UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

ALEM WOLDEGHERGISH, A[redacted] Petitioner, v. **MATTHEW PUTRA,** U.S. Immigration and Customs Enforcement, Director of the Detroit Field Office, Enforcement and Removal Operations; **MARKWAYNE MULLIN,** U.S. Department of Homeland Security, Secretary; and **TODD BLANCHE,** U.S. Attorney General, Respondents.	Case No. 1:26-cv-891 District Judge _____ Magistrate Judge _____

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner, Mr. Alem Woldeghergish, brings this Petition for a Writ of Habeas Corpus to this Court, pursuant to 28 U.S.C. § 2241, to remedy his continued unlawful detention by Respondents. Petitioner hereby requests immediate release on an Order of Supervision. In support of this Petition, Petitioner alleges as follows:
2. Mr. Woldeghergish is a 49-year-old national and citizen of Eritrea who entered the United States in 2017 at a port of entry in Hildago, Texas on December 11, 2017. (**Exhibit A**, Notice to Appear).
3. At the border, Mr. Woldeghergish was detained at the Port Isabel Service Processing Center for a few weeks. During this time, an asylum officer conducted a credible fear

interview and found that Mr. Woldeghergish demonstrated a credible fear of persecution or torture in Eritrea. On or around January 3, 2018, Mr. Woldeghergish was released and issued a Notice to Appear which charged him as removable under section 212(a)(7)(A)(i)(I) and placed him in expedited removal proceedings. (**Exhibit A**, Notice to Appear).

4. Upon his release, Mr. Woldeghergish filed an asylum application to remain in the United States based on his fear of returning to Eritrea. The Immigration Judge denied his application and ordered removal on April 11, 2018.
5. Respondent was detained between April and August of 2018. During this time, Mr. Woldeghergish fully cooperated with Respondents' efforts to obtain travel documents from Eritrea. After the 90-day removal period, Respondents released Mr. Woldeghergish pursuant to 8 U.S.C. § 1231(a)(3).
6. On August 8, 2018, Immigrations and Customs Enforcement (ICE) issued Form I-220B, Order of Release on Supervision (OSUP), requiring Mr. Woldeghergish to appear for annual check-in appointments. (**Exhibit B**, Form I-220B). Mr. Woldeghergish fully complied with the conditions of his OSUP. (**Exhibit B**, Form I-220B; **Exhibit C**, Letter of Compliant Reporting from February 21, 2024).
7. On or around June 10, 2025, Respondents arrested Mr. Woldeghergish during a routine ICE check-in appointment. Upon his arrest, Respondents did not inform Mr. Woldeghergish of the reasons for revoking his order of supervision or that removal to any country was reasonably foreseeable. Respondents did not provide Mr. Woldeghergish with an informal interview.
8. On July 3, 2025, Petitioner filed his first Petition for a Writ of Habeas Corpus before this court. On January 9, 2026, the Honorable District Court Judge Susan J. Dlott dismissed the

Petition because Respondents assured the court that Mr. Woldeghergish's removal was imminent. The order dismissing the first habeas petition stated:

> "Although Woldeghergish has not shown an entitlement to habeas relief at this time, if his detention continues for an extended period or circumstances change, he will be entitled to file another habeas petition at a later date to try to make the requisite showing under *Zadvydas*."

9. Notably, in that case, Respondents repeatedly asserted the ability to obtain travel documents. To date, Respondents have been unable to effectuate Mr. Woldeghergish's removal to any country.

10. Respondents filed a Return of Writ which included a Declaration from ICE ERO supervisor who stated:

> "On June 21, 2025, the petitioner completed an application for a National Identity Card from the Government of Eritrea. On this application, the petitioner confirmed that he is a citizen and national of Eritrea" and "On July 15, 2025, ICE HQ Removal and International Operations (RIO) officer confirmed the Government of Eritrea is reviewing travel document requests and is issuing travel documents for individuals confirmed to be citizens of Eritrea."

11. To date, ICE has been unable to effectuate Mr. Woldeghergish's removal to Eritrea.

12. On October 6, 2025, ICE submitted another Declaration from the same ICE ERO supervisor who stated ICE requested a travel document for Mr. Woldeghergish from Malta on July 30, 2025. Similarly, ICE has been unable to effectuate Mr. Woldeghergish's removal to Malta.

13. Throughout the duration of the case, ICE repeatedly asserted that Mr. Woldeghergish's removal was imminent; however, Mr. Woldeghergish remains detained unlawfully for the past **450 days**, with no updates, and with no end in sight.

14. Since January 2026, there have been several decisions in the Southern District of Ohio, holding that a revocation of an order of supervision without notice and an informal

interview and resulting continued detention when removal is not reasonably foreseeable is unlawful. *See Camara v. Field Office Director*, No. 1:25-cv-740-JPH-PBS, 2026 WL 775585 (S.D. Ohio Mar. 19, 2026); *Diallo v. Raycraft*, No. 1:25-cv-647-SJD-SKB, 2026 WL 2529771 (S.D. Ohio Aug. 27, 2026).

