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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

XAMZA CUMAR CABEY, *Petitioner,* v. **KEVIN RAYCRAFT**, Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; **DAVID VENTURELLA**, Acting Director of U.S. Immigration and Customs Enforcement; **TODD BLANCHE**, U.S. Attorney General; **RICHARD JONES**, Butler County Sheriff. *Respondents.*	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Mr. Xamza Cumar Cabey brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241; the All Writs Act, 28 U.S.C. § 1651; and Article I, Section 9, of the Constitution of the United States. Mr. Cabey has been illegally detained in U.S. Immigration and Customs Enforcement ("ICE") custody pursuant to 8 U.S.C. § 1231 for over six months in violation of the Constitution, although there is no indication of any significant likelihood of his removal in the reasonably foreseeable future.

2. Petitioner is a native and citizen of Somalia who has lived in the United States since approximately September 24, 2024. He is 24 years old. Prior to his detention, he resided in Columbus, Ohio. On February 4, 2025, he filed an asylum application with United States Citizenship and Immigration Services (USCIS). On June 10, 2025, USCIS dismissed his asylum application because he was issued an expedited removal order. In its dismissal, USCIS instructed Petitioner to request a credible fear interview from an Immigration and Customs Enforcement (ICE) Office of Enforcement and Removal Operations (ERO) Officer, who would refer him to an asylum officer for this review. Through his attorney, Petitioner followed the instructions in his dismissal and requested a credible fear interview.

3. While this request was pending, Petitioner was detained at a routine ICE check-in on November 4, 2025. After entering ICE custody, he failed his credible fear interview. An Immigration Judge upheld that decision on January 12, 2026. He was detained at a routine ICE check-in on November 4, 2025.

4. Despite keeping Petitioner detained for nine months, ICE has not demonstrated any significant likelihood that Mr. Cabey will be removed to Somalia in the reasonably foreseeable future.

5. Mr. Cabey has fulfilled all legal obligations to cooperate with ICE in the removal process. ICE was able to obtain a travel document from the Somali government, which expired on August 11, 2026. Mr. Cabey was not removed during that time, and he remains in detention.

6. Petitioner's ongoing detention violates both the post-removal-period detention statute, 8 U.S.C. § 1231(a)(6), and the Due Process clause of the Fifth Amendment to the U.S. Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (finding that detention of more than six months of someone who could not be removed would violate due process).

7. Petitioner respectfully requests that this Court vindicate Petitioner's statutory and constitutional rights and issue a writ of habeas corpus and order his immediate release under any reasonable conditions of supervision.

JURISDICTION

8. Petitioner is in the physical custody of Respondents at the Butler County Jail, located in Hamilton, Ohio. He has been in civil immigration custody since November 4, 2025.

9. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

12. The district courts have jurisdiction to hear habeas corpus claims by non-citizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Jennings v.*

Rodriguez, 138 S. Ct. 830, 841 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Ohio, the judicial district in which Petitioner currently is detained.

14. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to his claims occurred in the Southern District of Ohio.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

17. Petitioner Xamza Cumar Cabey is a 24-year-old native and citizen of Somalia. He was issued an expedited removal order shortly after entering the United States, and did not

demonstrate a credible fear of persecution following a failed Credible Fear Interview (CFI) under 8 U.S.C. § 1225(b)(1). He has been in immigration detention since November 4, 2025. Petitioner is currently detained at the Butler County Jail. He is in the custody, and under the direct control, of Respondents and their agents.

18. Respondent Kevin Raycraft is sued in his official capacity as the Acting Director of the Detroit Field Office of U.S. Immigration and Customs Enforcement. The Detroit Field Office oversees the Westerville Field Office of Enforcement and Removal Operations (ERO). Respondent Raycraft is a legal custodian of Petitioner and has authority to release him.

19. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Mullin is a legal custodian of Petitioner.

20. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

21. Respondent David Venturella is named in his official capacity as Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner.

22. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for

Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

23. Respondent Richard Jones is sued in his official capacity. He is the Sheriff of Butler County. The Butler County Jail is under the administration of the Butler County Sheriff's Office. As such, he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Jones is a legal custodian of Petitioner.

STATEMENT OF FACTS

24. Petitioner is a 24-year-old native and citizen of Somalia. He arrived at the U.S.-Mexico border to seek asylum on approximately September 24, 2024. He was paroled pursuant to INA § 212(d)(5); 8 U.S.C. § 1182(d)(5)(A), and he filed a timely application for asylum within his first year in the United States. He was given a check-in letter from ICE on October 16, 2024, with instructions to go to the Westerville ICE office. He attended that appointment and future check-in appointments as required, beginning in November of 2024. He has no criminal record.

25. Mr. Cabey was later issued a letter from USCIS, dismissing his asylum application, stating that he needed to pass a CFI.

26. At a routine check-in on November 4, 2025, ERO officers at the Westerville Field Office took him into immigration custody. He has been in immigration detention since that date.

27. Mr. Cabey was given a CFI while in detention. He failed his CFI and sought review before an Immigration Judge, but he was ultimately unsuccessful. The Immigration Judge upheld the asylum officer's determination on January 12, 2026. At that point, there was no further review of his administratively final order of expedited removal pursuant to 8 U.S.C. § 1225(b)(1).

