UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Civil No. 0:26-cv-3168 (JWB/DJF)

Ijeoma M. C.,

Petitioners,

v.

Markwayne Mullin, *et al.*,

Respondents.

**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

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## BACKGROUND

As this is Petitioner's second habeas petition, the below facts are drawn from the District Court's prior order denying Petitioner's first habeas petition, 25-cv-04770, and Federal Respondent's declarations in this matter.

Petitioner is a citizen and national of Nigeria who entered the United States lawfully in 2017 with a B-2 visa. On April 19, 2023, Petitioner was convicted in federal court for Conspiracy to Commit International Money Laundering. *First Habeas Order*, ¶3. On December 4, 2025, United States Immigration Customs and Enforcement (ICE) arrested Petitioner due to her conviction. *Id.*, ¶6. On December 22, ICE issued Petitioner a Final Administrative Removal Order. *Id.*, ¶8.

On December 23, 2025, Petitioner filed her First Habeas Petition. *Id.*, ¶9. On January 13, 2026, this Court denied Petitioner's First Habeas Petition finding that Petitioner's detention was proper under INA Section 1231, while also staying judgment

pending "any future Notice of Appeal and resolution of such appeal." *Id.* On January 26, 2026, Petitioner filed a notice of appeal. *First Habeas*, ECF 16. On February 18, Petitioner filed a Motion for Release with the Eighth Circuit, which the Eighth Circuit denied.

Meanwhile, DHS's efforts to execute Petitioner's removal order proceeded apace. On February 13, 2026, ICE requested a travel document for Petitioner from the Nigerian Consulate in New York. *See First Declaration of Christopher A. Campbell*, ¶ 14. On April 15, the Nigerian Consulate issued a travel document for Petitioner, valid until July 14. *Id.*, ¶ 17. ICE has scheduled Petitioner to depart the United States in late May and shared the departure flight booking and itinerary with the Nigerian Consulate. *Id.*, ¶ 18. But for the Court's stay pending appeal, DHS would have executed Petitioner's removal order. *Id.*

On May 12, 2026, Federal Respondents moved to dissolve the Court's stay pending appeal. *First Habeas*, ECF 26. On May 15, the Court granted the motion and dissolved the stay pending appeal. *Id.*, ECF 32.

On July 2, 2026, ICE transported to Petitioner from Sherburne County Jail to Fort Snelling, Minesota to process her for removal on a commercial flight that same day. *Second Declaration of Christopher A. Campbell*, ¶ 6. At approximately 9:15 a.m. that day, Petitioner physically resisted and failed to obey officer's commands to facilitate her transportation to the airport for her commercial flight. *Id.* Due to Petitioner's failure to comply, ICE was unable to effectuate Petitioner's removal. *Id.* On July 13, ICE served Petitioner with a Notice of Failure to Comply. *Id.*, ¶ 7.

On July 14, 2026, Petitioner travel document to Nigeria expired. *Id.*, ¶ 8. On July 22, ICE requested a new travel document for Petitioner from the Consulate of Nigeria in

New York. *Id.*, ¶ 9. Because the Nigerian Consulate recently issued a travel document for Petitioner in April, ICE expects to receive a renewed travel document for Petition, and will then be able to remove Petitioner to Nigeria once this pending matter is resolved.

ICE is also fully aware, tracking, and treating Petitioner's medical concerns. Petitioner's primary medical concerns include moderate anemia secondary to chronic abnormal uterine bleeding from uterine fibroids, ongoing pain (costochondritis), and a recent episode of loss of consciousness. *Id.*, ¶ 5. Petitioner is therefore receiving continued monitoring, outpatient gynecological, neurological evaluation, and pain management from the ICE Health Services Corps and treating physicians. *Id.*

**ARGUMENT**

Petitioner makes no claim that she is not subject to an order for removal, nor that she has any right to be in the United States. Petitioner's only argument is that she is entitled to release under vague principles of Due Process.

