

# GUIDE TO FILE A LAWSUIT DEMANDING RELEASE

FROM

INDEFINITE IMMIGRATION  
DETENTION

Edition 1: for people who have a final order of removal

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## **1. Who is this guide for?**

This *pro se* guide is intended for immigrants to the U.S. (“noncitizens”) who are detained in Louisiana and have a **final order of removal (“Final Order”)**. “*Pro Se*” is a legal term meaning that you are representing yourself without an attorney.

In 2001, the U.S. Supreme Court ruled in the *Zadvydas*<sup>1</sup> case that noncitizens that have a final order cannot be indefinitely detained.

Kestutis Zadvydas was ordered deported in 1994, but the country where he was born would not accept him and the country where his parents were from would not accept him. So, he filed the case after he was detained for about a year, arguing that ICE should not be able to detain him indefinitely when no other country would accept him. The Supreme Court decided that **6 months is a seemingly reasonable period** for ICE to secure the necessary travel documents and remove/deport the noncitizen.

**If a noncitizen is held longer than 6 months, they can bring a lawsuit called “habeas” to ask for their release**, which requires ICE to show that removal (the legal term for deportation) is “reasonably foreseeable” (meaning, that ICE will deport you in the near future) or there are special circumstances justifying detention.

If you receive a final order, and have still been detained for a long time after that, ICE, by law, is supposed to re-consider releasing you upon 90 days after the final order, and again upon 180 days after the final order. Section 5 of this guide contains some addresses to send your release requests after 90 and 180 days, escalating the request above your deportation officer to regional headquarters and then national headquarters.

### **When do you have a Final Order?**

A Final Order can happen in a number of different ways. We have included some examples here, but keep in mind that you may still have a final order even if your situation is different from these:

- An Immigration Judge ordered Ms. X removed from the United States and she did not appeal the Immigration Judge’s decision within 30 days. Ms. X had a final order as of the day of the Immigration Judge’s decision.
- An Immigration Judge ordered Mr. A removed, and he lost his appeal to the Board of Immigration Appeals (BIA). Mr. A had a final order the day of BIA’s decision on his appeal.

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<sup>1</sup> *Zadvydas v. Davis*, 533 U.S. 678 (2001)

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- An Immigration Judge ordered Mr. D removed, and he lost his appeal to the Board of Immigration Appeals (BIA). Mr. D then filed a Motion to Reopen at the BIA, which is pending. Mr. D still has a final order the day of BIA's denial. If he brings a habeas lawsuit for his release, it is possible that ICE could deport him even while his Motion to Reopen at the BIA is pending unless the court orders a "stay of removal."
- Ms. B petitions the Circuit Court of Appeals for review of the BIA's decision. Ms. B's petition to the Circuit Court of Appeals will not stay her deportation unless the Circuit Court of Appeals grants a stay of removal pending the appeal. If Ms. B is granted a stay of removal, then ICE cannot deport her while the stay is pending. If the Circuit Court of Appeals denies the petition and lifts the stay of removal, then ICE can then take steps to deport her using the final order of removal.
- Mr. C was granted voluntary departure at her immigration hearing but did not actually leave the United States during the time period allowed. As soon as that time period ended, her voluntary departure automatically became a final order.

**Legal Words and Phrases**

<b>"Lawsuit"</b>	a claim or dispute brought to a court of law to ask for a judgment
<b>"Removal"</b>	the legal word for deportation
<b>"Final Order"/ "Final Order of Removal"</b>	Meaning that the Immigration Judge or Board of Immigration Appeals has issued you a final order to be removed/deported out of the United States
<b>"DHS"</b>	Department of Homeland Security, the U.S. government agency that apprehends immigrants and holds them in immigration detention
<b>"ICE"</b>	Immigration and Customs Enforcement, a subdivision of the Department of Homeland Security. ICE makes the consular and airline arrangements to remove immigrants from the U.S.; and manages the immigrant detention centers through sub-contractors like the Geo

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	Group, Core Civic, and other private companies. DHS/ICE also have attorneys, who represent the government in court
<b>“Pro Se”</b>	A legal term meaning that you are representing yourself without an attorney. This guide is for people who want to file a habeas lawsuit but do not have an attorney to help them do so.
<b>“Habeas corpus”</b>	A latin term found in U.S. law for this type of case. The literal meaning of habeas corpus is "you should have the body"—that is, the judge or court should (and must) have any person who is being detained brought forward so that the legality of that person's detention can be assessed. There are different types of habeas lawsuits for immigrants in different legal categories.
<b>“Petitioner”</b>	Although to start your habeas lawsuit, you will be filing a form and a memorandum, the technical legal term for this type of case is a “petition for habeas corpus,” so you are called the “Petitioner” because you are petitioning the court for your release.
<b>“Noncitizen”</b>	A word used to refer to immigrants to the U.S.

