UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

BADAR TAYYAB
A# [redacted]
Petitioner,

v.

KEN PAXTON
Attorney General;
MARK WAYNE MULLEN
Secretary of Department of Homeland Security;
La Deon Francis
U.S. ICE Field Office Director For The Middle District of Georgia
JASON STREEVAL Warden of Stewart Detention Facility,
Respondent(s)

Civil Action No:

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C.§ 2241, BY A PERSON SUBJECT TO INDIFINATE IMMIGRATION DETENTION.

AND
MOTION FOR APPOINTMENT OF COUNSEL PURSUANT TO 18 U.S.C. §3006A

Petitioner, **BADAR TAYYAB** , hereby petitions this Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

BACKGROUND

Petitioner is a Citizen of Pakistan, detained and in the Custody of DHS/ICE in the United States, but has been **ordered removed** to Pakistan by an Immigration Judge on May 6, 2026, and granted Voluntary Departure, but the Petitioner has not been removed to Pakistan, thus Petitioner remains detained in DHS/ICE custody, and has been confined for a period far longer than the law mandates, as he has been detained over **165-days.** Petitioner has an approved V.A.W.A. petition and has received work Authorization on July 29, 2026 which will allow him to stay in the United States.

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia where DHS/ICE has contracted the institution to house Immigration detainees such as Petitioner. Petitioner is in the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. §2241 (c)(1), and to the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 et seq. This Court has subject matter Jurisdiction under 28 U.S.C. §2241, Art IS9, cl. 2 of the United States Constitution (" Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is Presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, Laws, or treaties of the United States. *See* **Zadvydas v. Davis, 533 U.S. 678, 688 (2001)** (We conclude that §2241 Habeas Corpus proceedings remain available as a form for statutory and constitutional challenges to post-removal period detention.") INS v. St. Cyr, 533 U.S. 289, 301 (2001) (**"at it's historical core, the writ of Habeas Corpus has served as a means of reviewing the legality of executive detention, and it is in that context that it's protections have been strongest.") Clark v. Martinez, 543 U.S. 371 (2005)** (holding that **Zadvydas** applies to aliens found inadmissible as well as removable.)

EXHAUSTION OF REMEDIES

4. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. After the Supreme Court decision in **Zadvydas**, the Department of justice issued regulations governing the custody of aliens removed. *See* 8 C.F.R. §241.4. Petitioner received a final order of removal on May 6, 2026.

5. Respondents have not been able to obtain any travel documents or find a country to accept him. ICE's Headquarters Post-order Detention Unit ("HQPDU") **has not** informed Petitioner that it would release or continue to keep him in custody.

The custody review regulations do not provide for appeal from a HQPDU custody review decision. See 8 C.F.R. §241.4(d). **Especially when it has never been made or given to the Petitioner, but he was brought back from the airport due to the V.A.W.A. petition which makes removal not legally possible.**

6. No statutory exhaustion requirements apply to Petitioner claim of unlawful detention. Petitioner remains detained without any indication from the United States Government or the Government of Pakistan that the Petitioner's repatriation is reasonably foreseeable, especially due to the V.A.W.A. petition being granted. A Habeas Corpus petition is proper in light of these facts

PARTIES

7. Petitioner is a Citizen of Pakistan, detained and in the custody of DHS/ICE in the United States, But has been ordered removed to Pakistan on May 6, 2026 by an Immigration Judge. It is known that Petitioner was not removed due to his V.A.W.A. petition being granted.

8. Respondent **KEN PAXTON** is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Naturalization Act(INA). As such, Mr. Paxton has ultimate custodial authority over the petitioner.

9. Respondent Mark Wayne Mullen is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the (INA), as such Mr. Mullen is the legal custodian of the Petitioner.

10. Respondent La Deon Francis is the ICE field office director for the Middle District of Georgia for the Stewart Detention center in Lumpkin, Georgia field office of ICE and is Petitioner's immediate custodian, *See* **Vasquez v. Reno**, 233F.3d 688, 690 (1st Cir. 2000), cert. Denied, 122 S. Ct. 43 (2001).

