UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Bintou Haidara Petitioner, vs. KEVIN RAYCRAFT, Acting Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, U.S. Attorney General, Respondents.	Case No. District Judge _____ Magistrate Judge _____ A[redacted]

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Ms. Binta Haidara, brings this petition for a Writ of Habeas Corpus to this Court, pursuant to 28 USC § 2241, to remedy her continued unlawful detention by Respondents. Petitioner hereby requests immediate release. In support of this Petition, Petitioner alleges as follows:
2. Petitioner, Ms. Haidara, is a citizen of Niger and resident of Columbus, Ohio, who entered the United States with a visa in New York, New York in the early 2000s.
3. On July 31, 2006, Mr. Haidara was granted Withholding of Removal. Ms. Haidara risks persecution due to [redacted]. As such, the Department of Homeland Security is prevented from deporting Ms. Haidara to Niger.

4. On August 10, 2026, Ms. Haidara was detained by Immigration and Custom Enforcement (ICE) agents at a scheduled Enforcement and Removal Operations (ERO) check-in. The agents did not present Ms. Haidara with a warrant for her arrest.
5. Ms. Haidara is currently in the physical custody of Respondents at Butler Country Correctional Facility in Hamilton, Ohio.
6. Ms. Haidara has since been informed that it is the Government's intention to effectuate her deportation to Cameroon. Ms. Haidara has no legal status in Cameroon, and she has never travelled to Cameroon. ICE agents verbally informed Ms. Haidara that they had an "order" deporting her to Cameroon. However, the ICE agents did not show or provide her with any paperwork. Cameroon also happens to be a country that has a history of ethnic conflict and persecution.
7. Ms. Haidara's detention is not authorized by 8 U.S.C. § 1231(a)(6). Further, she faces unlawful detention because ICE effectuated her detention in violation of its own regulations, namely 8 C.F.R. § 1231(b)(3). Additionally, because her removal to Cameroon is not reasonably foreseeable and Respondent's actions violated Ms. Haidara's due process rights.
8. If DHS designates a new country of removal after the completion of removal proceedings, the Immigration and Nationality Act (INA), the Due Process Clause, and binding international agreements obligate DHS to provide reasonable notice and an opportunity to prevent a fear-based claim prior to carrying out deportation.
9. In sum, Ms. Haidara's detention violates the INA and implemented ICE regulations, as well as the Due Process Clause of the Fifth Amendment, and is subject to review and correction by this Court pursuant to 28 U.S.C. § 2241.

10. The Court should expeditiously grant this Petition and order Ms. Haidara's immediate release.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is currently detained at Butler Country Correctional Facility in Hamilton, Ohio.
12. This Court has jurisdiction under 28 U.S.C. § 2241 (Habeas Corpus); 28 U.S.C. § 1331 (Federal Question); Article I, section 9, clause 2 of the United States Constitution (Suspension Clause).
13. This Court may grant relief pursuant to 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651.

VENUE

14. Venue is proper in the United States District Court for the Southern District of Ohio, specifically in the Western Division, because Petitioner is currently detained in the Butler Country Correctional Facility in Hamilton, Ohio. 28 U.S.C. § 2241; 28 U.S.C. § 1391; S.D. Ohio Civ. R. 82.1(b).
15. Venue is also proper in this Court 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 and relevant facts occurred in the Northern District. 28 U.S.C. § 1391(e).

REQUIREMENT OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order

to show cause is issued, Respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17. 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. Nola*, 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

18. Petitioner, Ms. Bintou Haidara, native and citizen of Niger who has resided in the United States since the early 2000s and has been in immigration detention at Butler County Correctional Facility in Hamilton, Ohio since August 12, 2026. After taking custody of Ms. Haidara, ICE officers verbally informed her that she would be removed to Cameroon pursuant to an order signed by an Immigration Judge. At the time of this filing, no order has been shown to Ms. Haidara.

19. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003). He is named in his official capacity.

20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention.

Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

21. Respondent Todd Blanche is the Attorney General of the United States. He 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. He is sued in his official capacity.

LEGAL FRAMEWORK

22. "[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis,* 533 U.S. 678, 693 (2001). "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects." *Id.* at 690.

23. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that 8 U.S.C. §1231(a)(6), when "read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal form the United States." 533 U.S. at 689. If the individual's removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute." *Id.* at 699-700.

24. In *Jama v Immigration & Customs Enforcement*, 543 U.S. 335, 347 (2005), the Supreme Court found that the petitioner had satisfied his burden of showing that a significant likelihood of removal is not reasonably foreseeable because the petitioner established that no country would accept him. Aliens under those circumstances are deemed "removable-but-unremovable" because their detention would be indefinite and potentially permanent

in defiance of the letter and spirit of *Zadvydas*. *See also Demore v. Kim*, 538 U.S. at 527 (touchstone inquiry is whether removal is "no longer practically attainable.").

25. In *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025), the court held that a non-citizen released under an Order of Supervision (OSUP) possesses a protected liberty interest and that the government must provide due process before revoking that release. The court specifically held that ICE could not disregard the procedures governing revocation promised by ICE's own release documents, including the promised "opportunity to prepare for an orderly departure" merely because it possessed authority to detain the petitioner.

26. In *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266-268 (1954), the Supreme Court provides the governing principle: an agency is bound by its own regulations and may not disregard them when exercising its authority. The court emphasized that a decision maker vested with discretion in their official capacity, "must exercise his authority according to his own understanding and conscience." Furthermore, "so long as the regulations remained operative, the Attorney General denies himself the right to sidestep the Board or dictate its decision in any manner."