## **2. How do I prepare a Habeas lawsuit to petition a court to release me?**

If you have been detained longer than six months since your Final Order and you believe ICE is unlikely to deport you in the near future, you can submit a lawsuit called habeas corpus to a federal district court, which is a separate court from immigration court. The federal district court receives claims about your right to liberty and due process under the U.S. constitution; the immigration court and board of immigration appeals cannot receive those claims.

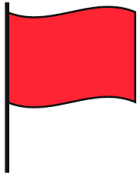
This habeas corpus lawsuit asks the court to release you from ICE custody based on your right to liberty and due process under the U.S. constitution. The court will refer to you as the “Petitioner” because you are petitioning the court for release under habeas corpus.

A lawsuit for Habeas Corpus relief is a challenge to your detention and a request to a federal court to review your situation to determine whether your detention violates your right to liberty and due process and whether you should be released.

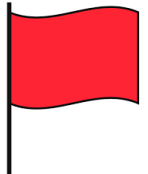
It is not a dispute or challenge to an Immigration Judge’s decision or Board of Immigration Appeals’ decision that found you deportable. It is not an appeal of your immigration case.

There are several reasons why your removal may be unlikely, including, for example:

- the country you would be deported to does not have a repatriation agreement (or a deportation agreement) with the United States,
- that country does not consider you a citizen,
- ICE is not able to send airplane flights to the country, or
- you are not a citizen of any country.



**WARNING:** it is possible that ICE could speed up the efforts to remove you if they are able to obtain travel documents and there are no other barriers to your removal as described above.



**Cooperation with ICE is important.** If you do not cooperate with ICE to obtain travel documents for your removal and you proceed to file a lawsuit - you will have a more difficult time in court proving that your removal is not “reasonably foreseeable”. ICE will use any noncooperation as an argument against you in court.

**To prepare the Habeas Corpus lawsuit,  
these are the steps you need to follow:**

**1. Prepare your Form and Memorandum of Law**

- a. Fill out the Form “AO 242” with your name, A number, and personal details – see *Appendix A* for the form that you need to fill out with instructions.
  - i. *Appendix F* contains the blank English version form for filing with the court. The court requires this form from *pro se* Petitioners (people who do not have a lawyer). This is the document that officially begins your habeas case before the court.
- b. Include a Memorandum of Law to submit with your Form AO 242 – this Memorandum of Law helps to detail the personal facts and legal arguments you need to support your case. See *Appendix B* for Instructions and a Sample Memorandum of Law.
  - i. *Appendix F* contains the blank English version form for filing with the court.
- c. Include an Order to Show Cause to submit with your Form AO 242 - this Order will be used by the judge to record their decision on your case. See *Appendix C* for Instructions and a Sample Order to Show Cause.
  - i. *Appendix F* contains the blank English version form for filing with the court.

**2. You must include the following attachments:**

- a. Any communications or letters from ICE denying your request for release.
- b. Any communications with your country’s consulate or embassy.
- c. Provide factual support to show that you are not likely to be deported in the near future.

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**3. Payment: The court requires payment of \$5 in order to file this lawsuit.**

- a. If you have the money: you must send a \$5.00 check or money order, made out to: "Clerk, U.S. District Court" to pay the court-filing fee.
- b. If you do NOT have the money: fill out the form "AO 240," "Application to proceed in district court without prepaying fees or costs." *Appendix D*, attached at the end of this guide, contains the application form.
  - i. *Appendix F*, attached at the end of this guide, contains the blank English version for filing with the court.

**4. Review: Final checklist of items to send to court to begin your habeas case:**

- **Completed Form AO-242**  
in English with your information filled in
  - **Completed Memorandum of Law**  
in English with your information filled in
  - **Completed Order to Show Cause**  
in English with your information filled in
  - Copy of ICE's written denials of your release
  - Written communications with ICE
  - Written communications with your country's embassy or consulate
  - Anything that shows you will not be deported in the near future
  
  - \$5 in check or money order,
- OR**
- **Form "AO 240," "Application to proceed in district court without prepaying fees or costs"** in English with your information filled in



### **3. Where do I send my Habeas lawsuit?**

Where you mail the habeas documents depends on the detention facility where you are being detained. Below is a guide showing which court you should send your documents to, depending on which detention center you are detained in.

