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12 UNITED STATES DISTRICT COURT
13 DISTRICT OF NEVADA

14 Loai Joker

15 Petitioner,

16 v.

17 Pam Bondi, *et al.*,

18 Respondents.

Case No. 2:26-cv-00414-JAD-MDC

First Amended § 2241 Petition

19 INTRODUCTION

20 Loai Joker, who came to the United States from Sudan with his mother and
21 brother at just under three years old during the civil war in that country, has lived
22 under a shadow of uncertainty, a citizen of no country, for over two and a half
23 decades. Although an immigration judge ordered his removal to Sudan in 2024, the
24 United States has not been able to carry out that order for approaching two years.
25 Prior to his order of removal, Mr. Joker was residing in the community under an
26 order of supervision ("OSUP"). He was in compliance with that order, abiding by its
27 conditions and reporting weekly to immigration officials. Mr. Joker lived with his
family in Salt Lake City, Utah.

1 Nothing changed. Yet, in September 2025, immigration officials arrested Mr.
2 Joker again. Since then, he has received no information about when or whether he
3 will be removed. What has changed is this: after nearly nine years of effort, the
4 government is no closer to securing travel documents. When Mr. Joker has been a
5 refugee his entire life, with no closer tie to Sudan than most any American today.
6 Mr. Loai Joker grew up in Salt Lake City, Utah, with no memory of any of his time
7 in Sudan as an infant. No country acknowledges his citizenship.

8 Mr. Joker is, in short, unremovable. The statutory 90-day removal period
9 expired more than a year and a half ago. Yet, the government has again subjected
10 him to prolonged, purposeless detention, this time lasting over six months, in
11 violation of the Constitution, the Immigration and Nationality Act, and its own
12 governing policies.¹ With no evidence that removal has become more likely now
13 than at any point in the past nine years, his continued detention is unlawful. Mr.
14 Joker must be released.

15 JURISDICTION AND VENUE

16 This Court has jurisdiction pursuant to 28 U.S.C. §2241 (granting general
17 habeas authority to district courts); Art. 1 § 9, cl. 2 of the U.S. Constitution (the
18 “Suspension Clause”); 28 U.S.C. §1331 (federal question jurisdiction); and 28 U.S.C.
19 § 2201, 2202 (Declaratory Judgment Act).

20 Federal district courts have jurisdiction to hear habeas claims by non-citizens
21 challenging the lawfulness of their detention. *See e.g. Zadvydas v. Davis*, 533 U.S.
22 678 (2001). Federal courts also have federal question jurisdiction, through the APA
23 to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an
24 abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

25
26 ¹ DHS has been actively attempting to remove Mr. Joker since 2022. He has
27 been either in detention or under constant supervision. Still nothing has changed,
with DHS unable to obtain his travel documents.

1 APA claims are cognizable in habeas. 5 U.S.C. § 703. The APA affords a right of
2 review to a person who is “adversely affected or aggrieved by agency action.” 5
3 U.S.C. § 702. Mr. Joker’s continued detention violates his constitutional due process
4 rights, constitutes arbitrary and capricious agency action, and is an abuse of
5 discretion.

6 Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28
7 U.S.C. § 1391(b)(2) and (e)(1) because Mr. Joker is detained within this district at
8 Nevada Southern Detention Center.

9 Accordingly, Mr. Joker’s habeas petition is properly before this court.

10 PARTIES

11 Loai Joker is a native and citizen of Sudan who was ordered removed in 2024.
12 He is currently detained at the Nevada Southern Detention Center in Pahrump,
13 Nevada.

14 John Mattos is the warden of Nevada Southern Detention Center. Mattos, in
15 his official capacity, is the immediate custodian of Mr. Joker.

16 Michael Bernacke is the Field Director of the West Valley City Office of
17 Immigration and Customs Enforcement (ICE) Enforcement and Removal
18 Operations, which has jurisdiction of enforcement and removal operations over
19 detention facilities in Nevada, including Nevada Southern Detention Center where
20 Mr. Joker is detained. Bernacke, in his official capacity, is a legal custodian of Mr.
21 Joker.

22 Todd Lyons is the Acting Director of Immigration and Customs Enforcement,
23 which is responsible for administering and enforcing immigration laws, including
24 the detention and removal of immigrants. Lyons, in his official capacity, is a legal
25 custodian of Mr. Joker.

1 Kristi Noem is the Secretary of the Department of Homeland Security (DHS),
2 which oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of
3 Mr. Joker.

