

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON**

Fadi El Bitar

Petitioner,

v.

CAMMILLA WAMSLEY, ICE Seattle Field Office
Director; FACILITY ADMINISTRATOR,
Northwest ICE Processing Center; KRISTI NOEM,
Secretary, U.S. Department of Homeland Security;
PAMELA BONDI, Attorney General of the United
States,

Respondents.

Case No. 2:26-cv-919

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2241 challenges the unconstitutional and indefinite detention of Petitioner, Fadi El Bitar ("Petitioner"), by the Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE"). Petitioner is currently detained at the Northwest ICE Processing Center in Tacoma, Washington, under the post-removal-order detention statute, 8 U.S.C. § 1231(a)(6).

2. The Supreme Court has held that the government may not detain a non-citizen indefinitely when removal is not "significantly likely in the reasonably

1 foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). While *Zadvydas*
2 established a six-month "presumptively reasonable" period for the government to
3 coordinate travel logistics, the Ninth Circuit has explicitly held that this presumption is
4 not a safe harbor. Where removal is legally or practically impossible, "detention is not
5 permitted... even if the detention period has not yet exceeded six months." *Thai v.*
6 *Ashcroft*, 366 F.3d 790 (2004), *Nadarajah v. Gonzales*, 443 F.3d 1069 (2006).
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9 3. In this case, removal is categorically impossible. On October 17, 2025, an
10 Immigration Judge granted the Petitioner Deferral of Removal under the Convention
11 Against Torture ("CAT"), establishing that he would more likely than not face torture if
12 returned to his native country of Lebanon. Exh. A, IJ Order. That order became final on
13 November 17, 2025. This grant creates an absolute legal prohibition against removing the
14 Petitioner to his sole country of citizenship. *See* 8 C.F.R. § 1208.17.
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18 4. Despite the passage of over 100 days since the order became final, the
19 government has failed to identify any third country willing to accept the Petitioner, nor
20 does the Petitioner have any citizenship, legal residency, or familial ties to any other
21 nation. The government is detaining the Petitioner while engaging in the futile pursuit of
22 a purely hypothetical destination.
23
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25 5. Because there is no significant likelihood of removal in the reasonably
26 foreseeable future, the statutory authority for Petitioner's continued detention has
27 evaporated. His ongoing incarceration serves no regulatory purpose and violates his
28

1 substantive and procedural due process rights under the Fifth Amendment to the United
2 States Constitution.

3 6. Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus
4 ordering his immediate release under reasonable conditions of supervision or, in the
5 alternative, ordering the Respondents to provide an individualized bond hearing before an
6 Immigration Judge where the government must bear the burden of justifying his
7 continued detention by clear and convincing evidence.
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9

10 JURISDICTION AND VENUE

11 7. This Court has subject matter jurisdiction over this Petition pursuant to 28
12 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Art. I, § 9, cl. 2 of
13 the United States Constitution (the Suspension Clause).
14
15

16 8. Venue is proper in the Western District of Washington under 28 U.S.C. §
17 1391(b) and (e) because the Petitioner is currently detained at the Northwest ICE
18 Processing Center in Tacoma, Washington, which is within the territorial jurisdiction of
19 this Court, and Respondents are acting in their official capacities and thus subject to the
20 jurisdiction of this Court. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004).
21
22

23 PARTIES

24 9. Petitioner is a native and citizen of Lebanon, who is currently detained by ICE
25 at the Northwest ICE Processing Center in Tacoma, Washington.
26
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11. Respondent Facility Administrator is the official in charge of the Northwest ICE Processing Center. They have immediate physical custody of the Petitioner and are sued in their official capacity.¹

12. Respondent Kristi Noem is the current acting Secretary of the U.S. Department of Homeland Security. She has ultimate responsibility for the administration and enforcement of the immigration laws, including ICE detention policies. She is sued in her official capacity.

13. Respondent Pamela Bondi is the Attorney General of the United States. She has ultimate authority over the Executive Office for Immigration Review (EOIR) and shares responsibility for the implementation of the Immigration and Nationality Act. She is sued in her official capacity.

14. The Petitioner has exhausted all available and required administrative remedies, or, in the alternative, any further administrative exhaustion would be futile.

¹ The specific name of the current private Facility Administrator is not publicly available or is subject to frequent change. Petitioner sues the person holding this office in their official capacity pursuant to Fed. R. Civ. P. 25(d).

1 15. Under 8 C.F.R. § 241.4(k)(1)(i), ICE is required to conduct a Post-Order
2 Custody Review (POCR) approximately 90 days after a final order of removal. Petitioner's
3 90-day period expired on or about February 15, 2026.
4

5 16. On January 27, 2026, Counsel for the Petitioner inquired as to the removal
6 status and requested an update on the procurement for travel documents. Exh. B
7 Communication with ICE.
8

9 17. ICE responded on February 3, 2026, "U.S. Immigration is actively working
10 on removal process for Mr. El Bitar to third country. Mr. El Bitar informed us that he would
11 like to go to Canda, Australia and or England.² U.S. Immigration sent email request to 3
12 countries listed above with acceptance request on January 8, 2026, pending response." *Id.*
13
14

15 18. Counsel responded with a request to place Petitioner in an alternative to
16 detention (ATD) program, and ICE did not respond. *Id.*
17

18 19. On February 17, 2026, Counsel for the Petitioner formally demanded the
19 immediate adjudication of the POCR and requested release on an Order of Supervision due
20 to the impossibility of removal. *Id.*
21

22 20. ICE responded a day later that Petitioner's POCR was submitted on February
23 9, 2026 to a supervisor, and is still pending.
24

25 21. On February 20, 2026, Counsel for Petitioner inquired again as to the status
26 of the POCR, and ICE responded that it is still pending. *Id.*
27

28 ² Petitioner alleges that this is statement is false as he never indicated a willingness to be removed to
any third country but has cooperated with ICE by signing documents for that intended purpose.