<b>If you are detained in:</b>	<b>Mail your Habeas Corpus Documents to:</b>
River Correctional Center	Clerk of Court United States Post Office & Courthouse 515 Murray Street, Suite 105 Alexandria, Louisiana 71301 Phone: (318) 473-7415
Winn Correctional Center	
LaSalle ICE Processing Center (Jena)	
Alexandria Staging Facility	
Natchitoches Parish Detention Center	
Richwood Correctional Center	Clerk of Court United States Post Office and Courthouse 201 Jackson Street, Suite 215 Monroe, Louisiana 71201 Phone: (318) 322-6740
Jackson Parish Correctional Center	
Allen Parish Public Safety Complex	Clerk of Court John M. Shaw United States Courthouse 800 Lafayette Street, Suite 2100 Lafayette, Louisiana 70501 Phone: (337) 593-5000
Pine Prairie ICE Processing Center	

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South Louisiana ICE Processing Center	
Bossier Parish Medium Security Facility	Clerk of Court Tom Stagg United States Courthouse 300 Fannin Street, Suite 1167 Shreveport, Louisiana 71101 Phone: (318) 676-4273

## **4. What happens next?**

After you mail in your form and memorandum, the Clerk of the Court will review the papers and make sure all the necessary information is included. The Clerk of the court will then open a case in the court.

- The court will order DHS to respond within a certain period of time.
- You will have the opportunity to reply to DHS' response.
- The court may schedule a date to have a hearing about your case.
- The court may ask you for additional information in the form of a legal filing or documents.

## **5. Where else can I send a release request?**

If you receive a final order, and have still been detained for a long time after that, ICE, by law, is supposed to re-consider releasing you upon 90 days after the final order, and again upon 180 days after the final order. You can escalate the request above your deportation officer to regional headquarters and then national headquarters.

### **90 Days After the Final Order**

You may have already sent a request for release to your Deportation Officer since you arrived at the detention center. If 90 days have passed since your final order and ICE has still failed to deport you, under law, ICE is supposed to reconsider your continued detention. After 90 days of continued detention past your final removal order, you should send the same release request and supporting documents to a higher-ranking ICE official above the Deportation Officer, called the Field Office Director. Send the same release request and supporting documents here:

Field Office Director, Enforcement and Removal Operations U.S. Immigration and Customs Enforcement 1250 Poydras Suite 325, New Orleans, LA 70113
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### **180 Days After the Final Order**

If 180 days have passed since your final order and ICE has still failed to deport you, under law, higher-ranking officials in DHS are supposed to reconsider your continued detention. This process is called an “individualized review.” After 180 days of continued detention past your final removal order, you should send the same release request and supporting documents to DHS headquarters in Washington DC, which are higher-ranking than the Field Office Director. Send the same release request and supporting documents here:

Headquarters Post-Order Detention Unit U.S. Department of Homeland Security Immigration and Customs Enforcement 801 I Street, N.W., Suite 900 Washington, DC 20536
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Here are two other locations you can send your request for release.

- ★ **Sending a request for release to these two locations IS NOT a requirement to file your Habeas lawsuit.**
- ★ **You do not have to send your Habeas lawsuit to these locations.**
- ★ **If ICE and DHS fail to complete the 90 and 180 day review process described above, you could have another legal claim in a habeas lawsuit that ICE failed to provide you with the required legal process.**

## **6. Frequently Asked Questions**

- **When to file?** File your habeas case if you are still detained six months after receiving your Final Order. *See Section 2 of this guide.*
- **Where to file?** File your habeas case in federal district court in the district in which you are detained (the Western District of Louisiana). *See Section 3 of this guide.*
- **How to file?** Mail your habeas documents to the Clerk of Court. *See Section 3 of this guide.*
- **What do I need to file?**
  - (1) signed habeas forms, *See Section 2 of this guide.*
  - (2) all documents that support your case, such as denial decisions from ICE, communications with your consulate, and
  - (3) the \$5.00 filing fee or form AO 240 to proceed without paying fees. *See Section 2 of this guide.*
- **Do I need to file in English?** Yes, the documents you file must be in English. If you file documents in any language other than English, they will be rejected by the court, and your habeas lawsuit will not be accepted and filed.
- **What if I can't afford the \$5.00 filing fee?** If you can't afford the fee, you can fill out the form "AO 240," "Application to proceed in district court without prepaying fees or costs." to request not to pay the filing fee.
- **Can I request an attorney?** Yes, you can request an attorney but there is no right to a court-appointed attorney.
- **How do I get a lawyer?** If you want to ask the Court to appoint a free lawyer for you, apply to the court for the appointment of an attorney by filling out the "Motion for Appointment of Counsel" form, which needs information about your efforts to obtain a lawyer and your finances. *See Appendix E* for a sample "Motion for Appointment of Counsel" in your language.

## **7. Appendix Table of Contents**

<b>Appendix A</b>	<u>Form AO 242</u> Petition for Habeas Corpus that begins the habeas corpus case and INSTRUCTIONS for the Form - in your language
<b>Appendix B</b>	INSTRUCTIONS for the <u>Memorandum of Law</u> - in your language
<b>Appendix C</b>	INSTRUCTIONS for the <u>Order to Show Cause</u> - in your language
<b>Appendix D</b>	<u>Form AO 240</u> , Application to proceed in district court without prepaying fees or costs - for reference in your language
<b>Appendix E</b>	<u>Motion for Appointment of Counsel</u> - for reference in your language
<b>Appendix F</b>	<b><u>Final Blank English Documents to Fill in &amp; Send to Court:</u></b> <ul style="list-style-type: none"><li>• Form AO 242 “Petition for Habeas Corpus”</li><li>• Memorandum of Law</li><li>• Order to Show Cause</li><li>• Form AO 240 “Application to proceed in district court without prepaying fees or costs.”</li><li>• Motion for Appointment of Counsel</li></ul>

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

### Instructions

1. **Who Should Use This Form.** You should use this form if
  - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
  - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
  - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
  - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
  - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
  - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and \_\_\_\_ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.



