

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

ABRAHIM BUSH ABRAHIM MANAGO,

Petitioner,

v.

CRYSTAL CARTER, in her official capacity as the Warden of FCI Leavenworth; **RICARDO WONG**, in his official capacity as Chicago Field Office Director for U.S. Immigration and Customs Enforcement; **TODD LYONS**, in his official capacity as Acting Director of U.S. Customs and Immigration Enforcement; **KRISTI NOEM**, in her official capacity as Secretary of the Department of Homeland Security; and **PAMELA BONDI**, in her official capacity as Attorney General of the United States,

Respondents.

Case No. 25-3183-JWL

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. When Abraham Bush Abraham Manago (“Mr. Manago”), a member of the Zaghawa ethnic group from the Darfur region of Sudan, participated in a nonviolent student protest against conditions in Sudan, he was seized by security forces and taken to a secret location, where he was subjected to physical and psychological torture for 10 days.

2. Mr. Manago fled to this country and sought protection from an immigration court because of the torture he endured and other persecution he faced at the hands of the Sudanese government based on his membership in the Zaghawa ethnic group. At a hearing before Immigration Judge Matthew Kaufman on January 28, 2025, Mr. Manago was granted withholding of removal to Sudan, meaning the United States cannot legally deport him there due to the risk of

future persecution he would face. *See* ECF No. 1-2 (IJ decision). DHS did not appeal the determination, and it became final 30 days later, on February 27, 2025.

3. Mr. Manago has never been convicted of any crime, yet finds himself subject to prolonged and indefinite detention by ICE at FCI Leavenworth, under squalid and substandard conditions. He has now been detained for more than six months after the IJ's order granting him withholding of removal became final. Because of the IJ's order, Respondents cannot legally remove Mr. Manago to Sudan, and its attempts to find a third country to which to remove him have proven fruitless. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that noncitizens cannot be detained indefinitely on the off chance that the government might someday be able to remove them.

4. The Supreme Court made clear in *Zadvydas* that the only permissible bases for prolonged detention are an individual's dangerousness and/or a flight risk posed by the person. Here, Mr. Manago has no criminal history in Sudan or the United States, and there has been no allegation at any time that he poses a danger to anyone. Furthermore, as the Court noted in *Zadvydas*, detaining a noncitizen indefinitely based on flight risk cannot be justified because such justification "is weak or nonexistent where removal seems a remote possibility at best." *Zadvydas*, 533 U.S. at 690.

5. Mr. Manago's continued detention violates his procedural due process rights and furthermore serves no legitimate purpose. As detailed herein, the violation of Mr. Manago's procedural due process rights is only underscored by ICE's failure even to follow its own custody regulations in his case. This Court should grant habeas relief and order his immediate release.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331, since this

Petition arises under the Constitution and laws of the United States, namely the detention provisions of the Immigration and Nationality Act, 8 U.S.C. § 1231; the accompanying regulations codified at 8 C.F.R. § 241.4, *et seq*; the habeas corpus statute, 28 U.S.C. § 2241; and the Due Process Clause of the Fifth Amendment..

7. This Court may grant relief pursuant to the Habeas Corpus Act, 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; and the Court's inherent equitable powers.

8. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *Zadvydas*, 533 U.S. at 687 (2001).

9. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable via habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. ICE's continued detention of Mr. Manago has adversely and severely affected his liberty.

10. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (c)(1) because at the time of filing Petitioner was detained at FCI Leavenworth in Leavenworth, Kansas, within the jurisdiction of the District of Kansas; a substantial part of the events and omissions giving rise to the claim occurred in this district; Respondent Carter resides in this district; and Respondents are officers of the United States acting in their official capacity.

11. Exhaustion of administrative remedies is not required because it would be futile.

PARTIES

12. Mr. Manago is a 28-year-old citizen of Sudan who is being detained by Respondents at FCI Leavenworth in Leavenworth, Kansas.

13. Respondent Crystal Carter is the Warden of FCI Leavenworth, which incarcerates individuals suspected of civil immigration violations. Respondent Carter is the immediate physical custodian responsible for the detention of Petitioner. She is named in her official capacity.

14. Respondent Ricardo Wong is the director of ICE's Chicago Field Office, which is responsible for ICE activities in Kansas, including FCI Leavenworth. Respondent Wong is an immediate legal custodian responsible for Petitioner's detention. He is named in his official capacity.

15. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to detention of immigrants during the removal process. Respondent Lyons is a legal custodian of Petitioner. He is named in his official capacity.

16. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is named in her official capacity. In that capacity, Respondent Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103.