1 22. Counsel replied to ICE indicating that one more week (until February 27,
2 2026) will be given to allow time for a decision, prior to filing this petition. That week has
3 passed with no further communication from ICE. *Id.*

4
5 23. Because ICE has failed to provide a meaningful custody review
6 acknowledging the impossibility of removal, and because there is no administrative appeal
7 available to compel ICE to recognize the limits of its statutory detention authority under
8 *Zadvydas*, further exhaustion is futile and not required prior to seeking federal habeas
9 relief.
10

11
12 **CLAIMS FOR RELIEF**

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14 **Count I - Petitioner's Prolonged Detention Without a Bond Hearing is Unlawful
and Unconstitutional Under the Fifth Amendment Right to Due Process.**

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16 24. Petitioner incorporates by reference paragraphs 1-23.

17 25. Civil immigration detention is subject to the Due Process Clause of the Fifth
18 Amendment. *Zadvydas v. Davis*, 533 U.S. 701 (2001)

19
20 26. Prolonged detention without an individualized hearing to assess flight risk
21 and danger violates due process.

22
23 27. Here, Petitioner has been detained without bond, over 120 days post-order of
24 removal, despite a final CAT deferral order and despite ICE's inability to secure a third-
25 country removal option.

26
27 28. Continued detention under these circumstances without a prompt,
28 individualized bond hearing violates due process.

1 29. Petitioner is entitled to habeas relief ordering, at minimum, a prompt bond
2 hearing at which the Government bears the burden to justify continued detention by the
3 applicable evidentiary standard, and where the Immigration Judge considers alternatives
4 to detention.
5

6 **Count II - Petitioner's Continued Detention is Not Reasonably Related to a**
7 **Foreseeable Prospect of Removal (*Zadvydas v. Davis*, 533 U.S. 701)**
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9 30. Petitioner incorporates by reference paragraphs 1-29.

10 31. Immigration detention must bear a reasonable relationship to its asserted
11 purpose, including effectuating removal when removal is reasonably foreseeable.
12 *Zadvydas*, supra.
13

14 32. The Supreme Court in *Zadvydas* held that there is a presumptively
15 reasonable period of six months for post-removal detention.
16

17 33. However, continued detention is not permissible even if the six-month
18 period has not yet elapsed when removal is no longer reasonably foreseeable. *Thai v.*
19 *Ashcroft*, 366 F.3d 790 (2004), *Nadarajah v. Gonzales*, 443 F.3d 1069 (2006).
20

21 34. If removal is not reasonably foreseeable, the non-citizen is entitled to be
22 released under conditions of supervision, as outlined in 8 CFR § 241.13.
23

24 35. In this case, Petitioner has a final CAT deferral order and ICE has not been
25 able to secure a third country to remove Petitioner to despite attempts for the past 120
26 days.
27
28

1 36. ICE has failed to provide a meaningful custody review addressing the
2 possibility of removal.

3 37. ICE has refused to provide documentation or evidence of correspondence
4 related to the three countries of possible removability outlined in paragraph 17. At this
5 point, these are merely bare assertions.
6

7 38. Even if ICE provides evidence of the above, it has not indicated if any of
8 those countries have agreed to accept Petitioner, nor whether adequate travel documents
9 have been secured.
10

11 39. Forcing Petitioner to remain in custody for an additional 60 days in hopes
12 that a third country will accept him does not render his continued detention reasonable,
13 nor does it support a finding that his removable is foreseeable.
14

15 40. There are several available alternative methods to detention that ICE could
16 place Petitioner under while the agency searches for a country of removal; such as:
17 telephonic reporting, in-person reporting, and GPS monitoring.
18

19 41. In other words, incarceration is not necessary and achieves no other purpose
20 at this point other than the inhumane punishment of an alien who was granted relief from
21 deportation by an immigration judge.
22

23 42. Petitioner is neither a danger to society nor a flight risk. He has no criminal
24 convictions anywhere in the world, and has a fixed address which ICE could easily locate
25 him at.
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43. The fixed address is in Richmond, Texas, where his spouse and five children reside – two of which are U.S. citizens.

44. Removal is therefore not reasonably foreseeable, rendering continued detention as unjustified, unnecessary, punitive and unconstitutional.

45. Petitioner is entitled to immediate release, or at minimum a prompt bond hearing.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that the Court:

1. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241
2. Order Respondents to show cause why Petitioner should not be immediately released;
3. Order Petitioner's immediate release from ICE custody, or in the alternative order a prompt individualized bond hearing before an Immigration Judge (or other neutral adjudicator) within a short, Court-ordered timeframe;
4. If a bond hearing is ordered, require that:
 - a. The Government bears the burden of proving continued detention is justified; and
 - b. The adjudicator considers conditions of release and alternatives to detention;
5. Grant such other and further relief as the Court deems just and proper.

REQUEST FOR EXPEDITED CONSIDERATION

1 Petitioner remains detained without bond despite a final CAT deferral order and
2 the Government's stated inability to secure third-country removal. The total time that
3 Petitioner has been detained at the Northwest Processing Center is **380 days**. Petitioner
4 requests expedited consideration due to the ongoing deprivation of liberty under
5 deplorable and inhumane conditions, which have negatively impacted both his mental
6 and physical health.
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9 DATED: March 18, 2026

Respectfully Submitted,

10
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