4 Pam Bondi is the Attorney General of the United States. She oversees the
5 immigration court system, which is housed within the Executive Office for
6 Immigration Review (EOIR) and includes all immigration courts and the Board of
7 Immigration Appeals (BIA). She is named in her official capacity.

8 STATEMENT OF FACTS

9 Petitioner Loai Joker was born in Sudan. On information and belief, when he
10 was approximately two years old, Mr. Joker was brought to the United States by
11 the United Nations, as a refugee fleeing the ongoing civil war in Sudan. Mr. Joker,
12 his mother and brother were first evacuated to Egypt, and from Egypt, to the
13 United States. They were brought to Salt Lake City, via entry in New York City.
14 Mr. Joker's father remained behind in Sudan. Mr. Joker has lost touch with him
15 since his arrival in the United States, effectively growing up without his father.

16 Mr. Joker grew up in Salt Lake City, Utah, where he resided with his brother
17 and mother. In 2017, an immigration judge adjusted Mr. Joker's immigration status
18 to lawful permanent resident, under section 209(c) waiver. In January of 2022, Mr.
19 Joker was placed in removal proceedings, due to multiple criminal convictions.² Two
20 years later, an IJ ordered Mr. Joker removed to Sudan.³ Mr. Joker was once again
21 detained following the order but was then released because ICE was unable to
22 obtain travel documents from Sudan, and Mr. Joker could not be removed.

23 Approximately eighteen months into community supervision, in September
24 2025, immigration officials again arrested Mr. Joker. On September 25, 2025—
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26 ² See Ex. A – Loai Joker Order of Release on Recognizance.

27 ³ See Ex. B – Order of Removal

seventeen months after his original order of removal—ICE detained Mr. Joker once more, even though he still cannot be removed to Sudan. Mr. Joker consistently complied with ICE’s conditions of supervision, including monthly reporting and monitoring.

Despite the complete lack of any viable path to removal, the government has held Mr. Joker in overcrowded conditions at the Nevada Southern Detention Center for more than six months—over 180 days.⁴ The circumstances surrounding his removability have not changed since he was ordered removed nearly 2 years ago: ICE still cannot remove him to Sudan, and Mr. Joker has received no indication that any removal plan exists.

LEGAL FRAMEWORK

I. Detention of Noncitizens after a Final Order of Removal

A. Statutory framework

Section 1231 of the INA governs the detention of noncitizens during and beyond the “removal period.” The removal period begins once a noncitizen’s removal order becomes administratively final and lasts for 90 days, during which ICE “shall remove the [noncitizen] from the United States” and “shall detain the [noncitizen]” as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen “*may* be detained beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).

The Supreme Court considered the issue of indefinite detention under 8 U.S.C. §1231(a)(6) in the case *Zadvydas v. Davis*, 533 U.S. 678 (2001). In that case,

⁴ Isabella Aldrete, *Nevada is home to one of the most over-capacity ICE detention centers in the country*, Nevada Independent (Aug. 27, 2025), available at <https://thenevadaindependent.com/article/nevada-is-home-to-one-of-the-most-over-capacity-ice-detention-centers-in-the-country>.

1 the Court acknowledged that allowing a noncitizen to be detained indefinitely after
2 the statutory removal period would raise “serious constitutional concerns” and, as a
3 result, held that 8 U.S.C. §1231(a)(6) contains an implicit time limit. *Id.* at 682. The
4 Court further held that 8 U.S.C. §1231(a)(6) authorizes detention only for “a period
5 reasonably necessary to bring about the [noncitizen]’s removal from the United
6 States” and that six months of detention after the removal order is final is
7 “presumptively reasonable.” *Id.* at 689, 701.

8 Importantly, the *Zadvydas* court did not say the presumption is irrebuttable,
9 and a variety of courts across the country that have considered the issue have found
10 the presumption of reasonableness during the first six months of post-removal order
11 detention can be rebutted. *See Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO),
12 2025 WL 1750346, at *5 (D.N.J. June 24, 2025) (analyzing the issue and collecting
13 cases). “Within the six-month window,” the noncitizen bears the burden of
14 “prov[ing] the unreasonableness of detention.” *Cesar v. Achim*, 542 F. Supp. 2d 897,
15 903 (E.D. Wis. 2008). After six months, there is “good reason to believe that there is
16 no significant likelihood of removal in the reasonably foreseeable future,” and the
17 burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S.
18 at 701. “Whether detention is ‘reasonably necessary to secure removal is
19 determinative of whether the detention is, or is not, pursuant to statutory
20 authority...The basic federal habeas corpus statute grants the federal courts
21 authority to answer that question.” *Medina v. Noem, et al., Respondents*, No. 25-
22 CV-1768-ABA, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (citing *Zadvydas*,
23 533 U.S. at 699).

