Vicky J Currie, WSBA #24192
Currie Law Firm
1008 S Yakima Ave STE 100
Tacoma, WA 98405
253.588.9922
currielawfirm@gmail.com

The Honorable Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MAJEKAODUNMI, TEMITOPE SEKINAT Petitioner, v. BRUCE SCOTT, Warden of the Northwest ICE Processing Center; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security Respondents.	CIVIL ACTION NO. 2:26-CV-01026-TL **TRAVERSE IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

The scheduling order (Dkt. 2) directed Respondents to show cause why Petitioner's writ of habeas corpus should not be granted. Respondents have failed to do so. Their return confirms that this case is an example of prolonged detention without meaningful progress toward removal.

Petitioner has now been detained since October 27, 2023, more than two and a half years, including well beyond the six-month presumptively reasonable period following the start of the removal period, yet **Respondents identify no concrete steps taken to effectuate her removal—no travel documents, no communications with the Nigerian government, and no timeline for removal.**

Instead, Respondents rely on legal classifications, generalized assertions, and Petitioner's past conviction. That is insufficient to justify continued detention.

In this case, Petitioner's detention has become excessively prolonged and punitive in violation of the Constitution, and civil detention has not remained tethered to its purpose because removal is not reasonably foreseeable. Because of these factors, the Habeas Petition should be granted and Petitioner should be released.

II. RESPONDENTS FAIL TO DEMONSTRATE THAT REMOVAL IS REASONABLY FORESEEABLE

Under *Zadvydas v. Davis*, detention is presumptively reasonable for only six months. After that period, once a petitioner provides good reason to believe that removal is not significantly likely in the reasonably foreseeable future, the burden shifts to the Government to rebut that showing with evidence. 533 U.S. 678, 701 (2001). The Ninth Circuit has likewise emphasized that detention must remain tied to a realistic prospect of removal. See *Prieto-Romero v. Clark*, 534 F.3d 1053, 1062–63 (9th Cir. 2008).

Here, Petitioner has been detained for nearly two and a half years. The removal period began on July 18, 2025, when the Ninth Circuit lifted the temporary stay of removal. More than six months have now passed. Respondents therefore bear the burden of demonstrating that removal is imminent, but they have not met that burden.

Respondents assert that they are "continuously" working to effectuate removal, but provide no evidence of any actual efforts. There is no indication that travel documents have been requested or obtained, no evidence of communication with Nigerian authorities, and no scheduled removal.

Conclusory statements are not evidence. The absence of any concrete removal efforts—after years of detention—demonstrates that removal is not significantly likely in the reasonably foreseeable future.

III. RESPONDENTS MISSTATE THE GOVERNING LEGAL STANDARD

Respondents incorrectly argue that Petitioner must produce evidence that Nigeria is refusing to issue travel documents or otherwise obstructing removal, but that is not the governing standard.

Under *Zadvydas*, a petitioner need only provide good reason to believe that removal is not reasonably foreseeable. Once that showing is made, the burden shifts to the Government.

Petitioner has far exceeded that threshold. She has been detained for over two and a half years, well beyond the six-month presumptive limit, and Respondents have failed to identify any meaningful steps toward removal.

The burden has shifted to Respondents, but they have not satisfied it.

IV. PROLONGED DETENTION IS UNREASONABLE UNDER BANDA

Courts in this District apply the multi-factor framework set forth in *Banda v. McAleenan* to evaluate the constitutionality of prolonged immigration detention.

In *Banda*, the court held that a 17-month period of detention under § 1225(b) was constitutionally unreasonable. Id. at 1117–21. In reaching that conclusion, the court applied six factors: (1) the length of detention; (2) the likely duration of future detention; (3) the conditions of confinement; (4) delays attributable to the petitioner; (5) delays attributable to the government; and (6) the likelihood that proceedings will culminate in a final order of removal. Id. at 1117–18.

Application of these factors strongly favor the Petitioner, and demonstrates that her continued detention is unconstitutional.

1. Length of Detention

This is the most important factor in the Banda Multi-Factor Test. Petitioner has been detained since October 27, 2023, for nearly two and a half years. The removal period began on July 18, 2025, and nearly nine months have now passed—far exceeding the 90-day removal period, the six-month presumptively reasonable period, and any constitutionally permissible duration absent compelling justification.

Detention of this duration is recognized as increasingly constitutionally suspect. See *L.B.O.M. v. Hermosillo*, No. C25-2695, 2026 WL 266068, at *3 (W.D. Wash. Feb. 2, 2026). As detention lengthens, the Government's burden to justify continued confinement increases.

Accordingly, this factor weighs strongly in Petitioner's favor.

2. Likely Duration of Future Detention

The likely duration of future detention is indeterminate. Petitioner has a pending petition for review before the Ninth Circuit. Respondents provide no timeline for removal and identify no concrete steps toward effectuating it. As a result, there is no meaningful endpoint to Petitioner's detention.

Courts recognize that this factor strongly favors release where continued detention may last years absent judicial intervention. See *Hong v. Mayorkas*, No. C20-1784, 2022 WL 1078627, at *6 (W.D. Wash. Apr. 11, 2022).

