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NANTU KHAN

United States District Court
Central District of California

Nantu Khan Petitioner, v. Kristi Noem, Secretary of Homeland Security; Pamela J. Bondi, Attorney General of the United States; Thomas Giles, Los Angeles Field Office Director, Bureau of Immigration and Customs Enforcement; James Pilkington, Assistant Field Office Director, Adelanto Detention Facility, Warden, Geo Group Inc, Adelanto Detention Facility Respondents.	No. 5:25-cv-3492 **DHS No. A [redacted]** **Petition For a Writ of Habeas Corpus By a Person in Federal Custody Under 28 U.S.C. § 2241**

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I. Introduction

Based on his lengthy detention in ICE custody, Petitioner Nantu Khan filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Khan had been ordered removed to Bangladesh in 2005. But Khan was actually born in a part of Pakistan that would later become Bangladesh after the Bangladesh Liberation War in 1971. The fact that Khan is technically stateless largely explains why Bangladeshis officials will not issue travel documents for Khan. And ICE made several attempts to deport him, the District Court granted habeas relief under a theory that Khan's continued detention was unreasonable and ordered Khan released. The last sentence is not an expression of counsel's optimism about this case, the last sentence is in reference to the last time Khan was placed in ICE detention. Yes, Khan has done all of this before, and a district court previously granted his habeas petition and found that his continued confinement is unreasonable. And yet, Khan is back in ICE custody. Petitioner respectfully requests that the Court grant this habeas petition and permanently enjoin Respondent from detaining him unless they have obtained travel documents.

II. Background

Khan was born in 1968 in Pakistan. The region in which he was born, East Pakistan, because part of Bangladesh in 1971. Khan entered the United States from Canada on or about May 1, 1997. Following a criminal conviction, Petitioner was ordered removed from the United States on December 19, 2005. The order became final on that date as Petitioner waived appeal.

Khan was in ICE custody for over 7 months from December 19, 2025 until approximately September 22, 20206 when the District Court for the Western District of Texas found his continued detention unreasonable in violation of the Constitution. *Khan v. Gonzales*, W.D. TX Case No. 06-cv-242-KC, Dkt. 10 (attached as Exhibit A).

On May 9, 2025, Khan unintentionally crossed the border into Canada from his home in Buffalo, New York. At the border, immigration officials checked his records and detained him. Khan was been detained by ICE since that day.

With respect to his present confinement, Khan has been in ICE custody for over 7 months. During that period, ICE officials compelled Khan to speak on the phone with people he understood to be consular officials from Bangladesh. After asking Khan a series of questions, the Bangladeshi officials told Khan that they did not believe him to be a Bangladeshi national and that they would not issue travel documents.

III. Habeas Allegations

Petitioner provides the following information related to his habeas petition:

- **Place of detention**: At the time of this filing, Petitioner is detained by Immigration and Customs and Enforcement (ICE) at the Adelanto Detention Facility in Adelanto, California.
- **Name and location of court which imposed removal order**:
  - 8915 Montana Avenue, El Paso, TX 79925s
- **The immigration case number:** Department of Homeland Security, A#[redacted]

- **The date upon which removal order was imposed**: Khan was ordered removed by an Immigration Judge on 12/19/05.
- **Did you appeal from the removal order?** No.
- **If you did appeal, provide information related to that appeal**: Not applicable.
- **Previous petitions**: *Khan v. Gonzales,* W.D. TX 06-CV-242-KC
- **Do you have any petition, appeal or parole matter pending in any court, either state or federal, as to the removal order under attack?** Nothing pending.

IV. Claims & Arguments

A. Khan must be released because there is no good reason to believe he will be deported to Bangladesh in the reasonably foreseeable future.

The Due Process Clause limits a "[noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Because of this constitutional limitation, the immigration detention statute "does not permit indefinite detention." *Id.*; *see* 8 U.S.C. § 1231.

Immigration detention is presumptively limited to six months. "After this 6-month period, once 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." *Zadvydas*, 533 U.S. at 701.

ICE has detained Khan well beyond the presumptively reasonable six-month period. Khan has currently been detained over 7 months, and was previously detained for over 9 months. There is good reason to believe that there is no significant likelihood of removal to Bangladesh in the foreseeable future. Khan continued detention is unreasonable and he must be released.

