UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

MOHAMED FARAHAT,

Petitioner,

v.

RUSSEL HOTT, Field Office Director of Enforcement and Removal Operations, Washington Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; PAUL PERRY, Superintendent of Caroline Detention Center; TODD M. LYONS, Acting Director, U.S. Department of Homeland Security,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner MOHAMED FARAHAT is a native of Egypt currently held in immigration detention at Caroline Detention Center in Bowling Green, Virgina. On June 2, 2025, Petitioner obtained protection from removal to Egypt in the form of Withholding of Removal under INA §241(b)(3). Exhibit 1, IJ Order.

2. Despite this protection, Petitioner has remained in ICE custody for a prolonged period following the issuance of a final order of removal. As of January 14, 2026, Petitioner has been detained for 226 days after his removal order, exceeding the presumptively reasonable six-month period established by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

3. Removal is not reasonably foreseeable, and continued detention violates Petitioner's rights under the Fifth Amendment's Due Process Clause. Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released on an Order of Supervision.

JURISDICTION

4. Petitioner is in the physical custody of Respondents. Petitioner is detained at the CAROLINE DETENTION CENTER in Bowling Green, Virginia.

5. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by individuals in ICE custody who challenge the lawfulness of their detention under federal law. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas*, 533 U.S. at 687.

6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the EASTERN DISTRICT OF VIRGINIA, the judicial district in which Petitioner currently is detained.

9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the EASTERN DISTRICT OF VIRGINIA.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

11. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

12. Petitioner MOHAMED FARAHAT is a citizen of Egypt who has been in immigration detention continuously since his removal order and grant of Withholding of Removal on June 2nd, 2025.

13. Respondent RUSSELL HOTT is the Director of the Washington Field Office of ICE's Enforcement and Removal Operations division. He or his acting counterpart is named in his or her official capacity.

14. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

15. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

16. Respondent PAMELA BONDI is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

17. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

18. Respondent PAUL PERRY is employed by the private, for-profit detention corporation contracted by the Government as an agent to confine immigrants at Caroline Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

19. Petitioner TODD M. LYONS is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

LEGAL FRAMEWORK

I. 8 U.S.C. § 1231(a) Governs Post-Order Detention

20. "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 [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690. Indefinite detention, in particular, raises a "serious constitutional problem" and violates the Due Process Clause. *Id.* at 689–90.

21. The Due Process clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical lies at the heart of the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Court noted, "[a] statute permitting indefinite detention of an lien would raise a serious constitutional problem." *Id.*; *see also Plyer v. Doe*, 457 U.S. 202, 210 (1982) ("Aliens, even aliens whose presence in this country is unlawful, have long been recognized as 'persons' guaranteed due process of law by the Fifth and Fourteenth Amendments.").

22. The Due Process Clause requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. See *Reno v. Flores*, 507 U.S. 292, 301–02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest").

23. Section 1231 of Title 8 of the U.S. Code governs the detention of individuals who are subject to a legally final order of removal. See 8 U.S.C. § 1231(a).

24. When a non-citizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2) (2025). While ICE is authorized to remove non-citizens who were granted withholding or CAT relief to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f) (2025), this must be done in a way consistent with federal law and the Due Process Clause, including finding a country willing to accept the non-citizen and providing an opportunity for the non-citizen to assert and adjudicate their fear of removal to that country.

25. Detention under Section 1231 is only mandatory during the initial ninety-day "removal period," 8 U.S.C. § 1231(a)(1)(A), the time window during which the government is typically required to effectuate removal. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal "shall" be detained during the first 90 days—the "removal period"—and they "shall" be removed during that period under § 1231(a)(1). Detention is no longer mandatory after the 90-day removal period, and the individual should generally be released.