17. Respondent Pamela J. Bondi is the Attorney General of the United States. She is named in her official capacity.

FACTUAL BACKGROUND

18. Mr. Manago is a 28-year-old citizen of Sudan, born in the Darfur region and a member of the Zaghawa ethnic group.

19. The past four decades in Sudan have been marked by violence, repression, political conflict, and unrest, dating to the authoritarian rule of Omar al-Bashir, who was president from

1989 to 2019, and his Al-Ingaz regime. Mr. Manago's Zaghawa ethnic group faced severe cultural, religious, and racial discrimination during al-Bashir's reign, especially after around the year 2000, when the Zaghawa sided with an opposition candidate against al-Bashir. The Sudanese regime responded with a brutal counterinsurgency campaign, with the Sudanese armed forces and security service committing killings, rape, and asset stripping in what came to be seen as an ethnic cleansing. The International Criminal Court issued an arrest warrant against al-Bashir for crimes against humanity, war crimes, and genocide in Darfur; the Zaghawa people in particular were victims of this horrific violence.

20. On November 12, 2024 Mr. Manago submitted a form I-589, Application for Asylum and for Withholding of Removal, in which he detailed how "Paramilitary and military forces in Sudan have targeted me and members of my Zaghawa tribe. Most recently, two of our tribe members were killed. My cousin has also been arrested and tortured by the Rapid Support Forces because he is a member of my tribe. I have also been harmed after protesting the government with a group of students at my University." He alleged that he would "be targeted, tortured, killed, or imprisoned by either paramilitary or the government itself" and that "[t]he government cannot and will not protect me."

21. One of the "harms" to which Mr. Manago refers occurred in December 2018. Mr. Manago had gathered with a group of students that was marching toward the presidential palace carrying protest signs. The students were surrounded by security forces and attacked with tear gas and bullets. Mr. Manago and other students were detained and taken to a secret facility in Khartoum.

22. Mr. Manago was subjected to physical and psychological torture for 10 days. His hands and feet were hog-tied, and he was repeatedly hosed down with ice-cold water as security

officials called him disparaging names and falsely accused him of being a terrorist. Whenever one of the prisoners was released, Mr. Manago's torturers would tell him that the person had been killed, leading him to believe his life was in imminent danger. Finally, through the efforts of his uncle's friend, a police officer, Mr. Manago was able to secure his release.

23. However, even though he tried to lie low after the incident, he still was not safe in Sudan. When he went to visit his family while on break from university in March 2023, the armed conflict reached their town and Mr. Manago and his family were forced to flee, and his father's store was burned. At this point, he realized he had to flee and began to make his way carefully through Sudan, avoiding checkpoints and conflict areas, until he reached Egypt. From Egypt, he eventually made his way to the United States and entered this country on or about July 10, 2024. He was detained by ICE shortly thereafter; a Notice to Appear is dated August 27, 2024 and a Warrant for Arrest of Alien was served on September 6, 2024. Mr. Manago has remained detained since that time, a period of approximately one year.

24. At an immigration court merits hearing on January 28, 2025, Mr. Manago proved by a preponderance of the evidence that he faced future persecution if returned to Sudan. Accordingly, an immigration judge granted him withholding of removal under INA § 241(b)(3) [8 U.S.C. § 1231(b)(3)], which provides that "the Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion."

25. Neither Mr. Manago nor DHS appealed the immigration judge's decision, meaning it became final on February 27, 2025, and the United States is now prohibited by law from sending

Mr. Manago to Sudan. The immigration court's order did not name any other country to which Mr. Manago could be legally removed.

26. Mr. Manago has been detained pursuant to 8 U.S.C. § 1231(a) since February 27, 2025, for a total period that now exceeds six months. Conditions at FCI Leavenworth, where he remains detained, have been reported to be squalid and unhealthy. One news article describes “unsanitary and crowded living quarters, extended lockdowns, delayed and costly medical treatment, restricted contact with [detainees’] families and no access to religious services,” as well as a “rat infestation” and “suicide attempts” with a lack of access to “even sunlight.” *See* Anna Kaminski, “Immigrants detained in Leavenworth federal prison live in squalor without sunlight, letters claim” (June 7, 2025), <https://lailluminator.com/2025/06/07/immigrants-leavenworth/>. His continuing detention at FCI Leavenworth violates his due process rights as articulated by the Supreme Court in *Zadvydas*.

