

JUDGE DAVID BRIONES

Habeas Petition

United States District Court For The
Western District Court Of Texas
Albert Armendariz SR,
United States Courthouse
525 Magoffin Avenue
Room 105
El Paso, TX 79901

Date: 01 / 05 / 2026

ASHRAF BAZZAR



Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

RECEIVED
JAN 08 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
CLERK

EP 26CV0019

V.

Pam Bondi, Attorney General,

Kristi Noem, Secretary Of The

Department OF Homeland Security,

Maria Deanda Ybara, U.S. ICE

Field Office Director For,

"EOIR" Field Office,

Angel C. Garite, Assistant

Field Office Director Of El Paso SPC.

Respondents

Civil Action No. _____

Petition For A Writ Of Habeas Corpus

Pursuant To 28 U.S.C. §2241, By

A Person Subject To Indefinite

Immigration Detention.

BACKGROUND

__Petitioner, ASHRAF BAZZAR, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful mandatory detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. __Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (ICE). Petitioner is detained at the:

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

__Petitioner is under 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 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. I §9, 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 forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its 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 its protections have been strongest.")' *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

VENUE

3. __Venue lies in the Western District Court Of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court.

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's deportation officer has informed him that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit ("HQPDU") has decided to keep him in custody under mandatory detention because they are not releasing anybody in the united states under the new administration.

_ Petitioner has sent a letter requesting review and release from (ICE) custody after his (90-days).

_ Petitioner has sent a letter requesting review and release from (ICE) custody after his (180-days).

_The custody review regulations do not provide for appeal from a ("HQPDU") custody review decision. See 8 C.F.R. §241.4(d).

5._No statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

PARTIES

6._Petitioner ASHRAF BAZZAR, is a detainee in the Immigration and Custom Enforcement (ICE) custody on April 06,2025 subject for mandatory detention for over six months.

7._Respondent Pam Bondi, is the Attorney General of the United States and is responsible for the administration of (ICE) and the implementation and enforcement of the Immigration & Naturalization Act ("INA"). As such, Pam Bondi, has ultimate custodial authority over Petitioner.

8._Respondent Kristi Noem, is the Secretary of the Department of Homeland Security. She is responsible for the administration of (ICE) and the implementation and enforcement of the INA. As such Mrs, Kristi Noem, is the legal custodian of Petitioner

9._Respondent Maria Deanda Ybara, is the ICE Field Office Director of the Western District

Court Of Texas Field Office of ICE and is Petitioner's immediate custodian. *See Vásquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

10. Respondent Angel C. Garite, is the Assistant Field Office Director of:

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

_where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

STATEMENT OF THE FACTS

11. Petitioner was born in Jerusalem, West Bank, Palestine on  to become disable and fully blind in the hurricane that hit ST Thomas, Virgin Island zip code 00802 on 2018.

12. Petitioner enter the United States with a marriage visa on 2005, adjusted status to permanent resident same year.

13. Petitioner has a final removal order on 2110.

14. Petitioner was taken into ICE custody on 2011 for 75 days then was released under an order of supervision.

15. Petitioner was taken into Immigration and Custom Enforcement (ICE) custody for the second time one April 06, 2025 and remains in custody for over six months under mandatory detention at the El Paso Service Processing Center.

16. Petitioner's deportation officer requested from him to fill out travel documents for Israel, Palestinian Authority and Jordan. Petitioner has filled out each document application, signed it, finger print it and took the needed photographs as well.

17. Immigration and Custom Enforcement (ICE) has conducted the first custody review on July 05, 2025 after being (90-days) in detention, petitioner's deportation officer has informed that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit ("HQPDU") has decided to continue his detention to arrange his removal back to his country.

18. Immigration and Custom Enforcement (ICE) conducted the second custody review on

October 03, 2025 after being (180-days) in detention. Petitioner's deportation officer has informed that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit ("HQPDU") has decided to keep him under mandatory detention because nobody is getting released in the states period under the new administration.