27. In *D.V.D. v. DHS*, the court held that DHS may not remove a noncitizen to a third country without first providing the procedural protections required by law. Specifically, the court ordered that DHS provide "written notice to the individual and the individual's immigration counsel of the third country to which the individual may be removed" and a "meaningful opportunity for the individual to raise a fear of return" before effectuating a third-country removal. The court further required that individuals asserting a fear of removal be afforded the procedures necessary to adjudicate those claims before removal may occur.

Accordingly, DHS's failure to provide these protections before effectuating a third-country removal is contrary to the requirements set forth in *D.V.D. v. DHS*.

Statutes and Regulations

28. A non-citizen with a final order of removal "who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period").

29. A non-citizen may only be detained past the 90-day removal period following a removal order if found to be "a risk to the community or unlikely to comply with the order of removal" or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).

30. But even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

31. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained past the removal period: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4.

32. DHS has implemented 8 U.S.C. § 1231(a)(3) and (a)(6) through regulations governing release, supervision, continued detention, custody review, and revocation of release. See 8 C.F.R. §§ 241.4, 241.5. The Supreme Court has recognized that such regulations have the "force and effect of law" and must be followed by the agency that adopted them. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265-68 (1954).

CLAIMS FOR RELIEF

COUNT 1

CONSTITUTIONAL
Substantive Due Process

33. Petitioner re-alleges and incorporates by reference all paragraphs above as if fully set forth here.

34. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. *See e.g.*, *Tam v. INS*, 14 F.Supp.2d. 1184 (E.D. Cal. 1998) (aliens retain substantive due process rights).

35. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest – to effectuate the alien's removal. *See Kay v. Reno*, 94 F.Supp.2d. 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because

petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.")

36. In the case of Ms. Haidara, the government cannot remove her to her country of citizenship, Niger, due to a grant of Withholding or Removal from 2006. Notably, there is no removal order signed by an immigration Judge authorizing Ms. Haidara's removal to the country of Cameroon, despite the government's apparent attempts. She has never been to and never had legal status in Cameroon. Further, DHS has entirely neglected their duty to inform Ms. Haidara of their intention to deport her to a third country, and she has not been provided with an opportunity to present a fear-based claim. The third country designated, i.e. Cameroon, also has a history or ethnicity-based persecution and ethnic conflict.

COUNT 2

CONSTITUTIONAL
Procedural Due Process

37. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

38. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that she should not be detained. Petitioner in this case, has been denied that opportunity.

39. Petitioner's continued detention without a significant likelihood of removal in the reasonably foreseeable future violates her due process rights guaranteed by the Fifth Amendment to the United States Constitution. *See Zadvydas v. U.S.*, 533 U.S. 678.

40. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2)

the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

41. The first factor, the private interest at issue, favors Petitioner. "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 v. Davis*, 533 U.S. 678, 690. Petitioner is currently detained.

42. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, the statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents did not adhere to the regulations, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior detention is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

43. The third factor, the government's interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous, especially when an individual has been already granted immigration relief.

This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

44. For these reasons, detaining Petitioner and attempting to remove her to a third country to which she has no meaningful connection, without providing notice and a meaningful opportunity to respond, violated procedural due process under the Fifth Amendment to the U.S. Constitution. In Petitioner's case, withholding of removal was granted in 2006. DHS may be attempting to reopen removal proceedings and designate a new country of removal, but at the time of this filing they have not done so. Thus, Petitioner has been detained without having a legally enforceable removal order, nor has she been placed back into removal proceedings.

45. The government's action in detaining Petitioner pending after being granted immigration relief profoundly impacts her private interest in physical liberty and could result in indefinite detention because her removal is both unlawful and not reasonably foreseeable.

CLAIM 3

STATUTORY

46. 8 U.S.C. § 1231(a)(6) authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, if removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and

should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

47. In Petitioner's case, withholding of removal was granted in 2006. DHS may be attempting to reopen removal proceedings and designate a new country of removal, but at the time of this filing they have not done so. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6), as interpreted by the U.S. Supreme Court in *Zadvydas*.

48. DHS, when exercising its authority under 8 U.S.C. § 1231(a)(3) and (a)(6), must comply with the detention, supervision, and custody-review procedures set forth in 8 C.F.R. §§ 241.4 and 241.5. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266-68 (1954). Those regulations establish a custody-review process governing detention beyond the removal period, including notice and review procedures, consideration of information submitted by the noncitizen, and administrative custody determinations. 8 C.F.R. § 241.4. Revocation of an Order of Supervision does not eliminate these regulatory safeguards. Rather, continued detention remains subject to § 241.4's custody-review framework.

49. In Petitioner's case, ICE failed to comply with the procedures required by 8 C.F.R. § 241.4. Petitioner was not provided with notice that ICE intended to revoke her OSUP. Rather, she was detained during a scheduled ERO check-in. She was not provided with any written decision, notice, documentation or information detailing the reasons as to why she was being detained. Furthermore, ICE has not provided Petitioner the mandatory custody-review procedures set forward under 8 U.S.C. § 1231(a)(6). Accordingly, Petitioner's detention occurred without the procedural protections required by DHS's own regulations and is therefore unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Honorable Court will:

a. Assume jurisdiction over this matter;

b. Order that Petitioner not be transferred outside of this District pending the adjudication of this Petition;

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

d. Declare that Petitioner's detention is unlawful;

e. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner from custody;

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 to preserve Petitioner's statutory and constitutional rights.

Dated: August 14, 2026

Respectfully submitted,

/s/ Julie C. Nemecek

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