27. Following the Court's decision in *Zadvydas*, “DHS promulgated regulations to implement the newly established constitutional constraints.” *Bonitto v. Bureau of Immigr. & Customs Enforcement*, 547 F. Supp. 2d 747, 752 (S.D. Tex. 2008). Those regulations are codified at 8 C.F.R. § 241.4 and provide for reviews of a noncitizen's continuing detention after 90 days and again after 180 days. *See Bonitto*, 547 F. Supp. 2d at 752-53 (describing procedures).

28. The provisions for the 90-day review are set out in 8 C.F.R. § 241.4(h), which provides that the district director or Director of the Detention and Removal Field Office will conduct “a review of the alien's records and any written information submitted in English to the district director by or on behalf of the alien.” In considering whether to release the noncitizen, the district director is required to consider the factors set out in § 241.4(f), which include the

noncitizen's criminal record, mental health reports, evidence of rehabilitation, prior immigration violations and history, and other factors.

29. Mr. Manago has no criminal history of any kind, nor are any of the other negative factors listed in § 241.4(f) relevant to his case. Instead, Mr. Manago was denied release based solely on boilerplate or pretextual reasons.

30. If the district director decides to continue detention after the 90-day removal period, another review is mandated at the 180-day mark, the procedures for which are set out in § 241.4(i). Under these procedures, a "Review Panel" of two members is supposed to review the noncitizen's records and make a recommendation on release; if the Director of the Headquarters Post-Order Detention Unit (HQPDU) does not accept their recommendation, or if the panel does not recommend release, the Review Panel "shall personally interview the detainee." § 241.4(i)(3)(i). Following the interview, the Review Panel "shall issue a written recommendation that the alien be released or remain in custody." § 241.4(i)(5).

31. Mr. Manago has never received a 180-day custody review that comports with the above-cited regulations.

32. If the 180-day custody review was conducted, Mr. Manago was not notified of its outcome, and any decision to continue his detention was based not on the factors specified in the regulation but instead on merely pretextual or boilerplate rationales. *See, e.g., Misirbekov v. Venegas*, --- F. Supp. 3d ---, 2025 WL 2451030 (Aug. 25, 2025), at *2 (conditionally granting habeas relief where "Petitioner's 90-day custody review was late, and [] his 180-day custody review is still in progress" and "the reasons contained in the 90-day review were boilerplate and pretextual"); *Bonitto*, 547 F. Supp. 2d at 757-58 ("Bonitto's procedural due process rights have been violated by DHS's complete failure to provide the required 180-day review [...] [T]he Court

notes the shortcomings in the 90-day POCR ... at present it appears to lack a reasoned basis.... Conclusory statements that removal is ‘expected in the reasonably foreseeable future’ or that an alien would ‘pose a danger to society’ if released, with no factual basis or explanation, teeters dangerously close to a perfunctory and superficial pretense instead of a meaningful review sufficient to comport with due process standards.”)

ARGUMENT

A. Mr. Manago has been detained for an unreasonably long period and has shown that his removal is not reasonably foreseeable.

33. 8 U.S.C. § 1231(a) permits ICE to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. § 1231(a)(1)(A).

34. The statute provides that “the removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court’s final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.” 8 U.S.C. § 1231(a)(1)(B).

35. In this case, Mr. Manago had an administratively final removal order as of February 27, 2025, thirty days after the immigration judge’s decision in his case became final. The 90-day removal period therefore ended on May 28, 2025.

36. After the expiration of the 90-day removal period, 8 U.S.C. § 1231(a)(3) provides that ICE may release noncitizens on an order of supervision. Alternatively, a noncitizen “may be detained beyond the removal period” if they meet certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6). Mr. Manago does not fall into any of these categories.

37. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s] [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Given that there has been no allegation of any dangerousness in Mr. Manago’s case, and no neutral adjudicator has determined that Mr. Manago poses a flight risk, all constitutional justification for his prolonged detention has now evaporated.

38. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

39. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents due process concerns because the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

40. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months’ detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government to justify continued detention if the noncitizen provides a “good reason to believe that there is no

significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

41. Here, Mr. Manago has been detained for longer than the presumptively reasonable six-month period. His removal period began on February 27, 2025, when the immigration judge’s removal order became final, and he passed six months of post-removal order custody on August 27, 2025.

42. Mr. Manago has “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* By law, he cannot be removed to Sudan, and he does not have citizenship in any other country, nor any ties to any other country. *See* 8 U.S.C. § 1231(b)(2)(D) (mandating that DHS “shall remove the alien to a country of which the alien is a subject, national, or citizen”). DHS has made efforts to remove Mr. Manago to random “third countries,” but these efforts have been unsuccessful. DHS cannot keep Mr. Manago incarcerated indefinitely simply on the off chance that it might one day find a country where it can send him.