15. Petitioner now submits this habeas petition alleging that Respondents violated the Immigration and Nationality Act, implementing regulations, and the Due Process Clause of the Fifth Amendment and is subject to review and relief by this Court pursuant to 8 U.S.C. § 2241.

LEGAL STANDARD

16. The Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Section 2241 of Title 28 confers the federal courts with the power to issue the writ of habeas corpus to persons "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. This includes challenges by noncitizens in immigration detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

JURISDICTION

17. Mr. Woldeghergish is in the physical custody of Respondents, as he is detained at the Butler County Correctional Complex in Hamilton, Ohio.
18. 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).
19. 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.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

20. Venue is proper in the United States District Court for the Southern District of Ohio, specifically in the Western Division at Cincinnati, because Mr. Woldeghergish is currently detained in the Butler County Correctional Complex in Hamilton, Ohio. *See* 28 U.S.C. § 1391, 28 U.S.C. § 2241, S.D. Ohio Civ. R. 82.1(b).

21. 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 Southern District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

22. 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.*

23. 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).

24. Mr. Woldeghergish has remained in ICE detention since June 10, 2025, despite Respondents' inability to remove him to either Eritrea or Malta by obtaining the travel documents necessary to effectuate his removal. Respondents previously represented that

Mr. Woldeghergish's deportation was imminent and, in January 2026, provided assurances to this court that removal would occur. Over seven months later, Petitioner believes there is no end in sight, as he remains detained for nearly 15 months and reports no communication with immigration authorities regarding any progress in either effectuating his removal or reevaluating his detention and potentially releasing him under the previous conditions of his OSUP so he can go back to his family, including his three children who are ages 16, 13, and 10.

25. Given the writ's purpose as a swift remedy for unlawful confinement, Mr. Woldeghergish respectfully requests the Court's prompt consideration of this petition pursuant to 28 U.S.C. § 2243.

PARTIES

26. Petitioner, Mr. Alem Woldeghergish, is a national and citizen of Eritrea who entered the United States in 2017. Petitioner is currently detained at Butler County Correctional Complex and has been in ICE custody since June 10, 2025.

27. Respondent, Matthew Putra, is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Director Putra 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.

28. 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 named in his official capacity.

29. 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 named in his official capacity.

LEGAL FRAMEWORK

30. "[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.

31. 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. A noncitizen 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").

32. A noncitizen 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).

33. 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.

34. 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.

CLAIMS FOR RELIEF

CLAIM 1

CONSTITUTIONAL

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

36. Petitioner's continued detention violates his substantive and procedural due process rights guaranteed by the Fifth Amendment to the United States Constitution.

37. 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) (noncitizens retain substantive due process rights).

38. 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 may have an interest in detaining Petitioner 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 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, noting that "If deportation can never occur, the government's primary legitimate purpose in detention – executing removal – is nonsensical.")

39. Petitioner's continued detention also violates his right to procedural due process. *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.

40. 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 and has been for over a year. Petitioner has a significant interest in freedom from imprisonment for many reasons including the fact that he is the father to three young children whom he is currently separated from.

41. 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 Respondent to give notice and an opportunity to respond prior to revoking an order of supervision 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.

42. 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. 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.

43. For these reasons, revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

44. The government's action in detaining Petitioner pending his removal profoundly impacts his private interest in physical liberty and could result in indefinite detention because his removal is not reasonably foreseeable.

CLAIM TWO

STATUTORY AND REGULATORY

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

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. Petitioner's continued detention by Respondent is unlawful and contravenes 8 U.S.C. § 1231(a)(6), as interpreted by the U.S. Supreme Court in *Zadvydas*.

47. Respondents are required to undertake "appropriate steps to secure travel documents for the alien both before and after the expiration of the removal period." 8 C.F.R. § 241.4(g)(2).

48. Respondents have not followed the requirements of 8 C.F.R. § 241.13(i)(3):

> "Upon revocation of an order of supervision, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien the opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision."

49. Respondents did not provide Petitioner with notice of the reasons of his revocation and did not conduct an informal interview.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;
b. Order Petitioner not be transferred outside of this District pending the adjudication of this Petition;
c. Declare that Respondent's revocation of Petitioner's order of supervision without reason was unlawful and that Petitioner's continued detention when removal is not reasonably foreseeable is unlawful;
d. Issue an Order to Show Cause requiring Respondents to show cause why the writ should not be granted within three days;
e. Issue a Writ of Habeas Corpus requiring Respondents to immediately release Petitioner from custody;
f. Grant any other relief that this Court deems just and proper to preserve Petitioner's statutory and constitutional rights.

DATED: September 3, 2026.

Respectfully submitted,

/s/ Julie C. Nemecek

Julie C. Nemecek
Attorney for Petitioner (A216-209-221)
The Nemecek Firm, Ltd.
471 East Broad Street, Suite 1200
Columbus, Ohio 43215
Telephone: (614) 459-2180
Fax: (614) 340-7888
Email: julie@jnimmigration.com