General of the**
8 **United States** are federal officials legally responsible for the administrative
9 enforcement of the Immigration and Nationality Act ("INA") and are sued in their
10 official capacities.

11 **STATEMENT OF FACTS AND PROCEDURAL HISTORY**
12

13 12. Petitioner is a native and citizen of Mauritania who fled his home country due to a
14 well-founded fear of death and severe violence resulting from his conversion to
15 atheism and renunciation of Islam.

16 13. On March 13, 2026, the Santa Ana Immigration Court issued an order granting a
17 Department of Homeland Security oral motion to pretermitt Petitioner's applications
18 for Asylum, Withholding of Removal, and CAT protection. (**Exhibit A**, IJ Order).
19 The Immigration Judge ordered Petitioner removed to **Uganda** pursuant to the U.S.-
20 Uganda Asylum Cooperative Agreement (ACA).

21 14. Because no administrative appeal was taken to the Board of Immigration Appeals
22 ("BIA"), the removal order became administratively final on March 13, 2026.
23 (**Exhibit B**, EOIR Automated Status).

24 15. A subsequent Motion to Reopen under the jurisdiction of the Immigration Judge was
25 denied on June 16, 2026. (Id.). No additional administrative stays are currently
26 pending.

27 16. The statutory 90-day removal period outlined under 8 U.S.C. § 1231(a)(1)(A) expired
28 on or about **June 11, 2026**.

1 17. On June 22, 2026, ICE ERO agents confronted Petitioner within the detention facility
2 and demanded that he execute an *Instructions to Detainee for Alien Cooperation*
3 sheet and associated foreign travel applications. (**Exhibit C**, ICE Cooperation
4 Worksheet).

5 18. Petitioner did not understand the English-language contents or the legal ramifications
6 of the documents presented. Petitioner requested the opportunity to contact his
7 retained counsel to review the materials before executing them.

8 19. ICE ERO agents denied his request for counsel, refused to provide certified
9 translation, and instead mechanically annotated the worksheet as "Alien's Signature
10 Refused." (Id.).

11 20. Respondents have failed to generate travel manifests, diplomatic clearances, or any
12 confirmation that the government of Uganda is logistically willing or under any
13 active treaty obligation to accept a non-citizen Mauritanian national under a
14 pretermitted ACA protocol.

15 **CLAIMS FOR RELIEF**

16
17 **FIRST CLAIM FOR RELIEF**

18
19 **(Violation of Substantive Due Process — Post-Removal Detention Lacks an**
20 **Authenticated Regulatory Purpose)**

21 21. Petitioner incorporates paragraphs 1 through 20 as if fully set forth herein.

22 22. Freedom from bodily restraint is a foundational liberty interest protected by the
23 Fifth Amendment's Due Process Clause. Civil immigration detention violates
24 Substantive Due Process if it becomes excessive or punitive in relation to its
25 alternative administrative regulatory goal. *Wong Wing v. United States*, 163 U.S. 228
26 (2016).
27
28

1 23. Because Respondents have no "proper way" to deport a Mauritanian national to
2 Uganda, and because Uganda has not issued travel documents or agreed to accept
3 Petitioner, his removal is an administrative impossibility. Continuing to incarcerate
4 Petitioner under these circumstances serves no legitimate purpose and constitutes
5 unconstitutional, indefinite punishment.

6
7 **SECOND CLAIM FOR RELIEF**

8 **(Violation of Procedural Due Process — Premature and Unlawful Termination of**
9 **ACA Protections)**

10
11 24. Petitioner incorporates paragraphs 1 through 23 as if fully set forth herein. 24.
12 Under governing statutory guidelines, a noncitizen cannot be removed to a third
13 country under an ACA if they face a likelihood of persecution or torture in that
14 destination country.

15 25. The agency committed a severe procedural error by prematurely pretermittting
16 Petitioner's applications without rendering a individualized hearing regarding his
17 fears of being sent to Uganda, where strict religious laws put open atheists at
18 extreme risk. Utilizing an unexecutable and procedurally defective order to strip
19 Petitioner of his bodily liberty violates Procedural Due Process.