24 **B. DHS Regulations**

25 DHS regulations provide that, before the end of the 90-day removal period,
26 the local ICE field office with jurisdiction over the noncitizen’s detention must
27 conduct a custody review to determine whether the noncitizen should remain

1 detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released
2 at the end of the removal period or in the three months that follow, jurisdiction
3 transfers to ICE headquarters (ICE HQ), which must conduct a custody review
4 before or at 180 days. 8 C.F.R. §241.4(c)(2), (k)(2)(ii).

5 To comply with *Zadvyas*, DHS issued additional regulations in 2001 that
6 established “special review procedures” to determine whether detained noncitizens
7 with final removal orders are likely to be removed in the reasonably foreseeable
8 future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66
9 Fed. Reg. 56, 967 (Nov. 14, 2001). Subsection (i)(7) was added to 8 C.F.R. §241.4,
10 which added a supplemental review procedure that ICE HQ must initiate when “the
11 [noncitizen] submits, or the record contains, information providing a substantial
12 reason to believe that removal of a detained [noncitizen] is not significantly likely in
13 the reasonably foreseeable future.” 8 C.F.R. §241.4(i)(7). Under this procedure, ICE
14 HQ evaluates the foreseeability of removal by analyzing factors such as the history
15 of ICE’s removal efforts to third countries. *See* 8 C.F.R. §241.13(f). If ICE HQ
16 determines that removal is not reasonably foreseeable but nonetheless seeks to
17 continue detention based on “special circumstances,” it must justify the detention
18 based on narrow grounds such as national security or public health concerns or by
19 demonstrating by clear and convincing evidence before an immigration judge (IJ)
20 that the noncitizen is “specially dangerous.” 8 C.F.R. §241.14(b)-(d), (f).

24 C. ICE Policy

25 On February 18, 2025, in an apparent departure from longstanding legal
26 requirements and ICE’s own policies, ICE issued a directive to agents encouraging
27

1 them to seek to re-detain noncitizens with final removal orders who had been
2 previously released from custody for the purpose of removal to previously
3 recalcitrant countries of origin, or to third countries. The directive did not provide
4 justification as to why detention of noncitizens under orders of supervision would be
5 necessary to effectuate proper removal to countries of origin or otherwise.

6 This recent ICE policy goes against DHS regulations on re-detention. Beyond
7 the protections in *Zadvydas*, 8 C.F.R. § 241.4, §241.13(i) establishes additional
8 protective procedures for re-detention. These procedures allow for the noncitizen to
9 "be returned to custody" due to violations of the conditions of their release. 8 C.F.R.
10 § 241.13(i)(1); *see also* § 241.4. Absent condition violations, revocation of release is
11 only permitted if based on "changed circumstances" it is determined that "there is a
12 significant likelihood that the alien may be removed in the reasonably foreseeable
13 future." 8 C.F.R. § 241.13(i)(2).

14 Regardless of the reason for re-detention, the re-detained person is entitled to
15 "an initial informal interview promptly" after being taken back into custody. 8
16 C.F.R. §241.13(i)(3). The re-detained person "will be notified of the reasons for
17 revocation" and will be afforded the "opportunity to respond to the reasons for
18 revocation." *Id.* The re-detained person should also be permitted to "submit any
19 evidence or information" that can demonstrate that "there is no significant
20 likelihood [they] be removed in the reasonably foreseeable future" *Id.*

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GROUNDS FOR RELIEF

I. Ground One: The continued indefinite detention of Mr. Joker violates his Fifth Amendment right to due process because his removal is not reasonably foreseeable.

Petitioner incorporates the above paragraphs by reference as if fully set forth herein.

The INA requires mandatory detention of individuals with final removal orders only during the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen who is not removed within that period “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen “*may* be detained beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added). However, in *Zadvydas*, the Supreme Court concluded that due process imposes an “implicit limitation” upon 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 689. Specifically, the Court held that 8 U.S.C. § 1231(a)(6) authorizes detention only for “a period reasonably necessary to bring about the [noncitizen]’s removal from the United States” and that six months of detention after the removal order is final is “presumptively reasonable.” *Id.* at 701. The Court further determined that “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.*

Mr. Joker’s detention is governed by 8 U.S.C. § 1231(a)(6) because he has been detained for more than 90 days since he was ordered removed. Here, the 90-day removal period began on April 17, 2024, when the order of removal was entered. *See* 8 U.S.C. § 1231(a)(1)(B)(i); 8 C.F.R. § 1241.1(b). Therefore, the *Zadvydas* framework applies.