The government has made multiple efforts to deport Khan to Bangladesh, with the same result: Bangladesh does not recognize him as a citizen and will not issue travel documents. Indeed, ICE has compelled Khan to speak with Bangladeshi consular officials, and they have informed Khan that they will not issue travel documents to him. There is no reason to believe that ICE is any closer to removing Khan today than they were 6 months ago, or from December 19, 2005-September 22, 2006 when he was last kept in ICE custody.

B. To the extent, Khan detention in immigration custody is to effectuate removal to a third country, that violates the Due Process Clause. because ICE has not given him sufficient notice of the proposed third country and an opportunity to request deferral or withholding of removal to that country under either statute or the Convention Against Torture.

"It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings." *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per curiam) (*quoting Reno v. Flores*, 507 U.S. 292, 306 (1993)). Noncitizens are thus entitled to "notice and an opportunity to be heard appropriate to the nature of the case." *Id.* (*quoting Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306,313 (1950)). As relevant here, this means that purported non-citizens are entitled to notice that they are to be removed to a third country "within a reasonable time and in such a manner as will allow them to actually seek habeas relief in the proper venue before such removal occurs." *Id.*

Kah has not been formally ordered removed to any country other than Bangladesh. As such, he has never had an opportunity to contest removal to any third country on the grounds that he may face persecution or torture if he is removed to that country.

To the extent that Khan's detention is meant to facilitate his removal to a third country, *see generally Zadvydas,* 533 U.S. at 690 (suggesting that detention following a removal order is intended to facilitate removal), if such a removal is accomplished in violation of his due-process rights, then his detention is illegal. This due-process claim "necessarily impl[ies] the invalidity of [his] confinement and removal" to a third country not yet named in any removal order. *J.G.G.,* 145 S. Ct. at 1005. Thus, his due-process claim is properly brought in a habeas petition, and a court order that he be released from detention is a proper remedy for such a violation.

C. Removal to third countries where Khan might face imprisonment violates the constitutional prohibition on "punitive" removal practices.

The U.S. Supreme Court long ago held that the government may not inflict upon individuals an "infamous punishment" atop deportation as a penalty for an immigration violation, absent criminal charges, a judicial trial, and related constitutional protections. *Wong Wing v. United States*, 163 U.S. 228, 236-38 (1896). More than a century later the Court reaffirmed the point, holding that while it is within the constitutional power of Congress to remove those unlawfully present in the United States, "punitive measures c[annot] be imposed upon [noncitizens]" merely by dint of their removal, as "all persons within the territory of the United States are entitled to the protection' of the Constitution.' " *Zadvydas*, 533 U.S. at 694 (*quoting Wong Wing*, 163 U.S. at 238).

Yet the purposes of the government's third-country removal program are substantially punitive. As one district court recently held, government officials have made public statements, judicially noticeable, that "offer evidence that third country deportation is occurring as a punishment." *Nguyen v. Scott*, ___ F. Supp. 3d ___, 2025 WL 2419288, at *24 (W.D. Wash. Aug. 21, 2025). These include an official video of President Donald J. Trump stating, "[I]f illegal aliens choose to remain in America, they're remaining illegally and they will face severe consequences," with "punishments … including … sudden deportation in a place and manner solely of our discretion." *Nguyen v. Scott*, 2025 WL 2419288, at *24 (W.D. Wash. Aug. 21, 2025). "Other courts [too] across the country have recognized that the government is intentionally removing individuals to countries where they will be imprisoned" in facilities where " 'torture is pervasive' " and " 'human rights violations' " " 'widespread,' " under " 'horrific prison conditions [engineered] for the specific purpose of inflicting suffering.' " *Id.* at *24 (quoting cases).

Removal to such countries under the Government's current policy would thus violate the constitutional prohibition on punitive removal practices as well.

V. Conclusion

For the foregoing reasons, this Court should:

- Order the government to answer this petition,
- Expedite any briefing and relief, as Petitioner's current custody is illegal;
- Allow him to conduct discovery in order to support his claim for relief;
- Convene an evidentiary hearing, if needed to resolve disputed facts;
- Order Respondents to release him from their custody; and
- Grant any other relief that is just and practicable.

Respectfully submitted,

Cuauhtemoc Ortega
Federal Public Defender

Dated: December 22, 2025

By: */s/*
Jonathan C. Aminoff
Deputy Federal Public Defender

Proposed Attorneys for Petitioner
Nantu Khan

VI. Verification

I, Jonathan C. Aminoff, declare as follows:

I am an attorney with the Office of the Federal Public Defender, and I am admitted to practice law in the State of California.