43. Courts have often found that a petitioner in Mr. Manago’s position meets his burden of showing that his removal is not significantly likely to occur in the reasonable future if he can show that removal to his home country is impossible. *See, e.g., Palma v. Gillis*, 2020 WL 4880158, at *2 (S.D. Miss. July 7, 2020) (“to shift the burden to the Government, an alien must demonstrate ... barriers to his repatriation to his country of origin”); *Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d 703, 707-08 (S.D. Tex. 2020) (Pakistani man met burden by showing he could not be removed to Pakistan); *Joseph v. Mukasey*, 2009 WL 331558, at *4 (N.D. Fla. Feb. 10, 2009) (dual citizen of Bahamas and Haiti met burden by showing Bahamas would not issue travel documents for him).

44. A recent case from the Southern District of Georgia is also on point. In *Abrosi v. Warden, Folkston ICE Processing Ctr.*, 5:25-cv-00013 (S.D. Ga. Aug. 18, 2025) (Dkt. 26), an Ecuadorian national who had been granted withholding of removal to Ecuador filed a petition

under *Zadvydas* seeking his release from prolonged detention, and a magistrate judge recommended that the petition be granted because “he cannot be removed to his country of origin (Ecuador) and ICE cannot feasibly remove him to another country ... ICE has attempted to have [him] deported to a third country, but those countries denied the requests and ICE ‘does not have an expected timeline for [his] removal to a third country.’” *Id.* at 5-6.

45. Counsel for Mr. Manago is currently litigating other, nearly factually identical cases, and DHS’s admissions in those cases are also relevant to this case. In a legally indistinguishable case of a Kyrgyzstani man granted INA withholding which counsel recently litigated in the Southern District of Texas, DHS submitted a declaration stating that it had contacted Russia, Mexico, and Costa Rica in an attempt to remove the petitioner; Russia and Mexico did not respond, and Costa Rica declined. Thereafter, in the two and a half months preceding the filing of his habeas petition, DHS had not contacted any other countries regarding removal. In another case counsel is preparing to file imminently in this Court on behalf of another man who was also granted INA withholding, an ICE deportation officer admitted in an email that “We are submitting acceptance requests to three other countries once a final order takes effect. These are never successful”. In short, there is good reason to believe, based on DHS’s current actions (or inaction) in legally indistinguishable cases of noncitizens from the same part of the world, that there is not a third country presently willing to accept Mr. Manago.

46. Furthermore, Mr. Manago would be able to assert a credible fear of removal to a third country. As one district court recently noted, the U.S. has been violating the principle of non-refoulement by deporting refugees to third countries who are not bound by U.S. immigration court orders and which then immediately return the refugees to their homelands, where they face persecution. *See Abrego Garcia v. Noem*, 2025 WL 2062203 (D. Md. July 23, 2025), at *9, n. 15

(citing removal of Guatemalan refugee to Mexico, which then immediately sent him to Guatemala, and case of Venezuelans with pending asylum claims who were sent to El Salvador, which then returned them to Venezuela in a prisoner swap). Similarly, it has been reported in the media that refugees removed to Eswatini will be refouled to their home countries. *See* “5 immigrants deported by the US to Eswatini in Africa are held in solitary confinement,” (July 17, 2025), available at: <https://www.politico.com/news/2025/07/17/5-immigrants-deported-by-the-us-to-eswatini-in-africa-are-held-in-solitary-confinement-00461712>. Because any third country to which Respondents might send Mr. Manago could return him to Sudan in violation of the U.S.’s obligations of non-refoulement, Mr. Manago would assert a credible fear to such removal and would be entitled to a credible fear hearing before a USCIS officer. *See D.V.D. v. U.S. Dep’t of Homeland Security*, 778 F. Supp. 3d 355, 393 n. 48 (D. Mass. 2025).

47. Respondents have been legally entitled to remove Mr. Manago to a safe third country for more than six months, but have for whatever reason been unable or unwilling to do so; therefore, it appears that there is no “*significant* likelihood” of his removal “in the *reasonably* foreseeable future” (emphasis added). At this point, the Government “must respond with evidence sufficient” to indicate that it is significantly likely that Mr. Manago will, in fact, be removed in a reasonable period of time. *Zadvydas*, 533 U.S. at 701.