# UNITED STATES DISTRICT COURT

for the

District of \_\_\_\_\_

\_\_\_\_\_  
*Petitioner*

v.

Case No. \_\_\_\_\_

(Supplied by Clerk of Court)

\_\_\_\_\_  
*Respondent*

(name of warden or authorized person having custody of petitioner)

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

### Personal Information

1. (a) Your full name: \_\_\_\_\_  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: \_\_\_\_\_  
(b) Address: \_\_\_\_\_  
(c) Your identification number: \_\_\_\_\_
3. Are you currently being held on orders by:  
☐ Federal authorities      ☐ State authorities      ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, provide:  
(a) Name and location of court that sentenced you: \_\_\_\_\_  
(b) Docket number of criminal case: \_\_\_\_\_  
(c) Date of sentencing: \_\_\_\_\_  
☐ Being held on an immigration charge  
☐ Other (explain): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Decision or Action You Are Challenging

5. What are you challenging in this petition:  
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (*explain*): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: \_\_\_\_\_
- (b) Docket number, case number, or opinion number: \_\_\_\_\_
- (c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (d) Date of the decision or action: \_\_\_\_\_

### Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- ☐ Yes ☐ No

(a) If “Yes,” provide:

- (1) Name of the authority, agency, or court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Docket number, case number, or opinion number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) If you answered “No,” explain why you did not appeal: \_\_\_\_\_

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- ☐ Yes ☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you answered “No,” explain why you did not file a second appeal: \_\_\_\_\_

\_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you answered “No,” explain why you did not file a third appeal: \_\_\_\_\_

\_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☐ No

If “Yes,” answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

If “Yes,” provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If “Yes,” provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

# 11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☐ No

If “Yes,” provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☐ No

If "Yes," provide:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

\_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

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**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:**

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(a) Supporting facts (*Be brief. Do not cite cases or law.*):

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(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☐ No

**GROUND TWO:**

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(a) Supporting facts (*Be brief. Do not cite cases or law.*):

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(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

**GROUND THREE:**

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(a) Supporting facts (*Be brief. Do not cite cases or law.*):

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(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

**GROUND FOUR:**

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

15. State exactly what you want the court to do:

**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

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I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Petitioner*

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*



# **Appendix A - Form AO242 Instructions**

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## **Form “AO 242” INSTRUCTIONS**

*Note: Translations are provided in this guide as a tool to assist you, but you must file the Form AO 242 in English with the court, found in Appendix F of this guide. The court will reject the form if filed in a different language.*

### **Page 1 of 9**

Review the court’s instructions

### **Page 2 of 9**

- Fill in your name in the line at the top left that says “Petitioner”
- Numbers 1 and 2: Fill in with your personal information, the address of the detention center where you are detained by ICE, and your A number
- Number 3: Check the box for “Federal Authorities” and write “ICE DETENTION”
- Number 4: Check the box for “Being held on an immigration charge”

### **Page 3 of 9**

- Number 5: Check the box for “Immigration Detention”
- Number 6: Provide more information about the decision or action you are challenging:
  - Write: “U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, REFUSAL TO RELEASE ME FROM IMMIGRATION DETENTION”
  - Docket number, case number, or opinion number - Write: “NONE”
  - Decision or action you are challenging - Write: “U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, REFUSAL TO RELEASE ME FROM IMMIGRATION DETENTION”
  - Date of action or decision: Write the dates ICE has denied your release
- Number 7: First Appeal - if you have tried to appeal within ICE and DHS or submitted your release request more than once, write the details of your second request or appeal. If not, check the box for “No”.
- Number 8: Second Appeal - if you have tried to appeal within ICE and DHS or submitted your release request more than twice, write the details of your third request or appeal. If not, check the box for “No”.

### **Page 4 of 9**

- Number 9: Third Appeal - if you have tried to appeal within ICE and DHS or submitted your release request more than three times, write the details of your fourth request or appeal. If not, check the box for “No”.
- Number 10: Check the box for “No” and skip the rest of section 10.

# **Appendix A - Form AO242 Instructions**

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## **Page 5 of 9**

- Number 11: Check the box for “Yes”
  - Write the date you were taken into immigration custody
  - Write the date of your final removal order
  - If you filed an appeal with the Board of Immigration Appeals, check the box for “yes.” If not, check the box for “no.”