This factor strongly favors Petitioner.

3. Conditions of Confinement

Petitioner is detained at the Northwest ICE Processing Center under conditions that are functionally equivalent to penal confinement. Courts in this District recognize that such conditions weigh in favor of release as detention becomes prolonged. See *Diaz Reyes v. Wolf*, No. C20-0377, 2020 WL 6820903, at *6 (W.D. Wash. Aug. 7, 2020). Petitioner further reports limited recreation, inadequate food, and insufficient medical care—conditions consistent with prior findings regarding NWIPC.

This factor favors Petitioner.

4. Delays Attributable to Petitioner

Petitioner has not engaged in dilatory tactics. She has timely pursued relief and exercised her legal rights. Such actions cannot justify continued detention.

This factor favors Petitioner.

5. Delays Attributable to the Government

The reasons for delay weigh against the Government. The record reflects that Respondents have failed to take meaningful steps to secure travel documents or otherwise advance removal. Petitioner remains detained while her case proceeds through adjudicatory processes beyond her control. The Government cannot rely on systemic delay that is their own fault to justify prolonged detention.

This factor favors Petitioner.

6. Likelihood of a Final Order of Removal

Here, proceedings have already resulted in a final order of removal, however, the likelihood of removal is speculative. Although Petitioner is subject to a final order of removal, Respondents must still demonstrate that removal is significantly likely in the reasonably foreseeable future. They have not done so.

Respondents rely on generalized assertions that removal may occur but provide no evidence of any concrete steps toward effectuating removal. More than six months have now passed since the removal period began on July 18, 2025, yet Respondents identify no travel documents, no communication with Nigerian authorities, and no anticipated timeline for removal. This extended period of inaction demonstrates that removal is not reasonably foreseeable.

Moreover, Petitioner has a pending petition for review before the Ninth Circuit, rendering the timing and execution of removal uncertain and contingent on ongoing judicial proceedings. While a final order exists, the Government has not shown that removal is imminent in practice.

This factor favors Petitioner.

Conclusion Under Banda

Taken together, the *Banda* factors demonstrate that Petitioner's detention has become constitutionally unreasonable. She remains detained for a prolonged and indeterminate period while pursuing legitimate relief, without a clear endpoint and without individualized justification.

Under these circumstances, continued detention exceeds constitutional limits. Habeas relief is warranted.

V. DETENTION HAS BECOME PUNITIVE

Respondents argue that Petitioner's detention remains civil because it is authorized by statute, serves removal, and protects the community. That argument fails.

Although immigration detention is civil in nature, it may not become punitive in effect. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).

Statutory authorization alone does not eliminate constitutional limits. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018).

Here, Respondents cannot show that detention remains tied to any legitimate purpose. First, they provide no evidence that removal is significantly likely in the reasonably foreseeable future. Despite more than six months having passed since the removal period began, Respondents identify no travel documents, no coordination with Nigerian authorities, and no anticipated timeline for removal. Speculative assertions that removal may occur are insufficient under *Zadvydas*.

Second, Respondents rely on Petitioner's criminal history to justify detention, yet she has already completed her federal sentence and was placed on supervised release—reflecting a determination that she could be safely managed in the community. No individualized finding has been made that she poses a danger or flight risk. Furthermore, she has demonstrated significant rehabilitation and expressed genuine remorse for her conduct.

Third, detention has become excessive in duration. Petitioner has been detained for over two and a half years—far longer than her criminal sentence—without meaningful progress toward removal.

When detention is prolonged, unsupported by evidence of removal, and unaccompanied by individualized justification, it is no longer regulatory but punitive in effect. Under these circumstances—where Petitioner has completed her criminal sentence and exhibited regret and rehabilitation, has not been found to pose a danger or flight risk, has a pending petition for review, and faces compelling humanitarian circumstances related to her child's serious medical condition—continued detention is no longer reasonably related to its regulatory purpose and

instead functions as punishment in violation of the Constitution, particularly where less restrictive alternatives, including supervised release, remain available.

VI. HUMANITARIAN CONSIDERATIONS UNDERSCORE THE URGENCY OF RELIEF

Although humanitarian considerations are secondary to the constitutional defects in her prolonged detention, Petitioner provides additional context regarding the severe impact her confinement has had on her children. In her absence, her daughter has assumed significant caregiving responsibilities for her younger brother while also experiencing serious mental health challenges, including falling behind in school and suicidal ideation. At the same time, her son continues to suffer from sickle cell disease and requires consistent care. These circumstances further underscore the urgent and unjustified nature of Petitioner's continued detention.

Respondents do not dispute the severity of the child's medical condition or the ongoing harm caused by Petitioner's detention, instead, they assert that even if hardship exists, it does not affect the legality of her continued confinement. This position completely disregards the constitutional significance of the harm caused by prolonged detention, not only to the Petitioner, but to her family and minor children.

Petitioner's continued detention is causing ongoing and serious harm to her children, especially her youngest son, who suffers from sickle cell disease and requires consistent, attentive care. The child's condition is chronic, unpredictable, and life-threatening, and has already resulted in hospitalization and acute medical crises.