B. The Government must be required to rebut Mr. Manago’s showing.

48. Some deference is owed to the government’s assessment of the likelihood of removal and the time it will take to execute removal. *Id.* at 700. However, just as pro forma findings of dangerousness do not suffice to justify indefinite detention, pro forma statements that removal is likely should not satisfy the government’s burden. The government must rebut a detainee’s showing that there is no significant likelihood of removal in the reasonably foreseeable future with

“evidence of progress . . . in negotiating a petitioner’s repatriation.” *Gebrelibanos v. Wolf*, 2020 WL 5909487 at *3 (S.D. Cal., Oct. 6, 2020); *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y. Jan. 2, 2019) (“[A]s time passes, the mere existence of possible avenues for removal becomes insufficient to justify further detention; some evidence of progress is required”) (collecting cases).

49. The longer a noncitizen is detained, the more evidence the Government needs to put forward to justify continued detention. Specifically, “for detention to remain reasonable [once six months of detention have passed], as the period of prior post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701; see also *Alexander v. Att’y Gen. U.S.*, 495 F. App’x 274, 275 (3d Cir. 2012) (“[T]he longer an alien is detained, the less he must put forward to obtain relief”); *Hassoun*, 2019 WL 78984 at *4 (“[T]he government’s burden becomes more onerous the longer an alien is detained, because it must show that removal will be effectuated sooner in the future.”).

50. Even if ICE is engaged in ongoing efforts to secure removal, such efforts alone do not mitigate already-prolonged detention, nor do they render removal reasonably foreseeable. See *Shefqet v. Ashcroft*, 2003 WL 1964290 at *5 (N.D. Ill. April 28, 2003) (“Even if [ICE] has been making regular efforts to secure Petitioner’s travel document . . . at this time there must be some concrete evidence of progress. [ICE] cannot rely on good faith efforts alone”). The likelihood of removal “does not turn on the degree of the government’s good faith efforts,” but rather “on whether and to what extent the government’s efforts are likely to bear fruit.” *Hassoun*, 2019 WL 78984 at *5. Indeed, the Supreme Court specifically rejected the notion that removal is reasonably foreseeable as long as “good faith efforts” continue, holding that such a standard “would seem to require an alien seeking release to show the absence of any prospect of removal—no matter how unlikely or unforeseeable—which demands more than our reading of the statute

can bear.” *Zadvydas*, 533 U.S. at 701. “[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Palma*, 2020 WL 4880158, at *3 (citing *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019)).

51. Given ICE’s total failure to take any meaningful step toward removing Mr. Manago in more than six months, this Court should order Mr. Manago’s immediate release subject to whatever conditions this Court deems appropriate. *See, e.g., Manson v. Barr*, 2020 WL 3962235 (M.D. Fla. July 13, 2020) at *3 (ordering immediate release on conditions of supervision pursuant to 8 U.S.C. § 1231(a)(3)).

C. ICE has failed to comply with its own regulations with respect to Mr. Manago’s custody.

52. ICE’s regulations provide that, by the end of the 90-day removal period that begins upon a noncitizen’s removal order becoming final, the local ICE field office with jurisdiction over the noncitizen’s detention must conduct a custody review to determine whether the noncitizen should remain detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released following the 90-day custody review, jurisdiction transfers to ICE Headquarters, § 241.4(c)(2), which must conduct a custody review before or at 180 days. § 241.4(k)(2)(ii). In making these custody determinations, ICE considers several factors, including whether the noncitizen is likely to pose a danger to the community or will be a flight risk if released. § 241.4(e).

53. Here, as alleged more fully above, ICE either did not conduct a 180-day review or at the very least did not notify Mr. Manago of the outcome of that review, in violation of 8 C.F.R. § 241.4(d)(2) (“All notices, decisions, or other documents in connection with the custody reviews conducted under this section by the district director, Director of the Detention and Removal Field Office, or Executive Associate Commissioner shall be served on the alien”). In any event, even if

ICE had reviewed Mr. Manago's custody, based on counsel's experience in a number of other cases around the country, it would have denied release based on boilerplate or pretextual reasons that do not comport with either the regulations or due process.

54. ICE's failure to appropriately review Mr. Manago's custody is prejudicial. Prejudice can be presumed because the custody review regulations implicate fundamental liberty interests and due process rights. *See Delgado-Corea v. INS*, 804 F.2d 261, 263 (4th Cir. 1986) (holding that "violation of a regulation can serve to invalidate a deportation order when the regulation serves a purpose to benefit the [noncitizen]" and the violation affected "interests of the [noncitizen] which were protected by the regulation") (internal quotations omitted). The regulations provide noncitizens with a discrete opportunity to obtain freedom from detention, and that opportunity has thus far been withheld from Mr. Manago. *See Zadvydas*, 533 U.S. at 690 ("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 protects.").