I am authorized to file this petition on behalf of petitioner, who is restrained in violation of his liberty.

Based on information and belief, I declare under penalty of perjury under the laws of the United States and the State of California that the contents of this petition are true and correct to the best of my knowledge and belief.

Executed December 22, 2025, at Los Angeles, California.

/s/
Jonathan C. Aminoff

Exhibit A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

NANTU KHAN,	§	
	§	
Petitioner,	§	
	§	
v.	§	**EP 06-CA-00242-KC**
	§	
ALBERTO GONZALES, United States Attorney General, *et al.*,	§	
	§	
	§	
Respondents.	§	

ORDER

On this day, the Court considered Nantu Khan's ("Petitioner") Petition for Writ of Habeas Corpus and Respondents' Motion to Dismiss ("Motion"). For the reasons set forth herein, Respondents' Motion is **DENIED** and Petitioner's Petition is **GRANTED**.

I. BACKGROUND

Petitioner, Nantu Khan[1], entered the United States from Canada on or about May 1, 1997. Resp't's Mot. 1. On September 7, 2004, Petitioner was taken into custody by the Bureau of Immigration and Customs Enforcement ("ICE") in Albuquerque, New Mexico in possession of an expired Bangladeshi passport with a fraudulent United States permanent residence stamp. *Id.* He was detained at the El Paso Department of Homeland Security Service Process Center and released on September 15, 2004, having posted immigration bond. *Id.* at 1-2. On October 7, 2004, the Process Center discovered a discarded identification card and passport belonging to

[1]Petitioner refers to himself as "Abdulle" on the first page of his "Response to Respondents' Motion to Dismiss" even though the Petitioner's name in the caption is Nantu Khan. The Court will substitute "Khan" for "Abdulle."

Petitioner hidden in a toilet. *Id.* at 2. On January 20, 2005, Petitioner was convicted of knowingly destroying, concealing, and mutilating identification documents in a federal investigation under 18 U.S.C. § 1519.[2] *Id.* Petitioner was ordered removed from the United States on December 19, 2005. *Id.* The order became final on that date as Petitioner waived appeal. *Id.* Petitioner has been in custody at the El Paso Service Processing Center since that time. Pet'r's Pet. 2.

On June 7, 2006, ICE reviewed Petitioner's continued detention and determined that he would remain in custody. Resp't's Mot. Ex. 1. According to ICE's "Decision to Continue Detention" ("Decision"), their decision was based upon (1) Petitioner's failure to demonstrate that he was not a flight risk and (2) the fact that Petitioner's removal was not practicable. *Id.* ICE also refused to grant Petitioner supervised release because he failed to provide information as to a proposed residence and failed to submit a release plan with U.S. probation. *Id.*

In May of 2006, Petitioner provided ICE with the names and addresses of his family in Bangladesh as well as additional personal information and a copy of his expired passport for use by the Bangladeshi consulate in securing travel documents for him. *Id.*; Pet'r's Resp. 3, Ex. 1. On June 2, 2006, ICE confirmed that the consulate attempted to contact Petitioner's mother but was unable to locate her. *Id.* at Ex.. 3. On July 13, 2006, ICE conducted a second custody review with Petitioner and determined that he should remain detained because the Bangladeshi consulate had not indicated that they would not be issuing a travel document. *Id.* at 2. On August 3, 2006, a consulate representative again interviewed Petitioner. *Id.* at 5; Resp't's Mot. 5.

[2]Respondents incorrectly state in their Motion to Dismiss that Petitioner was convicted of violating 8 U.S.C. § 1519. Resp. Brief at 2. No such statute exists. Petitioner was in fact convicted of 18 U.S.C. § 1519.

According to ICE, the consulate was unable to determine whether Petitioner was a citizen of Bangladesh and requested that Petitioner complete a new document request packet. Resp't's Mot. Ex. 2. The most recent contact between Respondents and the consulate was on September 12, 2006 when the consulate stated that they could not issue travel documents because Petitioner's background investigation was not complete. *Id.*

Respondents have attempted to secure travel documents from the Bangladeshi consulate for Petitioner on four separate occasions. Evid. Hr'g of Sept. 19, 2006 ("Hearing"). Petitioner has participated in these attempts by signing passport renewal forms, by providing copies of his expired passport, and by speaking with the consulate on three occasions. *Id.* Respondents have stated that there is nothing else that they or Petitioner can provide to the consulate. *Id.* Respondents also state that they have no further plans to contact the consulate. *Id.*

Petitioner has been detained for nine months, three months beyond the presumptively reasonable period allowed under the Supreme Court's ruling in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Petitioner's step-sister, who lives in California, has agreed to house him and to provide financial support. Pet'r Resp. 6, Ex. 6; Resp't's Mot. Ex. 1.