The absence of Petitioner, a consistent caregiver in these circumstances, is not a theoretical concern—it presents a real and immediate risk to the child's health and well-being. Petitioner's presence is critical to managing her child's condition and ensuring continuity of care.

Courts have long recognized the fundamental liberty interest in family integrity and the care, custody, and control of one's children. See *Troxel v. Granville*, 530 U.S. 57, 65 (2000). Government action that interferes with that relationship must be carefully scrutinized, particularly where it results in substantial harm to a child.

Additionally, the Due Process Clause requires consideration of the real-world impact of detention, including the risk of erroneous deprivation and the severity of the private interests at stake. See *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Here, the harm is not speculative—it is immediate, ongoing, and medically significant.

While humanitarian considerations do not alone resolve the constitutional inquiry, they underscore the real and immediate harm caused by continued detention and reinforce the need for prompt relief.

VII. PETITIONER HAS NOT RECEIVED MEANINGFUL PROCESS

Respondents rely on an August 29, 2025 custody hearing to argue that Petitioner has received sufficient process. That argument fails.

At that hearing, the Immigration Judge expressly found that there was no jurisdiction to consider release and applied mandatory detention. As a result, the Immigration Judge lacked authority to grant relief and did not conduct any individualized assessment of whether continued detention was necessary. At the same time, the Immigration Judge made no finding that Petitioner posed a danger to the community or a flight risk as those sections of the custody order were left unchecked.

A proceeding in which the adjudicator lacks authority to grant relief is not meaningful process. The Fifth Amendment requires "the opportunity to be heard at a meaningful time and in

a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Where a hearing cannot result in release, it is functionally futile and does not satisfy due process.

Courts have repeatedly recognized that prolonged immigration detention without a meaningful opportunity for release raises serious constitutional concerns. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (recognizing that constitutional challenges to the adequacy of detention procedures remain available); see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (detention must be accompanied by adequate procedural safeguards and may not become arbitrary).

Accordingly, Respondents cannot rely on a procedurally deficient and functionally futile proceeding to justify Petitioner's continued detention, and no further process would cure that constitutional defect.

VIII. EXHAUSTION WOULD BE FUTILE

Petitioner is not required to exhaust administrative remedies before seeking habeas relief because any further administrative process would be futile. This Petition raises a constitutional challenge to the legality of Petitioner's prolonged detention under *Zadvydas v. Davis*, which cannot be meaningfully resolved through administrative proceedings.

Petitioner has already pursued the only available administrative avenue—a custody hearing on August 29, 2025—at which the Immigration Judge determined that there was no jurisdiction to consider release and applied mandatory detention but did not find that she was a flight risk or a danger. Because the Immigration Judge lacked authority to grant relief, no individualized custody determination was made. Under these circumstances, requiring further exhaustion would serve no purpose, as an Immigration Judge is unable to provide the relief sought.

Even if the Court were to conclude that some form of administrative custody review is available, Petitioner should not be required to exhaust administrative remedies by going before an Immigration Judge. Exhaustion of administrative remedies is not required where it would be futile or incapable of providing meaningful relief. See *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004), which is the case here.

Requiring Petitioner to seek relief before an Immigration Judge would not provide meaningful review. Immigration Judges lack authority to remedy the constitutional violations at issue here, and any further delay would prolong Petitioner's already unconstitutional detention.

The current situation in Tacoma includes the following:

- **High Denial Rates**: Court records noted that Tacoma IJs granted bond in only **3% of cases** in fiscal year 2023, the lowest rate in the nation.
- **Willful Defiance**: Advocates have accused Tacoma IJs of "willful defiance" of federal orders by finding ways to deny bond
- **Burden of Proof**: In these hearings, the burden is often on the noncitizen to prove they are *not* a danger or flight risk.

In the current political climate under the present administration, Tacoma Immigration Judges are arbitrarily making individualized findings of "flight risk" across the board without genuine independent review, therefore deeming them ineligible for release. As a result, findings of flight risk are frequently reduced to untested, one-sided determinations rather than meaningful, evidence-based adjudications. This undermines the purpose of habeas review by stripping it of any practical effect and leaving Petitioner exactly where she started—detained without meaningful review.

Under these circumstances, exhaustion is excused, and the Court must order Petitioner's immediate release.

IX. REQUEST FOR RELIEF

Petitioner respectfully requests that this Court:

1. GRANT this Petition for Writ of Habeas Corpus;
2. ORDER Respondents to immediately release Petitioner from custody under appropriate conditions of supervision;
3. DECLARE that Petitioner's detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment; and
4. ORDER that Respondents shall not re-detain Petitioner absent a material change in circumstances;

X. CONCLUSION

Respondents have had more than sufficient time to effectuate Petitioner's removal and have not done so. They offer speculation instead of evidence and procedural formalities in place of justification. Because Petitioner's continued detention is no longer reasonably related to removal, lacks meaningful procedural safeguards, and has become excessive and punitive, the Petition should be granted and Petitioner should be released immediately.

Respectfully submitted this 14th day of April 2026.

/s/Vicky J Currie

Vicky J Currie, WSBA #24192
Attorney for Petitioner