55. A sister district court dealt with a factually similar scenario in *Bonitto v. Bureau of Immig. & Customs Enforcement*, 547 F. Supp. 2d 747 (S.D. Tex. 2008). Relevant to this case, the *Bonitto* court found that the "Respondent's failure to comply with the review procedures outlined in the applicable regulations violates Petitioner's procedural due process rights." *Id.* at 755. As the court pointed out, "The Fifth Circuit has held that it is a denial of procedural due process for any government agency to fail to follow its own regulations providing procedural safeguards to persons involved in adjudicative processes before it." *Id.* (citing *Government of Canal Zone v. Brooks*, 427 F.2d 346, 347 (5th Cir. 1970)). The *Bonitto* court went on to note that, "Where individual interests are implicated, the Due Process clause requires that an executive agency adhere to the standards by which it professes its actions to be judged. The regulations involved here do not merely facilitate

internal agency housekeeping, but rather afford important and imperative procedural safeguards to detainees. This Court must insist on DHS's compliance with the post-order custody regulations if Bonitto's detention is to remain constitutional." *Id.* at 756 (internal citations omitted). The court in that case granted habeas relief and ordered DHS to conduct a "meaningful post-removal custody review." *Id.* at 758.

56. For the reasons set out above and discussed at length in *Bonitto*, ICE's non-compliance with its own regulations violates the APA and Mr. Manago's due process rights. As a remedy, this Court should review Mr. Manago's custody under 8 C.F.R. § 241.4 and/or § 241.13, and it should order his release if appropriate under those standards. See *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) ("In these circumstances, it is most appropriate that the court exercise its equitable authority to remedy the violations of petitioners' constitutional rights to due process by promptly deciding itself whether each should be released.")

CLAIMS FOR RELIEF

Count I – Violation of 8 U.S.C. § 1231(a), as interpreted by *Zadvydas*

57. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

58. Mr. Manago's prolonged and open-ended detention by Respondents violates 8 U.S.C. § 1231(a), as interpreted by *Zadvydas*. Mr. Manago's 90-day statutory removal period and six-month presumptively reasonable removal period for continued removal efforts have passed.

59. Respondents' failure to remove Mr. Manago over a six-month span indicates that Respondents either cannot or will not remove him in the reasonably foreseeable future, particularly given that Respondents are not legally allowed to send him to Sudan and he has no citizenship or ties to any other country.

60. Under *Zadvydas*, Mr. Manago's continued detention is unreasonable and not authorized by 8 U.S.C. § 1231.

**Count II – Procedural Due Process – Unconstitutionally Indefinite Detention
(U.S. Const. amend. V)**

61. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, the allegations in all the preceding paragraphs.

62. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty “without due process of law.” U.S. Const. amend. V.

63. Other than as punishment for a crime, due process permits the government to take away liberty only “in certain special and narrow nonpunitive circumstances ... where a special justification ... outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690. Such special justification exists only where a restraint on liberty bears a “reasonable relation” to permissible purposes. *Jackson*, 406 U.S. at 738; see also *Foucha v. Louisiana*, 504 U.S. 71, 79 (1992). In the immigration context, those purposes are “ensuring the appearance of aliens at future immigration proceedings and preventing danger to the community.” *Zadvydas*, 533 U.S. at 690 (quotations omitted).

64. Those substantive limitations on detention are closely intertwined with procedural due process protections. *Foucha*, 504 U.S. at 78-80. Noncitizens have a right to adequate procedures to determine whether their detention in fact serves the purposes of ensuring their appearance or protecting the community. *Id.* at 79; *Zadvydas*, 533 U.S. at 692; *Casas-Castrillon v. Dep’t of Homeland Sec.*, 535 F.3d 942, 949 (9th Cir. 2008). Where laws and regulations fail to provide such procedures, the habeas court may assess whether the noncitizen’s immigration detention is reasonably related to the purposes of ensuring his appearance or protecting the community, *Zadvydas*, 533 U.S. at 699, or require release.

65. Under this framework, Petitioner's release is required because his detention violates his due process rights.

66. Petitioner's detention is unconstitutionally indefinite because he cannot be removed to Tajikistan or Russia and has no ties or citizenship anywhere else. His continued detention without any reasonably foreseeable end point is thus unconstitutionally prolonged in violation of clear Supreme Court precedent. *Zadvydas*, 533 U.S. at 701.