11. Respondent **Jason Streeval** Warden at the Stewart Detention Center in Lumpkin, Ga where the Petitioner is currently detained under the authority of ICE, alternatively may be considered to be petitioner's immediate custodian.

STATEMENT OF FACTS

12. Petitioner was born in Pakistan on [redacted] and immigrated to Saudi Arabia until he was 20-years old, when he was granted entry to the United States with a student Visa and arrived in **2016.**

13. Petitioner agreed to the charges of a Right Headlight not working which caused his removal order.

14. As of today ICE has been unable to remove the petitioner to Pakistan or any other Country. because his V.A.W.A. petition was approved and his work authorization was approved and received by petitioner since being detained at Stewart Detention Center.

15. Petitioner has cooperated fully with all efforts of ICE to remove him from the United States.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

16 . 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-order removal period detention to a period reasonably necessary to bring about the alien's removal from the United States."** 533 U.S. At 689. a **"Habeas Court must[first] ask whether the detention in question exceeds a period reasonably necessary to secure removal."** Id. at 699 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. In **Clark v. Martinez**, 543 U.S. 371(2005), the U.S. Supreme Court held that **Zadvydas** applies to all aliens.

17. In determining the length of a reasonable removal period, the Court adopted a

"presumptively reasonable period of detention." **After 90 days**, DHS has the discretion to release the detainee under reasonable conditions of supervision. The Government bears the Burden of disproving an alien's **"good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future."** *See* **Zhou v. Farquharson,** 2001 U.S. Dist. LEXIS 18239, 2-3 (D. Mass. Oct. 19, 2001) (quoting and summarizing **Zadvydas**). Moreover, "for detention to remain reasonable, as the period of prior post order removal grows, what counts as the reasonably foreseeable future' conversely have to shrink." **Zadvydas**, 533 U.S. At 701. ICE's admin regulations also recognize that the HQPDU has a maximum six month period for determining whether there is a significant likelihood of a alien's removal in the reasonable foreseeable future. *See* 8 C.F.R. §241.4(k)(2)(ii).

18. An alien who has been detained beyond the presumptive period should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. *See* **Agbada v. Hohn Ashcroft**, 2002 U.S. Dist. LEXIS 15797(D. Mass. August 22, 2002) (court **"will likely grant"** after ICE is **"unable to present document confirmation that the government has agreed to [petitioner's] repatriation." ; Zhou,** 2001 U.S. Dist. LEXIS 19050 at *7(W.D. Wash February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there is no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

19. Petitioner re alleges and incorporates by reference paragraphs 1 through 18 above.

20. Petitioner's continued detention by respondents is unlawful and contravenes **8 U.S.C.§1231(a)(6)** as interpreted by the Supreme Court in **Zadvydas**. Petitioner's 90-day statutory period of detention for continued removal efforts have passed and Respondent's are unable to remove the Petitioner to Pakistan, because Petitioner has an approved V.A.W.A. petition making removal not legall possible at this time.. In the instance of **Clark v. Martinez**, the Supreme Court held that the continued indefinite detention of someone like the petitioner under such circumstances is unreasonable and not authorized by U.S.C. §1231(a)(6).

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention violates his 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)**(Alien's retain substantive due process rights).**

23. The due process clause of the Fifth Amendment require 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's 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 given his approval of his V A W A, petition. The United States 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 interests to effect 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 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.").** Because Petitioner is unlikely to be removed to Pakistan, his continued indefinite detention violates substantive due process.

24. In **Alba v. Campell**. The Eleventh Circuit held that ICE must prove that removal is likely; otherwise, release is required.