26. The District Director is required to review every administratively final order removal case before the ninety [90] day removal period mandated by § 241(a)(1) expires. 8 C.F.R. § 241.4 gives the District Director the authority to make release decisions beyond removal period based on specific criteria in the regulation as set forth below. The regulation also provides that the District Director should provide an alien with the opportunity to demonstrate by clear and convincing evidence that he is not a threat to the community and is likely to comply with the removal order. The alien may be given this opportunity in writing, orally, or a combination thereof. The District

Director must ensure that the file is documented with respect to the alien's opportunity to present factors in support of his release, and the reasons for the custody or release decision. Memorandum from Michael A. Pearson, Exec. Assoc. Comm'r, Office of Field Operations, U.S. Immigration & Naturalization Serv., to Regional Directors, Detention Procedures for Aliens Whose Immediate Repatriation Is Not Possible or Practicable (Feb. 3, 1999), reprinted in AILA Doc. No. 99030580. Exhibit 3.

27. Under 8 U.S.C. § 1231(a)(6), the government "may" continue detention beyond the 90-day removal period if a noncitizen falls within certain broad categories of removability or is determined "to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. §1231(a)(6). That release can include conditions of supervision, such as periodic reporting. See 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4 (2025) (detailing criteria and procedures for release of individuals detained beyond the removal period who do not pose a threat to the community or a significant flight risk). Section 1231 "does not specify a time limit on how long DHS may detain an alien in the postremoval period." *Castaneda v. Perry,* 95 F.4th 750, 755-56 (4th Cir. 2024). But the United States Supreme Court addressed this issue in *Zadvydas v. Davis,* 533 U.S. 678 (2001). In *Zadvydas,* the Supreme Court considered whether § 1231(a)(6) authorizes the indefinite detention of an alien subject to a removal order, or whether the statute permits detention only for a period reasonably necessary to secure the alien's removal. *Zadvydas,* 533 U.S. at 692. Recognizing the "serious constitutional problem arising out of a statute that... permits an indefinite, perhaps permanent, deprivation of human liberty," *Zadvydas,* 533 at 692, the *Zadvydas* Court "construe[d] [§ 1231] to contain an implicit 'reasonable time' limitation.'" *Castaneda,* 95 F.4th at 756 (quoting *Zadvydas,* 533 U.S. at 682). This period, the Supreme Court determined, is presumptively six months. *Id.* (citing *Zadvydas,* 533 U.S. at 701).

28. The six-month presumption "does not mean that every alien not removed must be released after six months." *Zadvydas,* 533 U.S. at 701. But if an alien is detained beyond six months, the reasonable presumption no longer exists. At that point, "if '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' or release the alien." *Castaneda*, 95 F.4th at 756 (quoting *Zadvydas*, 533 U.S. at 701); *see also Menghua Wan v. Crawford*, No. 1:13-cv-1473 (JCC), 2014 WL 970180, at *3 (E.D. Va. Mar. 12, 2014) (explaining the burden-shifting test established in *Zadvydas* to assess the constitutionality of detention following the presumptively reasonable six-month period).

II. Detention under Section 1231 is Subject to Constitutional Limitations

29. The Constitution limits the government's post-removal period discretion to detain individuals under Section 1231.

30. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of individuals who have a final order of removal and are deemed to be a risk of flight or danger, the Supreme Court has recognized constitutional limits to such continued detention.

31. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of individuals who have a final order of removal and are deemed to be a risk of flight or danger, the Supreme Court has recognized constitutional limits to such continued detention.

32. These constitutional limitations are rooted in the Due Process Clause of the Fifth Amendment, which the Supreme Court applied to the post-removal period detention in *Zadvydas*. "The statute, read in light of the Constitution's demands, 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*, 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

24. Courts have rejected conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights or repatriation agreements, that removal is imminent. "[A] theoretical possibility of eventually being removed does not satisfy the government's burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future." *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted). "[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future." *Id.* at *5 (internal quotation marks and citation omitted). *See also Gomez Barco v. Witte*, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020)(ordering release of a petitioner who was detained longer than six months because ICE had not been able to secure necessary travel documents, noting that the ICE officer "clearly has no factual basis for his 'belief' that there is no foreseeable impediment to Petitioner's removal or that her removal is imminent," and that there was no foundation for the "expectation" that the COVID-19 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).[1] In granting Ms. Balza's release, the court considered and rejected a conclusory declaration by a local ICE

[1] Other district courts in the Fifth Circuit and elsewhere have similarly granted habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to a lack of diplomatic relations with Venezuela); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond to a travel document request for more than seven months).