67. Moreover, because Petitioner poses no danger or flight risk, his detention is not reasonably related to its claimed purpose, and is unlawful.

Count III – Administrative Procedure Act, 5 U.S.C. § 706(2)(A) and (D)

68. Petitioner realleges and incorporates by reference all preceding paragraphs.

69. A “reviewing court shall (1) compel agency action unlawfully withheld or unreasonably delayed; and (2) hold unlawful and set aside agency action, findings, and conclusions found to be – (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; [or] (D) without observance of procedure required by law.” 5 U.S.C. § 706.

70. ICE's actions and omissions, including, but not limited to: (1) its failure to conduct a 180-day custody review and/or to notify Mr. Manago of the results of such review; (2) its arbitrary and capricious decision to continue his detention after 180 days based on spurious, pretextual, or boilerplate reasons; and (3) its failure to follow the notice, interview, and other provisions of the custody review process, constitute unlawful agency action that is subject to being set aside by this Court.

71. Respondents' continued detention of Mr. Manago violates his due process rights by denying him an individualized and meaningful custody review, to which he is entitled under 8 C.F.R. § 241.4.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- (a) Assume jurisdiction over this matter;
- (b) Enjoin Mr. Manago's transfer or removal from the District of Kansas during the pendency of this case;
- (c) Declare that Petitioner's continued detention violates 8 U.S.C. § 1231, as interpreted by the Supreme Court in *Zadvydas*;
- (d) Alternatively, declare that Petitioner's prolonged and indefinite detention violates his rights under the Due Process Clause of the Fifth Amendment;
- (e) Alternatively, declare that Respondent's continued detention of Petitioner without strict compliance with the procedural requirements of 8 C.F.R. § 241.4 violates the APA, 5 U.S.C. § 706 and/or the Due Process Clause;
- (f) Grant a writ of habeas corpus and order Respondents to release Petitioner from detention forthwith, on an order of supervision pursuant to 8 U.S.C. § 1231(a)(3);
- (g) Alternatively, review Petitioner's custody under the standards articulated in 8 C.F.R. § 241.4 and order his release under that standard, if appropriate;
- (h) Award Petitioner his reasonable attorneys' fees and costs;
- (i) Grant any other relief that this Court deems just and proper.

Dated: September 3, 2025

Respectfully submitted,

/s/ James D. Jenkins

James D. Jenkins (KSD #78125, MO #57258)
P.O. Box 6373
Richmond, VA 23230
Tel.: (804) 873-8528
jjenkins@valancourtbooks.com

Counsel for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney in Petitioner's immigration case. I am familiar with the details of Petitioner's case and I have discussed with him the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: September 3, 2025

/s/ Shaleen Morales
Shaleen Morales

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was emailed to the Clerk of Court at ksd_clerks_topeka@ksd.uscourts.gov for filing via the Court's CM/ECF system this 3rd day of September, 2025, and that a true copy of the foregoing was served pursuant to Fed. R. Civ. P. 4(j) via certified United States mail, sent this 3rd day of September, 2025 to the Respondents at the following addresses, and a courtesy copy was sent via electronic mail to the U.S. Attorney's Office for the District of Kansas at russell.keller@usdoj.gov.

United States Attorney's Office
Civil Process Clerk
500 State Avenue
Suite 360
Kansas City, KS 66101

Crystal Carter
FCI Leavenworth
1300 Metropolitan
Leavenworth, KS 66048

Ms. Pamela Bondi
Attorney General of the United States
950 Pennsylvania Avenue NW
Washington, DC 20530

Office of the General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave., SE
Washington, D.C. 20528

Ricardo Wong
Chicago ICE Field Office
101 W Ida B Wells Dr.
Suite 4000
Chicago, IL 60605

/s/ James D. Jenkins
Attorney for Petitioner



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
AURORA IMMIGRATION COURT

Respondent Name:

BUSH ABRAHIM MANAGO, ABRAHIM

To:

Morales Saldarriaga, Shaleen
7301 Federal Blvd Suite 300
Westminster, CO 80030

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

01/28/2025

ORDER OF THE IMMIGRATION JUDGE

- ☒ This is a summary of the oral decision entered on 01/28/2025. The oral decision in this case is the official opinion, and the immigration court issued this summary for the convenience of the parties.
- ☐ Both parties waived the issuance of a formal oral decision in this proceeding.

I. Removability

The immigration court found Respondent ☐ removable ☒ inadmissible under the following Section(s) of the Immigration and Nationality Act (INA or Act): contained in the NTA.