19.To petitioner knowledge, the government of Israel\Palestinian authority\Jordan has not issued any travel documents for him. Indeed, neither Immigration and Custom Enforcement (ICE) gave no information concerning the existence or status of efforts to deport Petitioner besides keeping him in custody for a mandatory detention. nor Israel\Palestinian authority\Jordan have provided any indication that Israel\Palestinian authority\Jordan would accept Petitioner in the reasonably foreseeable future.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

20.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-removal-period detention to a period reasonably necessary to bring about that 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.

21.In determining the length of a reasonable removal period, the Court adopted a "presumptively reasonable period of detention" of "six months". *Id.* at 701. After six months, 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-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Zadvydas*, 533 U.S. at 701. ICE's administrative regulations also recognize that the HQPDU has a six-

month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. See 8 C.F.R. §241.4 (k)(2)(ii).

22.Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government's burden to establish that an alien petitioner will be deported in the reasonably foreseeable future. See *Thompson v. INS*, 2002 U.S. Dist. LEXIS 23936 (E.D. La. September 16, 2002) (government failed to show that alien's deportation to Israel/ Jordan/Palestinian Authority was reasonably foreseeable where the government offered historical statistics of repatriation to Israel/Jordan/Palestinian Authority, but failed to show any response from Israel/ Jordan/Palestinian Authority on the applications for travel documents that INS and the petitioner had requested). Rather for the government to meet its burden of showing that an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual petitioner's case.

23.An alien who has been detained beyond the presumptive six months 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. John Ashcroft*, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August 22, 2002) (court "will likely grant" habeas petition after six months if ICE is "unable to present document confirmation that the Israeli\Palestinian\Jordanian governments 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 was no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF COUNT ONE STATUTORY VIOLATION

24.Petitioner re-alleges and incorporates by reference paragraphs 1 through 23 above.

25.Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the U.S. Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for continued removal efforts has expired. Petitioner still has not been removed,

and for the reasons outlined above in paragraphs 1 to 23, Petitioner's removal to Israel/ Jordan/Palestinian Authority is not reasonably foreseeable.. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone after six months where deportation is not reasonably foreseeable is unreasonably and in violation of 8 U.S.C. §1231(a). 533 U.S. at 701.

COUNT TWO SUBSTANTIVE DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Petitioner's continued detention violates Petitioner's 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) (aliens retain substantive due process rights).

28. The Due Process Clause of the Fifth Amendment requires 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 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. The U.S. 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 interest - 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 substantive 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.")

COUNT THREE PROCEDURAL DUE PROCESS VIOLATION

29. Petitioner re-alleges and incorporates by reference paragraphs 1 through 28 above.

30. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a

neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*

PRAYER FOR RELIEF

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

- 1) _Assume jurisdiction over this matter;
- 2) _Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody, under reasonably conditions of supervision;
- 3) _Order Respondents to refrain from transferring the Petitioner out of the jurisdiction of the ICE EL PASO SPC, Director during the pendency of these proceedings and while the Petitioner remains in Respondent's custody; and
- 4) _Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) _Grant any other and further relief that this Court deems just and prope

_I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this on _____ / _____ / _____.

ASHRAF BAZZAR



Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

Date: 01 / 05 / 2026.

Full Name: Ashraf Bazzar

Signature: Ashraf Bazzar

Certificate of Service

I, ASHRAF BAZZAR , certify that a true copy of the above document

(Petition for Writ of Habeas Corpus) together with the attached documents, was served on

01 / 05 / 2026, upon the following:

1. United States District Court For The
Western District Court Of Texas
Albert Armendariz SR,
United States Courthouse
525 Magoffin Avenue
Room 105
El Paso, TX 79901
2. US Attorney
11541 Montana Ave
Suite 0
El Paso, TX 79936

,

Date: 01 / 05 / 2026.

Full name: Ashraf Bazzar

Signature: Ashraf Bazzar

