FILED
JUL 13 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
Gabriel Netz
Petitioner,

V.

'26CV4028 TWR BJW

Todd Blanche, U.S. Attorney General
Markwayne Mullin, Secretary of DHS,
Todd Lyons, Director of ICE
Cristopher LaRose Warden of Otay Mesa Detention Center
Respondent(s).

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO U.S.C. 2241 UNDER IMMIGRATION DETAINEE PROLONGED DETENTION AND TEMPORARY RESTRAINING ORDER, INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner Gabriel Netz native and citizen of Martial Island, currently detained by U.S. Immigration and Customs Enforcement ICE at Otay Mesa Detention Center San Diego CA, 92143, respectfully petitions this Court for a writ of Habeas Corpus under U.S.C. 2241 and request for a Temporary Restraining Order, Injunctive Relief.
2. Petitioner has been in immigration proceedings since September,2025 approximately six months pursuant to 8 U.S.C. 1231 (a), despite ICE inability to execute the removal order due to the lack of diplomatic cooperation or practical ability to carry out removals to Martial Island for Petitioner.
3. Petitioner seeks immediate release from detention on the grounds that continued detention violates the Due Process Clause of the Fifth Amendment and the Supreme Court ruling in *Zadvydas v. Davis 533 U.S. 678 (2001).*

II. JURISDICTION AND VENUE

4. This court has Jurisdiction under 28 U.S.C. 2241 and Article I, Section 9, Clause 2 of the U.S. Constitution.
5. Venue is proper in this District under 28 U.S.C. 1391 (e) because Petitioner is detained within the Jurisdiction of this court at Imperial Regional Detention Facility.

III. PARTIES

6. Petitioner is a native and citizen of Martial Island who is currently detained by ICE.
7. Respondent's are U.S. Government officials with custody over Petitioner or authority over Immigration detention and removal.

VI. FACTUAL BACKGROUND

8. Petitioner has an United States Citizenship claim were Petitioner will likely succeed on.
9. Petitioner has remained in ICE custody continuously since September, 2025.
10. ICE has not been able to secure travel documents or deport Petitioner to Martial Island due to the lack of diplomatic cooperation or practical ability to carry out removals to Martial Island.
11. Petitioner has fully cooperated with ICE efforts to secure travel documents.
12. More than six months have passed since the apprehension of Petitioner by ICE.
13. There is no significant likelihood of removal in the foreseeable future.

V. LEGAL FRAMEWORK

Prolonged Immigration Detention Violates Due Process (Fifth Amendment)

14. My detention for the past 10 months without release violates the Due Process Clause of the Fifth Amendment. Immigration detention is civil, not punitive.
15. Habeas Corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C 2241 (c)(1), (c)(3): see also *Antonelli v. Warden*, U.S.P *Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C section 2241 if they concern the continuation of confinement).
16. Under *Zadvydas v. Davis, 533 U.S. 678 (2001)*, post-final order detention beyond six months is presumptively unreasonable if there is no significant likelihood of removal in the foreseeable foreseeable future.
17. Continued detention Violates the Due Process Clause of the Fifth Amendment.
18. ICE bears the burden to show a significant likelihood of removal; it has not met that burden.

Conditions and Length of Detention Render Custody Excessive Relative to Its Purpose.

19. Immigration detention is meant to ensure appearance at proceedings and protect the community. Detention lasting more than 10 months is not reasonable related to those purposes and has become punitive. Lesser restrictions can achieve those goals.

Existence of Pending Proceedings Before Immigration Court Does Not Divest District Court of Habeas Corpus Jurisdiction.

20. In *Fofana v. Albence*, Petitioner filed a Habeas Corpus petition requesting their immediate release from detention lasting while they await decisions in pending removal or Asylum proceedings before the immigration courts *(Fofana v. Albence, 454 F.Supp.3d 651 (2020).* The court exercised jurisdiction over the detention challenge despite the ongoing immigration proceedings.
21. Similarly, in *Valdez v. Joyce,---F.Supp.3d...(2025)*, a petitioner with removal proceedings and an asylum application pending before immigration court successfully petitioned for a writ of habeas corpus challenging his detention, and court granted immediate release from custody *(Valdez v. Joyce,---F.Supp.3d---(2025)*

VI. CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause and 8U.S.C. 1231 (a) (6)

22. Petitioner's continued detention violates the Constitution and *Zadvydas* because:
    * There is no significant likelihood of removal in the foreseeable future.
    * Petitioner has fully cooperated with removal efforts.
    * Ice's prolonged detention is punitive and lacks jurisdiction.

VII. PRAYER FOR RELIEF

A. Issues a writ of Habeas Corpus directing Respondent's to immediately release Petitioner from custody and request for Injunctive Relief. Temporary Restraining Order.

B. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,

[redacted]

Date: 7-6-2026

Gabriel Netz
[redacted]
Otay Mesa Detention Center
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