As a preliminary matter, the Petition for habeas relief is not verified. Habeas petitions must be "signed and verified by the person for whose relief it is intended or by someone acting in his behalf." 28 U.S.C. § 2242 (1948). The Court is justified in denying the petition on this basis alone. *Application of Gibson*, 218 F.2d 320 (9th Cir. 1954), *cert. denied* 348 U.S. 955. Habeas petitioners bear the burden of proving they are entitled to relief. *Copenhaver v. Bennett*, 355 F.2d 417, 422 (8th Cir. 1966); *Harris v. Tahash*, 353 F.2d 119, 123 (8th Cir. 1965). The Court should dismiss a habeas petition that lacks proper verification. *See Dixon v. Clark*, 714 F.Supp.2d 1029 (C.D. Cali. 2010) (dismissing habeas petition where "petitioner did not sign or verify the pending petition"); *see also In re*

*Brabson*, 167 F.Supp. 619, 620, n. 2 (S.D. NY 1958) (noting that a federal district court would be "justified in disregarding petitioner's unverified allegations" (citing 28 U.S.C.A. 2242; *Kemmerer v. Benson*, 165 F.2d 702 (6th Cir. 1948), *cert. denied*, 334 U.S. 849 (1948)). And a "person generally lacks standing to prosecute a federal habeas corpus petition on behalf of another person unless he or she can show a reasonable excuse as to why the detainee did not sign and verify the petition, and a sufficient relationship and interest linking the would-be next friend to the detainee." *Smith v. Armontrout*, 812 F.2d 1050, 1053 (8th Cir. 1987).

Denial of the present petition is warranted on these principles. Many of the claims made in the petition are not factual assertions, but mere speculation. Petitioner is required to state verified *facts* in her petition, not to put forth unfounded allegations in the hope that one might justify a legal basis for relief.[1] This is unacceptable conduct from the party bearing the burden of proof. And it is especially egregious, coming in the form of an unverified petition.

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[1] For example, the Petition *baselessly* avers that a valid travel document exists. Petition, ¶¶ 4, 33. Prior to filing the Petition, Petitioner's Counsel did not contact this office asking if such travel document existed. At the time the Petition was filed, a valid travel document did exist and a copy of the same was provided to Petitioner's Counsel after filing of the Petition. *See Chay T. v. Mullin*, 26-cv-02908, fn. 3 (LMP/ECW) (D. Minn. June 30, 2026) ("To the extent that Chay argues that the Government has never procured Laotian travel documents, *see* ECF No. 7 at 10, he offers nothing but conjecture to support that argument, which is insufficient to meet his burden to receive habeas relief") *citing Jose J. O. E. v. Bondi*, 797 F. Supp. 3d 957, 965 (D. Minn. 2025) ("The burden is on the petitioner to prove illegal detention by a preponderance of the evidence."); *cf. Berchie v. Bondi*, No. 25-cv-3197 (KMM/SGE), 2025 WL 4943114, at *2 (D. Minn. Nov. 4, 2025) (denying petitioner's request for evidentiary hearing "based on nothing more than [petitioner's] belief that something fishy occurred" without "any evidence whatsoever to support his conjecture")).

**I. Petitioner's detention is justified in § 1231**

Petitioner does not dispute that she is subject to a final order of removal. Federal law provides that a noncitizen ordered removed must be detained during the period necessary to effectuate the removal. 8 U.S.C. § 1231(a)(2)(A). But the Due Process Clause does not allow that detention to go on indefinitely. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that after a removal order becomes final, the Government has six months to carry out the removal. *See id.* at 701. After that six-month period has expired, 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.* If the Government cannot rebut that showing, then the noncitizen must be released, subject to conditions and supervision prescribed by ICE. *Id.* at 699–700.