## **Page 6 of 9**

- Number 11: if you filed an appeal with the Board of Immigrations, write in as instructed
  - (1) Date of filing Board of Immigrations Appeal:
  - (2) Case Number (or A# if no case number)
  - (3) Result: write a description of the Board’s decision, for example, “appeal was denied”
  - (4) Date of result: write the date of the Board’s decision
  - (5) Issues raised: write a description of why you appealed your immigration case

(d) Did you appeal the decision to the United States Court of Appeals? Check the box for “yes” or “no.” If no, skip the rest of section 11.

If “Yes” write in as instructed

- (1) Name of court: write the name of the circuit court, for example, “5<sup>th</sup> Circuit Court of Appeals”
  - (2) Date of filing: write the date you filed your circuit court appeal of the Board of Immigration Appeals denial
  - (3) Case number: write the case number that the circuit court assigned to you
  - (4) Result: write the result of the circuit court’s decision, for example, “denied my case.” If you do not have a decision yet from the circuit court, write “the case is still pending” or “I am waiting for a decision.”
  - (5) Date of result: write the date of the circuit court’s decision. If you do not have a decision yet from the circuit court, write “the case is still pending” or “I am waiting for a decision.”
  - (6) Issues raised: write a description of why you appealed your case to the circuit court
- Number 12: Other appeals - if you have filed any other kind of appeal, petition, application, or motion (for example, a Motion to Reopen at the Board of Immigration Appeals or a separate type of immigration application or petition),

## **Appendix A - Form AO242 Instructions**

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check the box for “Yes”. If not, check the box for “no” and skip the rest of section 12.

If “Yes” write in as instructed

- (a) Write what kind of petition, motion, or application (for example, “Motion to Reopen” or “Application for Waiver” or “Family Petition”)
- (b) Write where you filed it (for example, with USCIS or the BIA)
- (c) Write the date of filing
- (d) Write the docket number, case number, or opinion number
- (e) Write a description of the result or decision. If you are still waiting, write “I am still writing for a decision.”
- (f) Date of result: write the date of the result or decision. If you are still waiting, write “I am still writing for a decision.”
- (g) Issues raised: write a description of what the petition, motion or application is for, why you filed it, what issues you raise and what you are trying to achieve

### **Page 7 of 9**

- Number 13: This has already been filled out for you stating that your continued prolonged detention violates your Fifth Amendment Constitutional right to due process and liberty, and the post-removal order statute.
  - Additional personal facts are required. This answer references the additional memorandum of law in Appendix B. Ensure that you fill out the memorandum of law completely, with your personal details and the facts of your situation, in English, and attach it with this form.

### **Page 8 of 9**

- Number 14: This has already been filled out for you. It states that this is not applicable to your case.
- Number 15: This has already been filled out for you, asking the court to order your immediate release from ICE custody.

# **Appendix B**

## **Memorandum of Law INSTRUCTIONS**

**This Instruction Form is to help you complete the Memorandum of Law, Appendix F.**

The Memorandum of Law, Appendix F should be submitted with the Form AO 242 “Petition for a Writ of Habeas Corpus.” The Form and the Memorandum is what the court will use to open the case. The Memorandum is to provide legal support for your Petition for a Writ of Habeas Corpus and provides required personal information in addition to the form.

**DO NOT SUBMIT THIS DOCUMENT TO THE COURT. THIS IS PURELY INSTRUCTIONAL TO HELP YOU FILL OUT THE MEMORANDUM IN APPENDIX F2.**

**TRANSFER YOUR ANSWERS FILLED IN HERE TO APPENDIX F2 AND SUBMIT APPENDIX F2 TO THE COURT.**

## **Appendix B - Memo of Law Instructions**

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### **MEMORANDUM OF LAW IN SUPPORT OF PETITION OF WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

Name: Click or tap here to enter text.

Alien Registration No.: Click or tap here to enter text.

Pro Se Petitioner-Detained

Detention Center: Click or tap here to enter text.

Address: Click or tap here to enter street address.

Clickhere to enter City, State, and Zip Code.

*This was prepared by Rapid Defense Network, ACLU of Louisiana, and the Southern Poverty Law Center as part of a pro se guide.*

# **Appendix B - Memo of Law Instructions**

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## **INTRODUCTION**

1. Petitioner, [Click or tap here to enter your Full Name](#) petitions this Court for a writ of habeas corpus to remedy Petitioner's indefinite detention by Respondents. Petitioner submits this Memorandum of Law in Support of the Petition for a Writ of Habeas Corpus.
2. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), noncitizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for the six months. Detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a noncitizen's removal. But after that six-month period, once a 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." And the longer a noncitizen has been detained, the stronger the government's showing must be.
3. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrates that there is a significant likelihood of removal in the reasonably foreseeable future.
4. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to order the Respondents to file a return within three days, unless they can show good cause for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause why a petition for a writ of habeas corpus should be denied is returnable "within three days unless for good cause additional time, not exceeding twenty days, is allowed").