28. ICE obtained a travel document on behalf of the Petitioner from the government of Somalia to allow Respondents to remove him from the United States. That travel document was valid until August 11, 2026.

29. Respondent's agents at ERO scheduled a Post-Order Custody Review (POCR) for Petitioner set for July 2, 2026. It was rescheduled due to Respondent's agents' schedules. Petitioner's POCR was ultimately conducted on July 7, 2026.

30. At his POCR, ICE indicated that they had obtained a travel document for the Petitioner, valid through August 11, 2026, and that they would remove him prior to the expiration of that document. Petitioner indicated he did not agree to be removed from the United States due to his fear of returning to Somalia.

31. Respondent's agents prepared a memorandum by the interviewing panel from the POCR recommending that Petitioner continue to be detained. To date, no decision has been issued regarding the memorandum.

32. Upon information and belief, Respondents' agents have not obtained new travel documents for Petitioner or represented that a new travel document is forthcoming. Respondent's agents previously indicated that they intended to remove Respondent prior to August 11, 2026, but did not. They have not communicated to Petitioner or his counsel any updated timeline for his removal.

33. Thus, Petitioner still remains in immigration detention, with no end in sight. He is separated from his family and community.

LEGAL FRAMEWORK

34. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not

entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added).

35. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "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 protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

36. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during "the removal period," which is defined as the 90-day period beginning on "the latest" of either "[t]he date the order of removal becomes administratively final"; "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court's final order"; or "[i]f the [noncitizen]is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement."

37. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. The Supreme Court held, in the context of post-removal immigration detention, that if the "detention's goal is no longer practically attainable," detention becomes unreasonable and violates the detained person's Fifth Amendment right to due process. *Zadvydas*, 533 U.S. at 690. "[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699-700.

38. Six months is the presumptively reasonable period during which ICE may detain non-citizens in order to effectuate their removal. *Id.* at 701. After six months of detention, if "the [noncitizen] 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" or else a Constitutional violation occurs. *Id.* Moreover, "an inversely proportional relationship is at play: the longer a[] [noncitizen] is detained, the less he must put forward to obtain relief." *Alexander v. Att'y Gen. U.S.*, 495 F. App'x 274, 276-77 (3d Cir. 2012).

39. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

40. The first justification of preventing flight, however, is "by definition . . . weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive detention based on dangerousness" is permitted "only when limited to specially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

41. Thus, under *Zadvydas*, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700. If removal is reasonably foreseeable, "the habeas court should consider the risk of the [noncitizen's] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period." *Id.* at 700.

42. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that "Congress previously doubted the constitutionality of detention for more than six months" and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

CLAIMS FOR RELIEF

COUNT ONE
Violation of the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6) does not authorize prolonged detention beyond a reasonable period.

43. The allegations in the above paragraphs are realleged and incorporated herein.

44. Petitioner's continued detention by Respondents is unlawful and violates 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have both expired.

45. Petitioner has been detained for over nine months in total. His removal order became administratively final at least seven months ago, and there remains no indication that his removal to Somalia is significantly likely to occur in the reasonably foreseeable future. Despite having had a now-expired travel document available to use to remove the Petitioner, ICE has failed

to demonstrate that it has any ability to arrange for his removal within a constitutionally meaningful time frame.

COUNT TWO

Violation of Fifth Amendment Right to Due Process

46. The allegations in the above paragraphs are realleged and incorporated herein.

47. Petitioner's continued detention violates his right to substantive Due Process because it deprives him of his core liberty interest in freedom from bodily restraint. The Due Process clause of the Fifth and Fourteenth Amendments requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents may have an interest in detaining Mr. Cabey to effectuate his removal, that interest does not justify indefinite detention.

48. Petitioner is not significantly likely to be removed in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain non-citizens only for a period reasonably necessary to secure that person's removal. The presumptively reasonable period of detention is six months, and Mr. Cabey has already been detained for over nine months after his removal order became administratively final with no foreseeable likelihood of removal.

49. For these reasons, Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT THREE

Unconstitutional denial of procedural due process.

50. The allegations in the above paragraphs are realleged and incorporated herein.

51. Under the Due Process clause of the Fifth Amendment, a non-citizen is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner has

been denied that opportunity. ICE does not make decisions concerning a noncitizen's custody status in a neutral and impartial manner. *See* 8 C.F.R. § 241.13 (explaining that ICE reviews a detainee's custody status and that "There is no administrative appeal from the HQPDU decision denying a request from an alien under this section."). The failure of Respondents to provide a neutral decision-maker to review Mr. Cabey's continued detention violates his right to procedural Due Process.

52. Further, Respondents have continued to detain Petitioner despite nine months in immigration custody with no end in sight. There is no administrative mechanism in place for Petitioner to appeal a custody decision that violates *Zadvydas*.

53. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a)(6);

(3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately on his own recognizance or under reasonable conditions of supervision;

(4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(5) Grant any further relief this Court deems just and proper

Respectfully submitted,

/s/ David L. Dawson
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Dated: August 17th, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Xamza Cumar Cabey, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 17th day of August, 2026.

/s/ David L. Dawson
David L. Dawson, Esq.