Assistant Field Officer that removal was imminent. *Id.* at *5. In *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE's vague statements that it was "endeavoring to rectify the issue" and concluded there was no end in sight for detention, and recommended release. The District Court Judge agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011), report and recommendation adopted, No. CIV.A. 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

25. Courts have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See, e.g.*, *Gomez Barco*, 2020 WL 7393786 (ordering release of an immigrant detainee who was a native and citizen of Venezuela who was detained longer than six months because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at *5 (ordering release of petitioner and noting that "[a]fter more than a year of detention, Petitioner's removal need not necessarily be imminent, but it cannot be speculative") (internal quotation marks omitted).

26. Under *Zadvydas*, courts have found that there is no significant likelihood of removal and granted relief where:

a. No country will accept the petitioner. *See, e.g.*, *Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).[2]

b. The petitioner's country of origin refuses to issue a travel document. *See, e.g.*, *Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas relief to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. of Immigr. & Customs Enf't*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad's refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner's HIV status).[3]

c. There is no removal agreement between the United States and a country. In these scenarios, courts have found that the lack of a formal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning

[2] *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed "that the countries with which he has any affiliation will not accept him"); *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

[3] *See also Ka v. Bureau of Immigr. & Customs Enf't*, No. B-07-197, 2008 WL 11462867, at *8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal "refused to issue Ka a travel document because he d[id] not have proper identity documentation"); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

government support a finding that there is no significant likelihood of removal. *See, e.g.*, *Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of petitioner's parents was not Ethiopian).[4]

d. There is either no response from a country designated for removal or a significant delay in receiving a response. *See, e.g.*, *Gonzalez-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to petitioner detained thirteen months where there was no response from Venezuelan officials).[5]

e. ICE fails to take action to secure travel documents for a prolonged period. *See, e.g.*, *Senor*, 401 F. Supp. 3d at 430–31 (granting habeas relief after ICE initially requested travel documents but where "there [wa]s no indication from the

[4] *See also Gomez Barco*, 2020 WL 7393786; *Islam v. Kane*, No. CV–11–515–PHX–PGR (LOA), 2011 WL 4374226, at *3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh "is one of fifteen countries identified by ICE as least likely to issue travel documents"); *Carreno*, 2020 WL 8366735; *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to a lack of diplomatic relations with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government's ability to remove the petitioner to Somalia).

[5] *See also Sharifi*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL 4581465 (W.D.N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D.N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D.N.Y. 2019); *Butt v. Holder*, No. CA 08–0672–CG–C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistani Embassy that travel documents would be issued); *Lawrikow v. Kollus*, No. CV–08–1403–PHX–GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawford*, No. 06–02436 PHX JWS (MEA), 2007 WL 1063413 (D. Ariz. Jan. 31, 2007); *Gui v. Ridge*, No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft*, No. 02 C 7737, 2003 WL 1964290 (N.D. Ill. Apr. 28, 2003).

record that anyone ha[d] taken any further action in the eight months since that time . . . to facilitate Senor's receipt of the necessary travel documents").[6]

27. As the length of detention grows, the period of time that would be considered the "reasonably foreseeable future" shrinks. *See, e.g.*, *Zadvydas*, 533 U.S. at 701 (stating that as the length of time in detention grows "what counts as the 'reasonably foreseeable future' conversely would have to shrink"); *Senor*, 401 F. Supp. 3d at 430 ("'[T]he passage of time combined with' the 'government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody' [is] sufficient to meet that 'initial burden.'"); *Lawrikow*, 2009 WL 2905549, at *12.