1 Mr. Joker's continued detention is unreasonable because his removal is not
2 reasonably foreseeable. As of the filing date of this Amended Petition, almost two
3 years have passed since the immigration judge issued an order of removal in
4 immigration proceedings. Mr. Joker was initially detained following the IJ order of
5 removal, before being released on an OSUP. Approximately eighteen months later,
6 Mr. Joker is again arrested by ICE, in his home, while his family helplessly
7 watched. He has now been detained for over six months since being re-detained by
8 ICE in September 2025.

9 Mr. Joker cannot be removed to Sudan. ICE has tried to actively remove Mr.
10 Joker for two years, with two years of removal proceedings preceding final order of
11 removal. ICE has (one would assume) vigorously pursued Mr. Joker's travel
12 documents. Sudan will not accept him. Additionally, Mr. Joker is not a citizen of,
13 has never lived in, and has no connection to *any other* country. Upon information
14 and belief, throughout his prolonged detention, no specific plans have been made to
15 deport Mr. Joker, as Sudan is fully unresponsive.

16 The Due Process Clause of the Fifth Amendment forbids the government
17 from depriving any "person" of liberty "without due process of law." U.S. Const.
18 Amend. V. Mr. Joker has a liberty interest in remaining free from physical
19 confinement where removal is not reasonably foreseeable. The government has
20 violated the Due Process Clause of the Fifth Amendment because Mr. Joker's
21 removal is not reasonably foreseeable. As provided above, *Zadvydas* requires that
22 Mr. Joker be immediately released. *See* 533 U.S. at 700-01 (describing release as an
23 appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release "subject to . . . terms
24 of supervision").
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1 **II. Ground Two: Mr. Joker's continued detention violates the**
 2 **Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6).**

3 Petitioner incorporates the above paragraphs by reference as if fully set forth
 4 herein.

5 As provided in Ground One, above, Mr. Joker's detention is governed by 8
 6 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas, supra*. Mr.
 7 Joker's continued detention violates 8 U.S.C. § 1231(a)(6) because it is both
 8 unreasonable and because removal is not reasonably foreseeable. Rather, his
 9 continued detention under 8 U.S.C. § 1231(a)(6) is driven by sweeping and arbitrary
 10 DHS policies. Moreover, and as discussed in Ground One, Mr. Joker's removal is not
 11 reasonably foreseeable. This Court should order that Mr. Joker be released.

12 **PRAYER FOR RELIEF**

13 Accordingly, Loai Joker respectfully requests that this Court:

- 14 1. Declare that Petitioner's continued detention violates the Immigration
 15 and Nationality Act, 8 U.S.C. §1231(a)(6); the Administrative Procedure Act, 5
 16 U.S.C. §706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the
 17 U.S. Constitution;
- 18 2. Order Petitioner's immediate release;
- 19 3. Prohibit the government from re-detaining Petitioner in the future
 20 absent proof of changed circumstancing making his removal reasonably foreseeable;
- 21 4. Prohibit the government from removing petitioner to a third country
 22 without providing Petitioner and Petitioner's counsel with adequate notice of intent
 23 to seek removal to a third country and due process in the form of an opportunity to
 24 seek to reopen Petitioner's immigration court proceedings to seek fear-based relief
 25 from removal; and
- 26 5. Grant such other and further relief as, in the interests of justice, may
 27 be appropriate.

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2 Dated March 25, 2026.

3 Respectfully submitted,

4 Rene L. Valladares
5 Federal Public Defender

6 /s/ Christian Lassiter
7 Assistant Federal Public Defender
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DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under the laws of the United States of America and the State of Nevada that the facts alleged in this petition are true and correct to the best of counsel's knowledge, information, and belief.

Dated March 25, 2026.

Respectfully submitted,

Rene L. Valladares
Federal Public Defender

/s/ Christian Lassiter

Christian Lassiter
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on March 25, 2026. I personally served a true and correct copy of the foregoing First Amended § 2241 Petition by CM/ECF to the following individuals:

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I further certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third party commercial carrier for delivery within three calendar days, to the following person:

Penapu Nena Joker, A1397 Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060	
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/s/ Lisa Keller

An Employee of the
Federal Public Defender