20 **PRAYER FOR RELIEF**

21
22 WHEREFORE, Petitioner respectfully requests that this Court:

- 23
24 1. Assume jurisdiction over this matter and **GRANT** the Petition for Writ of Habeas
25 Corpus;
26 2. **ORDER** Respondents to immediately release Petitioner from physical custody under
27 an Order of Supervision (Form I-220B);
28

- 1 3. **DECLARE** that Petitioner's continued detention is unauthorized by statute and
- 2 violates the Fifth Amendment;
- 3 4. Award Petitioner reasonable attorney's fees and costs under the Equal Access to
- 4 Justice Act (EAJA), 28 U.S.C. § 2412; and
- 5 5. Grant such other and further relief as the Court deems just and proper.

6
7
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9
10 Dated: 6/29/2026

11 Respectfully submitted,

12
13 /s/Hernando De Cima
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28 **I**

1 **II. ATTORNEY VERIFICATION**

2 I, Hernando De Cima, declare as follows:

- 3
- 4 1. I am an attorney licensed to practice law in the State of California, and I am the attorney
5 of record for the Petitioner, **Ahmed El Haibe Mohamed Taher**, in this action.
- 6 2. I make this verification on behalf of Petitioner pursuant to **28 U.S.C. § 2242** because
7 Petitioner is currently civilly incarcerated by Respondents at the **Otay Mesa Detention**
8 **Center** in San Diego, California. Due to his current physical confinement, language
9 barriers, and the restricted administrative access rules governing the detention facility,
10 obtaining a rapid, physical signature from Petitioner would severely delay this
11 emergency submittal, causing him ongoing irreparable injury via continued unlawful
12 detention.
- 13 3. I have drafted the foregoing *Emergency Petition for Writ of Habeas Corpus and*
14 *Memorandum of Points and Authorities* based on a meticulous review of Petitioner's
15 official Department of Homeland Security documents, Executive Office for Immigration
16 Review records, and regular legal consultations with Petitioner regarding his case.
- 17 4. I have read the foregoing Emergency Petition and know the contents thereof. All facts
18 alleged therein are true and correct to the best of my knowledge, information, and belief
19 based on the official records and files available to my office.
- 20 5. I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing is true and correct.

22 Dated: 6/29/2026

Respectfully submitted,

23 /s/Hernando De Cima
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Attorney for Petitioner

1 **III. MEMORANDUM OF POINTS AND AUTHORITIES**

2
3 **SUMMARY OF ARGUMENT**

4 This Court should grant an emergency Writ of Habeas Corpus because Petitioner's post-
5 removal-order detention has cross-over from a valid administrative procedure into an
6 unconstitutional deprivation of liberty. Although the government generally enjoys a six-
7 month window under *Zadvydas v. Davis* to effectuate removals, a federal court has the
8 authority and obligation to intervene *before* the expiration of that period when detention is
9 demonstrably unexecutable from its inception. Petitioner is a citizen of Mauritania ordered
10 removed to Uganda via an unexecuted, procedurally deficient Asylum Cooperative
11 Agreement (ACA) framework. Because Uganda has zero administrative or diplomatic
12 pathways to receive him, his detention is indefinite and unlawful.

13
14
15 **LEGAL STANDARD FOR CIVIL IMMIGRATION DETENTION**

16
17 The government's authority to detain noncitizens with final orders of removal is governed
18 by 8 U.S.C. § 1231(a). While the statute permits detention during the 90-day removal period
19 and allows for discretionary extended detention under § 1231(a)(6), this power is strictly
20 bound by the Fifth Amendment. In *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), the
21 Supreme Court stated that "[a] statute permitting indefinite detention would raise a serious
22 constitutional problem." Consequently, civil detention is restricted to a period "reasonably
23 necessary to secure removal." If a court finds that removal is not significantly likely in the
24 reasonably foreseeable future, the government must release the individual.

1 **ARGUMENT**

2
3 **A. Petitioner's Continued Civil Detention Violates Substantive Due Process Because**
4 **His Removal to Uganda Is a Structural Impossibility.**

5 The core holding of *Zadvydas*—and its expansion in *Clark v. Martinez*, 543 U.S. 371
6 (2005)—establishes that if the destination country will not or cannot accept an individual
7 within the reasonably foreseeable future, the statutory justification for detention evaporates.