On July 12, 2006, Petitioner filed a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pet'r's Pet. 1. On July 14, this Court ordered Respondents to show cause. Respondents filed a motion to dismiss on August 7, 2006. Resp't's Mot. 1. Petitioner responded on August 17, 2006. Pet'r's Resp. 1.

II. DISCUSSION

A. Standard

A motion to dismiss pursuant to Rule 12(b)(6) challenges a complaint on the basis that it fails to state a claim upon which relief may be granted. FED.R.CIV.P. 12(b)(6). In ruling on a Rule 12(b)(6) motion, the court must accept well-pleaded facts as true, and view them in a light most favorable to the plaintiff. *Id.*; *Calhoun v. Hargrove*, 312 F.3d 730, 733 (5th Cir. 2002). A court will dismiss a complaint pursuant to Rule 12(b)(6) only if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claim that would entitle him to relief. *S. Christian Leadership Conference v. Supreme Court of Louisiana*, 252 F.3d 781, 786 (5th Cir. 2001).

B. Petitioner's *Zadvydas* Claim

After an IJ enters a final order of removal, the post-removal statute, codified at 8 U.S.C. § 1231, allows the Government to detain aliens pending actual removal. 8 U.S.C. § 1231(a); *Zadvydas v. Davis*, 533 U.S. at 682-83; *Shokeh v. Thompson*, 369 F.3d. 865, 869 (5th Cir. 2004). Generally, the Government must facilitate removal within a ninety (90) day removal period following entry of the final order of removal. 8 U.S.C. § 1231(a); *Abdulle v. Gonzales*, 422 F.Supp.2d 774, 777 (W.D. Tex. 2006). An exception to this 90-day removal period exists, allowing the Government to detain the alien beyond the removal period, when "the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal." 8 U.S.C. § 1231(a)(1)(C); *Abdulle*, 422 F.Supp.2d at 777. This exception exists because "[w]e cannot know whether an alien's removal is a 'remote possibility,' *Zadvydas*, 533 U.S. at 690. . . until the alien makes a full and honest effort to secure travel documents." *Lema v. I.N.S.*, 341 F.3d 853, 857 (9th Cir. 2003).

Assuming that an alien meets the good faith requirement imposed by § 1231, habeas courts must then examine the length of the alien's detention. When presented with the issue of whether aliens that the Government is unable to remove are condemned to face an indefinite term of detention in *Zadvydas v. Davis*, the Supreme Court held that "'once removal is no longer reasonably foreseeable, continued detention is no longer authorized by 8 U.S.C. § 1231.'" *Shokeh*, 369 F.3d at 869 (citing *Zadvydas*, 533 U.S. at 699). To aid habeas courts in determining what constitutes the reasonably foreseeable future, the Supreme Court held that six months from the final order of removal is a presumptively reasonable period of detention. *Zadvydas*, 533 U.S. at 701. Thereafter, "once the alien 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.* For detention to remain reasonable, what counts as the "reasonably foreseeable future" must shrink as the period of detention increases. *Id.*

No court has addressed the quantum of evidence necessary to establish lack of cooperation under § 1231. *Abdel-Muhti v. Ashcroft*, 314 F.Supp.2d 418, 428 (M.D. Pa. 2004). Nonetheless, when faced with the issue of determining whether petitioners have satisfied their obligations under § 1231, courts look to whether they have undertaken overt actions to thwart removal, whether they can or have produced affidavits from friends and family to support their claims of nationality, whether they have requested travel documents from the country of intended removal, whether they have attempted to contact the consulate of the country of intended removal, and/or whether they can or have provided the INS with requested documents. *Lema v. I.N.S.*, 341 F.3d at 857 (finding petitioner failed to cooperate because he provided no affidavits, made no requests for travel documents, did not contact the consulate, and failed to produce documents to INS); *Olajide v. B.I.C.E.*, 402 F.Supp.2d 688, 693 (E.D. Va. 2005) (denying habeas relief when petitioner obstructed efforts at removal by refusing medical treatment); *Arjam v. Ashcroft*, 2006 U.S. Dist. LEXIS 54229, at *7 (D.N.J. Aug. 4, 2006) (denying habeas relief when petitioner confused the issue of his identity and failed to ask nearby family members to assist him in establishing his identity); *Jabir v. Ashcroft*, 2004 U.S. Dist. LEXIS 346, at *31 (E.D. La. Jan. 8, 2004) (granting habeas relief when Government failed to produce evidence that receiving country would enable removal and that petitioner had obstructed attempts at removal). Courts are careful to note that the Government bears some burden for articulating the information required from petitioners and for focusing efforts on obtaining appropriate documentation to expedite removal. *Qing Di Wang v. Ashcroft*, 2006 U.S. Dist. LEXIS 34920, at *13 (D.N.J. May 31, 2006).