The immigration court found Respondent ☐ not removable ☐ not inadmissible under the following Section(s) of the Act:

II. Applications for Relief

Respondent's application for:

A. Asylum/Withholding/Convention Against Torture

- ☒ Asylum was ☐ granted ☒ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☒ Withholding of Removal under INA § 241(b)(3) was ☒ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Withholding of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Deferral of Removal under the Convention Against Torture was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Respondent knowingly filed a frivolous application for asylum after notice of the consequences. *See* INA § 208(d)(6); 8 C.F.R. §1208.20

B. Cancellation of Removal

- ☐ Cancellation of Removal for Lawful Permanent Residents under INA § 240A(a) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Cancellation of Removal for Nonpermanent Residents under INA § 240A(b)(1) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice
- ☐ Special Rule Cancellation of Removal under INA § 240A(b)(2) was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

C. Waiver

- ☐ A waiver under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

D. Adjustment of Status

- ☐ Adjustment of Status under INA § was ☐ granted ☐ denied ☐ withdrawn with prejudice ☐ withdrawn without prejudice

E. Other

III. Voluntary Departure

- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ denied.
- ☐ Respondent's application for ☐ pre-conclusion voluntary departure under INA § 240B(a) ☐ post-conclusion voluntary departure under INA § 240B(b) was ☐ granted, and Respondent is ordered to depart by . The respondent must post a \$ bond with DHS within five business days of this order. Failure to post the bond as required or to depart by the required date will result in an alternate order of removal to taking effect immediately.
- ☐ The respondent is subject to the following conditions to ensure his or her timely departure from the United States:
- ☐ Further information regarding voluntary departure has been added to the record.
- ☐ Respondent was advised of the limitation on discretionary relief, the consequences for failure to depart as ordered, the bond posting requirements, and the consequences of filing a post-order motion to reopen or reconsider:

If Respondent fails to voluntarily depart within the time specified or any extensions granted by the DHS, Respondent shall be subject to a civil monetary penalty as provided by relevant statute, regulation, and policy. *See* INA § 240B(d)(1). The immigration court has set

- ☐ the presumptive civil monetary penalty amount of \$3,000.00 USD
- ☐ \$ USD instead of the presumptive amount.

If Respondent fails to voluntarily depart within the time specified, the alternate order of removal shall automatically take effect, and Respondent shall be ineligible, for a period of 10 years, for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Act, to include cancellation of removal, adjustment of status, registry, or change of

nonimmigrant status. *Id.* If Respondent files a motion to reopen or reconsider prior to the expiration of the voluntary departure period set forth above, the grant of voluntary departure is automatically terminated; the period allowed for voluntary departure is not stayed, tolled, or extended. If the grant of voluntary departure is automatically terminated upon the filing of such a motion, the penalties for failure to depart under section 240B(d) of the Act shall not apply.

If Respondent appeals this decision, Respondent must provide to the Board of Immigration Appeals (Board), within 30 days of filing an appeal, sufficient proof of having posted the voluntary departure bond. The Board will not reinstate the voluntary departure period in its final order if Respondent does not submit timely proof to the Board that the voluntary departure bond has been posted.

In the case of conversion to a removal order where the alternate order of removal immediately takes effect, where Respondent willfully fails or refuses to depart from the United States pursuant to the order of removal, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

IV. Removal

- ☒ Respondent was ordered removed to Sudan.
- ☐ In the alternative, Respondent was ordered removed to
- ☐ Respondent was advised of the penalties for failure to depart pursuant to the removal order:

If Respondent is subject to a final order of removal and willfully fails or refuses to depart from the United States pursuant to the order, to make timely application in good faith for travel or other documents necessary to depart the United States, to present himself or herself at the time and place required for removal by the DHS, or conspires to or takes any action designed to prevent or hamper Respondent's departure pursuant to the order of removal, Respondent may be subject to a civil monetary penalty for each day Respondent is in violation. If Respondent is removable pursuant to INA § 237(a), then he or she shall be further fined or imprisoned for up to 10 years.

V. Other

- ☐ Proceedings were ☐ dismissed ☐ terminated with prejudice ☐ terminated without prejudice ☐ administratively closed.
- ☐ Respondent's status was rescinded under INA § 246.
- ☐ Other:



Immigration Judge: KAUFMAN, MATTHEW 01/28/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☐ waived ☒ reserved
Appeal Due: 02/27/2025

Certificate of Service

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Respondent Name : BUSH ABRAHIM MANAGO, ABRAHIM | A-Number



Riders:

Date: 01/29/2025 By: Blady, Gerald, Court Staff