28. Because the statutory purpose of Section 1231 is to detain individuals subject to a final order of removal for the purpose of effectuating their removal, civil immigration detention violates due process when it stops being reasonably related to effectuating removal. The government's claim that post-order detention is justified to prevent flight and ensure compliance with a removal order is "weak or inconsistent" where removal is not foreseeable. *Id.* at 697.

29. The *Zadvydas* Court adopted a "presumptively reasonable period of detention" of six months, inclusive of the 90-day removal period. *Id.* at 701. This presumption is rebuttable and not a jurisdictional requirement or a required element of a *Zadvydas* claim. *See Ali*, 451 F. Supp. 3d at 707 (S.D. Tex 2020).

FACTS

[6] *See also Chun Yat Ma v. Asher*, No. C11–1797 MJP, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner's release where the government failed "to provide any documentation of efforts . . . to effectuate removal . . . [for] nearly six months").

30. Petitioner, MOHAMED FARAHAT, A-Number [redacted], is a native and citizen of Egypt. He is currently in ICE custody at the Caroline Detention Center in Bowling Green, Virginia, according to the official ICE detainee locator. Exhibit 3.

31. Petitioner entered the U.S. unlawfully on or about September 18th, 2024. Removal proceedings were initiated by the Department of Homeland Security (DHS) against Petitioner under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA). Exhibit 2.

32. On June 2, 2025, the Immigration Judge (IJ) at the Annandale Immigration Court issued an oral decision, summarized in writing, finding Petitioner removable under the cited INA provisions. Exhibit 1. The IJ granted withholding of removal under INA § 241(b)(3). *Id.* Asylum was denied, and other forms of relief were either denied or not reached. *Id.*

33. Petitioner did not file an appeal with the Board of Immigration Appeals ("BIA").

34. Petitioner has cooperated with ICE by providing information about Petitioner's country of birth and country of citizenship.

35. Petitioner has cooperated with ICE by signing a travel document application.

36. Petitioner has cooperated with ICE by talking to his/her home country consulate or embassy.

37. Petitioner has cooperated with ICE by providing fingerprints, and other identification documents.

38. Following the IJ's decision, Petitioner was no longer subject to removal to Egypt due to the withholding grant. However, he has remained detained at Caroline Detention Center.

39. The DHS has denied Petitioner's release both at the 90-day required review benchmark as well as at the 180-day review.

40. As of January 3, 2026, six months have elapsed since the IJ's grant of withholding of removal on June 2, 2025. Despite this, Petitioner continues to be held in ICE custody without removal being effectuated, even though removal to Egypt was legally barred under the IJ's order, and even though his removal is not reasonably foreseeable; nor do any special circumstances justify ongoing detention.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA at 8 U.S.C. 1231(a)(6)

41. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

42. Petitioner has been detained by ICE beyond the removal period authorized by statute. ICE is not likely to remove him in the near future.

COUNT II
Violation of the due process clause of the Fifth Amendment to the U.S. Constitution.

43. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

44. ICE is depriving Mr. Malak of his right to liberty. He has been detained by ICE for a prolonged period.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the EASTERN DISTRICT OF VIRGINIA while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner on an Order of Supervision;

e. Declare that Petitioner's ongoing detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Date: January 14, 2026

Respectfully Submitted,

/s/ Katherine Soltis
Katherine Soltis
VA Bar No. 89590
Taylor Diaz & Soltis, PLLC
200 Little Falls St # 207
Falls Church, VA 22046
571-351-2227 (phone)
571-620-2221 (fax)
katie@tdsimmigrationlaw.com

/s/ Sherif Bishara
Sherif Bishara
NJ Bar No. 019002011
Bishara Law
836 Broadway, Ste A
Bayonne, NJ 07002
(347)513 7991 (phone)
sbishara@bisharafirm.com
Motion to Appear Pro Hac Vice Forthcoming

Attorneys 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 for Petitioner. The events described in this Petition are based on a review of his immigration documents and discussions with Petitioner and his family. 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: January 14, 2026

/s/ Sherif Bishara
Sherif Bishara