Respondents argue that Petitioner should not be released because he is responsible for the need to obtain the documents, having destroyed his travel documents when the government first picked him up. Petitioner argues that he has, in fact, done everything within his power to assist Respondent in acquiring travel documents from the Bangladeshi consulate.

In the instant case, Petitioner has shown good faith. He has provided a copy of his expired passport to the government for use in securing travel documents. He has signed passport renewal forms and complied with the Bangladeshi consulate's requests for interviews on three separate occasions.

Moreover, Respondents' argument is without merit. First, the *Zadvydas* analytical framework and the relevant statute, 8 U.S.C. 1231(a)(1)(C), refer to an alien's efforts to secure his removal during the removal period. Thus, the relevant period for the Court to evaluate an alien's good faith begins on the date of the final order of removal. *See* 8 U.S.C. § 1231(a)(1)(C);

Abdulle , 422 F.Supp.2d at 777. Petitioner destroyed his travel documents prior to receiving his final order of removal and thus Respondents' argument is misplaced. Secondly, according to Respondents' rationale, Petitioner would never be eligible to be released from detention because he will always have performed the acts of bad faith that the government describes. This is contrary to the Supreme Court's holding in *Zadvydas*. Finally, Petitioner was already punished separately for the destruction of his identification documents as evidenced by his time served in federal prison. Accordingly, this Court finds that Petitioner met the good faith requirement of § 1231.

Next, this Court will address the length of Petitioner's detention. As stated above, a reasonably presumptive period of detention pending removal is 6 months. *Zadvydas*, 533 U.S. at 701. Thereafter, "once the alien 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.*

In this case, Petitioner has met his burden under *Zadvydas*. He has demonstrated that the Bangladeshi consulate is unlikely to provide him with the necessary travel documents any time soon. He has spoken with representatives of the consulate on multiple occasions and filled out several application packets for travel documents to no avail. In addition, Respondents have stated that there is nothing more that Petitioner can do to assist in his removal. Therefore, this Court finds that Petitioner has provided good reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future.

Under the *Zadvydas* framework, Respondents must rebut this showing. Respondents argue that because Petitioner has recently spoken with the Bangladeshi consulate for a second time, issuance of the travel documents must be imminent. Respondents contend that the consulate would not otherwise devote resources to Petitioner's case unless it were ready to issue documents.

This argument is speculative at best. There are many reasons why the consulate might wish to speak with Petitioner which do not indicate the imminent issuance of travel documents. For example, the consulate might require additional information in its ongoing investigation into Petitioner's citizenship. Accordingly Respondents have failed to meet their burden.

III. CONCLUSION

Petitioner, Nantu Khan's petition for writ of habeas corpus (Doc. No. 1) is **GRANTED**. Petitioner is **ORDERED RELEASED** from physical custody.

IT IS FURTHER ORDERED that Respondents' Motion to Dismiss (Doc. No. 4) is **DENIED**.

IT IS FURTHER ORDERED that Petitioner, Nantu Khan, shall fully cooperate with the Bureau of Immigration and Customs Enforcement to effect his prompt removal from the United States.

IT IS FINALLY ORDERED that Petitioner shall be released under an order of supervision to be established by a deportation officer in the Bureau of Customs and Immigration Enforcement. An officer of the Bureau of Immigration and Customs Enforcement shall supervise Petitioner pending his removal in accordance with Title 8 U.S.C. § 1231(a)(3) and agency regulations, subject to such terms and conditions as it deems appropriate, pending the issuance of travel documents to effect his removal.

SO ORDERED.

SIGNED on this 22nd day of September 2006.

Kathleen Cardone

KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE