JUDGE KATHLEEN CARDONE

FILED
AUG 19 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

Habeas Petition

United states District court for the [western district court of Texas Albert Armendariz SR, United States Courthouse 525 Magoffin Avenue Room 105 El Paso TX 79901]

MAJOK, ASHWEEL ASHWEEL METHAYNG

[redacted]
petitioner,

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

V.

Todd Blanche, Attorney General,

Mark Wayne Mullin, , Secretary Of The
Department OF Homeland Security,

MARY DE ANDA YBARRA, U.S. ICE
Field Office Director For,
''EOIR" Field Office,

ERICA ESTRADA, Assistant
Field Office Director Of El Paso SPC.

Respondents

EP26CV2166

Civil Action No._____.

Petition For A Writ Of Habeas Corpus
Pursuant To 28 U.S.C. §2241, By
A Person Subject To Indefinite
Immigration Detention.

BACKGROUND

Petitioner, MAJOK, ASHWEEL ASHWEEL METHAYNG, hereby petitions this Court for a writ of habeas

corpus to remedy Petitioner's unlawful mandatory detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition and

complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (ICE). Petitioner is detained at the:

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

_Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 *et seq*. This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is presently in custody under color of the authority of the United States., and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.")' *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

VENUE

3. Venue lies in the Western District Court Of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court.

EXHAUSTION OF REMEDIES

4. Petitioner has exhausted his administrative remedies to the extent required by law, and his

only remedy is by way of this judicial action. After the Supreme Court decision in *Zadvydas*, the Department of Justice issued regulations governing the custody of aliens removed. *See* 8 C.F.R. §241.4.

_Petitioner's deportation officer S.Garcia and J.Marques has informed him that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit (''HQPDU") has decided to keep him in custody under mandatory detention because they are not releasing anybody in the united states under the new administration.

_ Petitioner has sent a letter requesting review and release from (ICE) custody after his (90-days).

_ Petitioner has sent a letter requesting review and release from (ICE) custody after his (180-days).

_The custody review regulations do not provide for appeal from a (''HQPDU") custody review decision. *See* 8 C.F.R. §241.4(d).

5. No statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

PARTIES

6. Petitioner MAJOK, ASHWEEL ASHWEEL METHAYNG, is a detainee in the Immigration and Custom Enforcement (ICE) custody on JANUARY 28 2026. i been a subject for mandatory detention for over 180 DAYS .

7. Respondent Todd Blanche, is the Attorney General of the United States and is responsible for the administration of (ICE) and the implementation and enforcement of the Immigration & Naturalization Act ("INA"). As such, Todd Blanch, has ultimate custodial authority over Petitioner.

8. Respondent Mark Wayne Mullin, is the Secretary of the Department of Homeland Security. he is responsible for the administration of (ICE) and the implementation and enforcement of the INA. As such Mr, Mark Wayne Mullin, is the legal custodian of Petitioner

9. Respondent MARY DE ANDA YBARRA, is the ICE Field Office Director of the Western District

Court Of Texas Field Office of ICE and is Petitioner's immediate custodian. *See Vásqyez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

10. Respondent ERICA ESTRADA, is the Assistant Field Office Director of:

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

STATEMENT OF THE FACTS

11. I entered the United States Legal through CHICAGO ILLINOIS on 2003 with my mother and my 5 siblings .

12. I signed my deportation in front the immigration judge and received my deportation order On 11/03/2011.

13. Petitioner's deportation officer S.Garcia and J.Marques , requested from him to fill out travel Documents for sudan, . Petitioner has filled out each document

application, signed it, finger print it and took the needed photographs as well.

14. Immigration and Custom Enforcement (ICE) has conducted the first custody review on

05/12/2026 after being (90-days) in detention, petitioner's deportation officer S.Garcia and J.Marques has informed that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit

(''HQPDU") has decided to continue his detention to arrange his removal back to his country.

15. Immigration and Custom Enforcement (ICE) conducted the second custody review on

JULY 28 2026 after being (180-days) in detention. Petitioner's deportation officer S.Garcia and J.Marques has informed that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit

(''HQPDU") has decided to keep him under mandatory detention because nobody is getting released in the united states period under the new administration.

16. To petitioners knowledge, the government of Sudan has not issued any travel documents for him. Indeed, neither Immigration and Custom Enforcement (ICE)

have any information concerning the existence or status of efforts to deport Petitioner besides

keeping him in custody for a mandatory detention. Sudan have not provided any indication that sudan would accept Petitioner in the reasonably foreseeable future because of the civil war.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

17. 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. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699. 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. In *Clark v. Martinez*, 543 U.S. 371 (2005), the U.S. Supreme Court held that *Zadvydas* applies to aliens found inadmissible as well as removable.

18. In determining the length of a reasonable removal period, the Court adopted a "presumptively reasonable period of detention" of "six months". *Id.* at 701. After six months, the government bears the burden of disproving an alien's "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *See Zhou v. Farquharson*, 2001 U.S. Dist. LEXIS 18239, *2-*3 (D. Mass. Oct. 19, 2001) (quoting and summarizing *Zadvydas*). Moreover, "for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Zadvydas*, 533 U.S. at 701. ICE's administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. *See* 8 C.F.R. §241.4 (k)(2)(ii).

19. An alien who has been detained beyond the presumptive six months should be released where the government is unable to present documented confirmation that the foreign government

at issue will agree to accept the particular individual in question. *See Agbada v. John Ashcroft*, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August 22, 2002) (court "will likely grant" habeas petition after six months if ICE is "unable to present document confirmation that the Sudan governments has agreed to [petitioner's] repatriation"); *Zhou*, 2001 U.S. Dist. LEXIS 19050 at *7 (W.D. Wash. February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there was no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF COUNT ONE STATUTORY VIOLATION

20. Petitioner re-alleges and incorporates by reference paragraphs 1 through 19 above.

21. 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*. Petitioner's ninety-day statutory removal period and six-month presumptively reasonably period for continued removal efforts have both passed. Respondents are unable to remove Petitioner to Sudan, because there is no repatriation agreement between the United States and Sudan, and Sudan will not accept its citizens who have been ordered removed from the United States. In *Martinez*, the U.S. Supreme Court held that the continued indefinite detention of someone like Petitioner under such circumstances is unreasonable and not authorized by 8 U.S.C. §1231(a)(6).

COUNT TWO SUBSTANTIVE DUE PROCESS VIOLATION

22. Petitioner re-alleges and incorporates by reference paragraphs 1 through 21 above.

23. 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).

24. 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 effect 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."). Because Petitioner is unlikely to be removed to Sudan, he continued indefinite detention violates substantive due process.

COUNT THREE PROCEDURAL DUE PROCESS VIOLATION

25. _Petitioner re-alleges and incorporates by reference paragraphs 1 through 24 above.

26. _Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates Zadvydas

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1) _Assume jurisdiction over this matter;

2) _Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody, under reasonably conditions of supervision;

3) _Order Respondents to refrain from transferring the Petitioner out of the jurisdiction of the ICE EL PASO SPC, Director during the pendency of these proceedings and while the Petitioner remains in Respondent's custody; and

4) _Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

5) _Grant any other and further relief that this Court deems just and prope

_I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this on 08 / 14 / 2026

MAJOK, ASHWEEL ASHWEEL METHAYNG
A# [redacted]
Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

Date: 08 / 14 / 2026

Full Name: MAJOK, ASHWEEL

Signature: ashweel majok

CERTIFICATE OF SERVICE

I MAJOK, ASHWEEL ASHWEEL METHAYNG , certify that a true copy of the above document (Petition for Writ of Habeas Corpus) was served on , upon the following:

Western District Court of Texas
Albert Armendariz, Sr. United States Courthouse
525 Magoffin Avenue
Room 105
El Paso, Texas 79901

by placing a copy of the above in the mail system at the facility where I am detained.

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