## **Appendix B - Memo of Law Instructions**

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5. In order to permit full judicial review of the claims herein and requested relief, Petitioner respectfully requests that the Court order Respondents not to transfer Petitioner outside the jurisdiction of this Court pending consideration of this Petition.

### **STATEMENT OF FACTS**

6. Petitioner was born in: Click or tap here to enter your country of birth.
7. Petitioner entered the United States on or about: Click or tap here to enter the date you entered the United States
8. An Immigration Judge ordered Petitioner removed from the United States on or about Click or tap here to enter the date of your final removal order.
9. Regarding Appeals:

#### **Fill in Number 9 with the sentence that applies to you:**

“Petitioner did not file an appeal with the Board of Immigration Appeals (“BIA”).”

#### **OR**

“Following the entry of the final order of removal, Petitioner appealed to the Board of Immigration Appeals (“BIA”). The BIA denied Petition’s appeal on Click or tap here to enter the date the appeal was denied..”

#### **AND IF APPLICABLE, ADD THIS SENTENCE:**

“Petitioner appealed the BIA’s decision to the U.S. Court of Appeals for the Choose an item. Circuit. Petitioner’s appeal was denied on Click or tap here to enter the date the appeal to the circuit was denied. .”

## **Appendix B - Memo of Law Instructions**

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10. Petitioner has cooperated fully with all of ICE's efforts to remove Petitioner. Petitioner has cooperated with ICE in the following ways:

**Fill in Number 10 with the following sentences if they apply to you.**

**Include all that apply to you:**

"Petitioner has cooperated with ICE by providing information about Petitioner's country of birth and country of citizenship."

"Petitioner has cooperated with ICE by signing a travel document application."

"Petitioner has cooperated with ICE by talking to his/her home country consulate or embassy."

"Petitioner has cooperated with ICE by providing fingerprints, and other identification documents."

"Petitioner has cooperated with ICE by [Click or tap here to enter any additional information you provided to ICE.](#)"

11. Nonetheless, ICE has been unable to remove Petitioner from the United States. ICE is unlikely to remove Petitioner in the reasonably foreseeable future because:

**Fill in Number 11 with the following sentences if they apply to you.**

**Include all that apply to you:**

"Petitioner received a letter from his/her consulate or embassy stating that the country will not accept Petitioner back into the country."

"Petitioner is not a citizen of the country ICE is seeking to deport him/her to."

"Petitioner's embassy/consulate has not issued Petitioner travel documents."

"Petitioner is being deported to a country that does not cooperate with United States deportation efforts."

"Petitioner has certain health conditions that make international travel risky to his or her health."  
[Click or tap here to enter a sentence of two with details about these health conditions.](#)

"The country Petitioner is to be deported to is not accepting deportees due to [Click or tap here to enter COVID or any other reason.](#)"



## **Appendix B - Memo of Law Instructions**

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12. Regarding Petitioner Detention:

**Fill in Number 12 with one of the following sentences that applies to you:**

“Petitioner was detained while Petitioner’s immigration claims were pending.” **OR**

“Petitioner was released on bond while Petitioner’s immigration claims were pending but was detained after Petitioner’s final order of removal.” **OR**

“Petitioner was released under an order of supervision and then re-detained for [Click or tap here to enter the number of months.](#)”

13. If released, Petitioner will be supported by family and friends in the United States. In particular:

**Fill in Number 12 if you have any family or friends currently present in the United States.**

Give the address where you will stay when released and the name of the person or people you will be living with if you were released. State whether any of your family or friends are U.S. citizens or lawful permanent residents.

**If you do not have any family or friends in the United States, please cross out this paragraph.**

## **Appendix B - Memo of Law Instructions**

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### **ARGUMENT**

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”) §§ 101–507, 8 U.S.C. § 1101–1537, amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.
15. This Court has jurisdiction under 28 U.S.C. § 2241, the Suspension Clause, U.S. Const. art. I § 9, cl. 2, and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and Petitioner’s custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (habeas corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).
16. The Due Process clause applies to all persons in the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical lies at the heart of the liberty that [the Due Process] Clause protects.” 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Court noted, “[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem.” *Id.*; *see also Plyer v. Doe*, 457 U.S. 202, 210 (1982) (“Aliens, even aliens whose presence in this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the Fifth and Fourteenth Amendments.”).