25. "Detention is now not driven by legitimate interest of removal at all, but rather detention for the sake of detention, motivated by animus towards, or ill will against the individual, or even a desire to inflict suffering." C.F. Riverside, 500 U.S. At 56

26. If the non-citizen satisfies the initial burden then the Government **"must respond with evidence sufficient to rebut that showing."** Id. If the Government fails to meet its burden, then the non-citizen must be released from detention. *See* **Jennings v. Rodriguez**, 583 U.S. 281, 299 (2018)

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

27. Petitioner re-alleges and incorporates by reference paragraphs 1 through 26.

28. Under the Due process clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he/she should not be detained. Petitioner in this case has been denied that opportunity. **There is no administrative mechanism in place for the petitioner to**

obtain a decision from a neutral arbiter or appeal a custody decision and that violates Martinez. *See* generally 8 C.F.R. §212.12 The custody review procedures for Pakistanns are Constitutionally insufficient both as written and as applied. A number of courts have identified a substantial bias within ICE towards the continued detention of aliens, raising the risk or erroneous deprivation to constitutionally high levels *See*, e.g., **Phan v. Reno**, 56 F. Supp 2d 1149, 1157 (W.D. Wash. 1999). **("INS does not meaningfully and impartially review the petitioner's status."), St. John v. McElroy**, 917 F. Supp. 243, 251(S.D.N.Y. 1996) ("Due to community and political pressure, INS, an executive agency, has though they have served their sentences, on the suspicion that they may continue to pose a danger to the community."); *See* also **Rivera v. Demore**, No. C99-3042 THE, 199WL521177, (N.D. Cal. Jul. 13, 1999) (Procedural due process requires that aliens release determination be made by impartial adjudicator due to policy bias.)

29. Detainees in Petitioners position are not required to show "the absence of any prospect of removal" to be eligible for relief. Zadvydas, 533 U.S. at 702(Emphasis in the original).

Their detention does not remain lawful just because their custodians act in good faith. Id

COUNT FOUR

PROCEDURAL DUE PROCESS VIOLATION

30. Petitioner re-alleges and incorporates by reference paragraphs 1 through 29.

Respondent's failure to provide him with notice and an opportunity to be heard to contest his removal to a nation that is not his country of origin violates the Due process Clause, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 551-559, 701-706, and the INA and its implementing regulations.

31. Like in the Southern District of Florida **Zavvar v. Scott**, 2025 U.S. Dist. LEXIS 175897 where ICE had not met its Burden it was ordered to release the petitioner with instructions.

The question as to whether Petitioner's detention is in violation of the Laws of the United States and the 4th and 5th Amendment is one for a Federal Habeas Court to hear. 28 U.S.C. §2241. Accordingly, Petitioner files the accompanying petition for appointment of Counsel and request that this Court order his immediate release on reasonable conditions of supervision.

Therefore, Petitioner request that this Court appoint Counsel to represent Petitioner in this Habeas action if he is not immediately released.

PRAYER FOR RELIEF

THEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over the matter;
2. Grant the Petitioner a Habeas Corpus directing the respondent to immediately release petitioner from custody, under reasonable conditions of supervision,
3. Order respondent to refrain from transferring the petitioner out of the jurisdiction of ICE Director's Jurisdiction for the Middle District of Georgia while the petitioner remains in the Respondent's custody; and
4. Order Respondents and all their officers, agents, employees, attorneys, and persons acting on their behalf or in concert with them be prohibited from removing Petitioner to a third country without a meaningful opportunity to be heard in reopened removal proceedings with hearing before an immigration Judge especially once released on supervision.
5. Award Petitioner's Attorney fees and cost under the Equal Access to Justice Act("EAJA"), as amended, 5 U.S.C. §2412, and on other basis justified under law; and
6. Grant any other form of relief this court deems proper.

X _____

August 04 2026

BADAR TAYYAB

A# [redacted]

Stewart Detention Center

146 CCA Rd

Lumpkin, GA 31815

CERTIFICATE OF SERVICE

I Swear, that a true and correct copy of the following Motion has been placed in the hands of an institution official to be furnished and forwarded by first class mail to the following parties listed below on August 04 2026

1. **U.S. DISTRICT COURT**
   For the Middle District of Georgia
   Columbus Division
   P.O. BOX 124
   Columbus, GA 31902

2. **Office Of Chief Counsel DHS/ICE**
   Stewart Detention Center
   146 CCA Rd.
   Lumpkin, GA 31815

x _____

August- 04 -2026

BADAR TAYYAB

A# [redacted]

Stewart Detention Center

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Lumpkin, GA 31815