Here, Petitioner failed to provide a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. As explained, Petitioner's own actions prevented her removal. And that ICE is in the process of renewing travel documents. *See* 8 CFR § 241.4(g)(3) ("If it is established at any stage of a custody review that, in the judgement of the Service, travel documents can be obtained, or such documents are forthcoming, the alien will not be released unless immediate removal is not practicable or in the public interest"); (5)(i) (an alien is not entitled to release and "will remain in detention if the alien . . . acts to prevent the alien's removal.").

As Petitioner's removal was going to be effectuated via commercial air, once the travel documents are secured, Petitioner's detention will not be prolonged in waiting for a

charter flight. Petitioner is solely to blame for remaining in custody due to her non-compliance during her attempted removal. And, because Petitioner has failed to meet her burden to show that a significant likelihood of removal in the reasonably foreseeable future does not exist, the Court should deny and dismiss the Petition. *Compare to Chay T. v. Mullin*, 26-cv-02908 (LMP/ECW) (D. Minn. June 30, 2026) (denying 1231 habeas petition where Petitioner's own actions prevented removal and led to expiration of travel document and noting that petition failed to demonstrate that ICE lacked a significant likelihood of removal in the reasonably foreseeable future because ICE has previously successfully obtained a travel document and had requested renewal of the same).

**II. Petitioner has no claim in substantive due process**

Petitioner argues her detention is barred under "substantive due process." A substantive due process claim asserts a "substantial component" to due process "which forbids the government to infringe certain 'fundamental' liberty interests *at all*, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Reno v. Flores*, 507 U.S. 292, 302 (1993). The very nature of a substantive right opens the door to strict scrutiny and for this reason "substantive due process" claims are treated cautiously by the courts. *Dept. of State v. Munoz*, 602 U.S. 899 (2024); *see also Kerry v. Din*, 576 U.S. 86 (2015). To that end, the two-step inquiry put forth in *Washington v. Glucksberg*, disciplines the substantive due process analysis. 521 U.S. 702, 728 (1997). First, it insists on a "careful description of the asserted fundamental liberty interest." *Id.*, at 721 (internal quotation marks omitted). Second, it

stresses that "the Due Process Clause specially protects" only "those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition." *Id.*, at 720–721 (internal quotation marks omitted).

Petitioner cites only *Zadvydas v. Davis* to support his substantive due process claim. 533 U.S. 678 (2001). As the Petition acknowledges, *Zadvydas* requires post-removal order detention "bear[] a reasonable relation to the purpose for which the individual [was] committed." *Id.*, at 690. Here, Petitioner's detention bears more than a reasonable relation, but rather directly for the purpose of effectuating her removal. But, for Petitioner's not compliance, she would currently be out of detention via her removal to Nigeria.

Further, contrary to unsupported allegations in the Petition, Petitioner is receiving proper medical care to address her medical concerns. Petitioner is receiving continued monitoring, outpatient gynecological, neurological evaluation, and pain management from the ICE Health Services Corps and treating physicians.[2] This case is also dispositive from the two cases cited by the Petition regarding Due Process: habeas was granted in both cases due to the lack of no significant likelihood of removal in the reasonably foreseeable future, not under Due Process grounds.[3]

Petitioner fails to make a showing that he has any substantive due process right to release. Petitioner's detention is justified by the Government's substantial interest in effectuating her removal. Petitioner has no basis in the nation's "history and tradition"

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[2] To the extent the Court requires further medical documentation, Federal Respondents would request he opportunity to file the same under seal.

[3] The Petition fails to note that *Walter A.* is currently pending appeal. No. 26-2905 (filed 6/02/2026).

to claim a right beyond this. And because it is Petitioner's own actions that prevented her removal, her Due Process rights have not been violated by continued detention to effectuate her removal.

**III. EVIDENTIARY HEARING**

Respondents believe the Court can resolve the Petition without an evidentiary hearing. There are no disputed material facts, and the remaining issues are legal ones.

**CONCLUSION**

All habeas relief must be denied.

Dated: July 22, 2026

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