## **Appendix B - Memo of Law Instructions**

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17. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal “shall” be detained during the first 90 days—the “removal period”—and they “shall” be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government “may” continue detention beyond the 90-day removal period if a noncitizen falls within certain broad categories of removability or is determined “to be a risk to the community or unlikely to comply with the order of removal.” 8 U.S.C. §1231(a)(6).
18. In *Zadvydas*, the Supreme Court construed 8 U.S.C. §1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. 678. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the Government to “respond with evidence sufficient to rebut [the alien’s] showing.” *Id.* at 701.
19. Courts have rejected conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights or repatriation agreements, that removal is imminent. “[A] theoretical possibility of eventually being removed does not satisfy the government’s burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future.” *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at \*5 (W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted). “[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Id.* at \*5 (internal quotation marks and citation omitted). *See also*,

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*Gomez Barco v. Witte*, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020)

(ordering release of a petitioner who was detained longer than six months because ICE had not been able to secure necessary travel documents, noting that the ICE officer “clearly has no factual basis for his ‘belief’ that there is no foreseeable impediment to Petitioner’s removal or that her removal is imminent,” and that there was no foundation for the “expectation” that the COVID-19 related travel restrictions in place would soon be lifted);

*Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).<sup>1</sup>

In granting Ms. Balza’s release, the court considered and rejected a conclusory declaration by a local ICE Assistant Field Officer that removal was imminent. *Id.* at \*5. In *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE’s vague statements that it was “endeavoring to rectify the issue” and concluded there was no end in sight for detention, and recommended release. The District Court Judge

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<sup>1</sup> Other district courts in the Fifth Circuit and elsewhere have similarly granted habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to a lack of diplomatic relations with Venezuela); *Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond to a travel document request for more than seven months).

## **Appendix B - Memo of Law Instructions**

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agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011), report and recommendation adopted, No. CIV.A. 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

20. Courts in this District have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See, e.g., Gomez Barco*, 2020 WL 7393786 (ordering release of an immigrant detainee who was a native and citizen of Venezuela who was detained longer than six months because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at \*5 (ordering release of petitioner and noting that “[a]fter more than a year of detention, Petitioner’s removal need not necessarily be imminent, but it cannot be speculative”) (internal quotation marks omitted).

21. Under *Zadvydas*, courts have found that there is no significant likelihood of removal and granted relief where:

- No country will accept the petitioner. *See, e.g., Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).<sup>2</sup>

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<sup>2</sup> *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at \*4 (W.D.N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed “that the countries with which he has any affiliation will not accept him”); *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

## **Appendix B - Memo of Law Instructions**

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- The petitioner’s country of origin refuses to issue a travel document. *See, e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas relief to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. of Immigr. & Customs Enf’t*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad’s refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner’s HIV status).<sup>3</sup>
- There is no removal agreement between the United States and a country. In these scenarios, courts have found that the lack of a formal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. *See, e.g., Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of petitioner’s parents was not Ethiopian).<sup>4</sup>
- There is either no response from a country designated for removal or a significant delay in receiving a response. *See, e.g., Gonzalez-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief

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<sup>3</sup> *See also Ka v. Bureau of Immigr. & Customs Enf’t*, No. B-07-197, 2008 WL 11462867, at \*8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal “refused to issue Ka a travel document because he d[id] not have proper identity documentation”); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

<sup>4</sup> *See also Gomez Barco*, 2020 WL 7393786; *Islam v. Kane*, No. CV-11-515-PHX-PGR (LOA), 2011 WL 4374226, at \*3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh “is one of fifteen countries identified by ICE as least likely to issue travel documents”); *Carreno*, 2020 WL 8366735; *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to a lack of diplomatic relations with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government’s ability to remove the petitioner to Somalia).

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to petitioner detained thirteen months where there was no response from Venezuelan officials).<sup>5</sup>

- ICE fails to take action to secure travel documents for a prolonged period. *See, e.g., Senor*, 401 F. Supp. 3d at 430–31 (granting habeas relief after ICE initially requested travel documents but where “there [wa]s no indication from the record that anyone ha[d] taken any further action in the eight months since that time . . . to facilitate Senor’s receipt of the necessary travel documents”).<sup>6</sup>

22. As the length of detention grows, the period of time that would be considered the “reasonably foreseeable future” shrinks. *See, e.g., Zadvydas*, 533 U.S. at 701 (stating that as the length of time in detention grows “what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”); *Senor*, 401 F. Supp. 3d at 430 (“[T]he passage of time combined with’ the ‘government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody’ [is] sufficient to meet that ‘initial burden.’”); *Lawrikow*, 2009 WL 2905549, at \*12.

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<sup>5</sup> *See also Sharifi*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL 4581465 (W.D.N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D.N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D.N.Y. 2019); *Butt v. Holder*, No. CA 08–0672–CG–C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistani Embassy that travel documents would be issued); *Lawrikow v. Kollus*, No. CV–08–1403–PHX–GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawford*, No. 06–02436 PHX JWS (MEA), 2007 WL 1063413 (D. Ariz. Jan. 31, 2007); *Gui v. Ridge*, No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft*, No. 02 C 7737, 2003 WL 1964290 (N.D. Ill. Apr. 28, 2003).