8
9 Here, the government faces an insurmountable country-incongruence obstacle. Petitioner is
10 a national of **Mauritania**, yet his removal order lists **Uganda** as the destination under an
11 ACA protocol. To execute this order, ICE ERO must secure explicit travel documentation,
12 sovereign consent, and transit manifests from the Ugandan government to accept a non-
13 citizen third-country national who has no ties, history, or status in Uganda.

14 Uganda has issued no such clearances. Where the government relies on highly complex,
15 logistically stalled international agreements to execute a removal, and cannot show any real-
16 time progress or diplomatic willingness from the receiving nation, holding a non-violent
17 individual behind bars is an unconstitutional overreach. Because there is no "proper way" to
18 execute this transit, immediate release is required.

19
20 **B. The Government's Premature Pretermission of Petitioner's ACA Protections**
21 **Renders His Underlying Custody Arbitrary and Defective.**

22 A final order of removal cannot serve as a valid foundation for physical incarceration if the
23 administrative processes used to secure it violate basic due process. Under the statutory
24 framework governing ACAs, an individual may only be transferred to a third country if they
25 will have access to a full and fair procedure for determining their protection claims, and
26 only if their life or freedom would not be threatened on account of a protected ground.
27
28

1 The record demonstrates that the Immigration Judge prematurely granted DHS's motion to
2 pretermite Petitioner's applications (**Exhibit A**). The agency failed to conduct a meaningful
3 inquiry into Petitioner's specific, individualized fear regarding Uganda. Petitioner is an open
4 atheist who fled Mauritania due to religious violence. Sending him to Uganda—a nation
5 with deep religious integration and laws profiling individuals with Arabic names who
6 renounce Islam—poses the exact danger the statutory exceptions were designed to avoid. By
7 shutting down his application prematurely, the agency violated its own regulatory
8 parameters, making his current custody arbitrary.

9
10 **C. The Agency Cannot Rely on Statutory Tolling Under 8 U.S.C. § 1231(a)(1)(C); the**
11 **Purported "Refusal to Sign" Was Evidentiary Failure of Notice, Due Process**
12 **Coercion, and Lack of Counsel.**

13 The government will likely attempt to defeat this Petition by invoking 8 U.S.C. §
14 1231(a)(1)(C), which permits extension of the removal period if an alien "fails or refuses to
15 make timely application in good faith for travel... documents." Respondents' internal facility
16 logs note that on June 22, 2026, Petitioner's signature was marked "Refused" (**Exhibit C**).
17 However, federal courts have consistently held that an individual's refusal to sign complex
18 foreign legal forms without the presence of retained counsel or comprehensible language
19 translation does *not* constitute bad-faith obstruction or non-cooperation. *See, e.g., Ali v.*
20 *Bondi*, No. 2:26-cv-00073 (W.D. Wash. 2026); *Van Nguyen v. Bondi*, No. 3:25-cv-11815
21 (W.D. Wash. 2026).

22
23 Petitioner is a non-English-speaking Mauritanian national. When confronted by armed ICE
24 ERO officers demanding signatures on binding travel questionnaires, Petitioner did not
25 understand the nature of the forms. Rather than allowing counsel to review the
26 documentation or providing a certified interpreter, the agency unilaterally terminated the
27 interview and weaponized his request for counsel as an administrative "refusal."
28

1 To deny a civil detainee access to counsel, withhold clear explanation of the document's
2 contents, and subsequently use that lack of comprehension to justify indefinite, prolonged
3 imprisonment is a profound violation of procedural due process. Because the "refusal" was
4 manufactured entirely by the agency's own coercive and legally deficient practices, statutory
5 tolling cannot apply.

6
7 **CONCLUSION**

8 For the reasons set forth above, Petitioner respectfully requests that this Court grant his
9 Emergency Petition for a Writ of Habeas Corpus and order his immediate release under an
10 Order of Supervision.

11
12
13 Dated: 6/29/2026

14
15 Respectfully submitted,

16
17 /s/Hernando De Cima
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1 **IV. CERTIFICATE OF SERVICE**

2
3 I, Hernando De Cima, certify that on 6/29/2026, I filed the foregoing with the Clerk of the
4 Court via CM/ECF and will serve the Respondents and the U.S. Attorney's Office for the
5 Southern District of California.

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9
10 Dated: 6/29/2026

11 Respectfully submitted,

12
13 /s/Hernando De Cima
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