<sup>6</sup> *See also Chun Yat Ma v. Asher*, No. C11–1797 MJP, 2012 WL 1432229, at \*4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner’s release where the government failed “to provide any documentation of efforts . . . to effectuate removal . . . [for] nearly six months”).

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23. Petitioner's continued detention is unlawful, and Petitioner is unlikely to be removed in the reasonably foreseeable future. Therefore, Petitioner's detention violates the statute and s/he is entitled to immediate release.
24. Petitioner's detention also violates the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. "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*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner's prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner's detention violates Petitioner's right to due process.



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### **CONCLUSION**

25. In conclusion, Petitioner's indefinite detention violates the detention statute and is unconstitutional. Petitioner respectfully requests that this Court order Respondents to show cause why the writ should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed," and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.

Respectfully submitted,

Signature: \_\_\_\_\_

Name: Click or tap here to enter text

A-Number: Click or tap here to enter text

Detention Center: Click or tap here to enter text.

Address: Click or tap here to enter text.

Click or tap here to enter text.

# **Appendix C**

## **Order to Show Cause INSTRUCTIONS**

**This Instruction Form is to help you complete the Order to Show Cause, found later in this guide at Appendix F.**

The English version of this Order to Show Cause should be submitted with the AO 242 “Petition for a Writ of Habeas Corpus” Form and the Memorandum.

**DO NOT SUBMIT THIS INSTRUCTIONAL DOCUMENT TO THE COURT.**  
**THIS IS ONLY INSTRUCTIONAL TO HELP YOU FILL OUT APPENDIX F.**

**TRANSFER YOUR ANSWERS FILLED IN HERE TO APPENDIX F AND**  
**SUBMIT APPENDIX F TO THE COURT.**

# **Appendix C - Order to Show Cause Instructions**

*REMINDER: DO NOT SUBMIT THIS DOCUMENT TO THE COURT.  
THIS IS AN INSTRUCTIONAL DOCUMENT.*

---

Name: Click or tap here to enter text.

A Number: Click or tap here to enter text.

Address: Click or tap here to enter Name of the Detention Center

Click or tap here to enter Street Address

Click or tap here to enter City, State, and Zip Code.

PRO SE

## **UNITED STATES DISTRICT COURT**

Choose an item.

Click or tap here to enter your full name,

Petitioner,

v.

CARIDAD CEPHAS KIMBROUGH,

Field Office Director, New Orleans Field Office,

United States Immigration and Customs

Enforcement; TAE JOHNSON, Acting Director,

United States Immigration and Customs

Enforcement; ALEJANDRO MAYORKAS,

Secretary, United States Department of Homeland

Security; and

Click or tap here to enter the warden's name,

WARDEN OF IMMIGRATION DETENTION

FACILITY,

Respondents.

**Case No.** Click to enter text.

**[PROPOSED]**

**ORDER TO SHOW CAUSE**

## **Appendix C - Order to Show Cause Instructions**

*REMINDER: DO NOT SUBMIT THIS DOCUMENT TO THE COURT.  
THIS IS AN INSTRUCTIONAL DOCUMENT.*

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Upon consideration of Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. 2241, and memorandum of law that requests, *inter alia*, the issuance of an Order to Show Cause pursuant to 28 U.S.C. §2243, IT IS HEREBY ORDERED that:

1. Respondents are ORDERED to file a return on the Order to Show Cause why the Petition for a Writ of Habeas Corpus should not be granted by [Click or tap here to enter date that is 2 weeks after the date you file the habeas documents.](#)
2. Petitioner shall have an opportunity to reply by [Click or tap here to enter the date 2 weeks after the date you entered in question number 1.](#)
3. A hearing on this case shall be set on **[DO NOT FILL]**

And such other and further relief as the Court may find appropriate.

IT IS SO ORDERED.

Dated: **[DO NOT FILL]**

**[DO NOT SIGN]**  
UNITED STATES DISTRICT COURT

## **Appendix D**

### Form “AO 240”, “Application to Proceed in District Court Without Prepaying Fees or Costs (Short Form)”

*Note: Translations are provided in this guide as a tool to assist you, but you must file the Form AO 240 in English with the court. The court will reject the form if filed in a different language.*

An English version of this form is found in Appendix F of this Guide, along with the other English forms and documents you will need to file with the court.

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff/Petitioner*

v.

\_\_\_\_\_  
*Defendant/Respondent*

)  
)  
)  
)  
)

Civil Action No. \_\_\_\_\_

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: \_\_\_\_\_.

If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ \_\_\_\_\_, and my take-home pay or wages are: \$ \_\_\_\_\_ per  
(specify pay period) \_\_\_\_\_.

3. *Other Income.* In the past 12 months, I have received income from the following sources (check all that apply):

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances                         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ \_\_\_\_\_.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
\_\_\_\_\_  
DIVISION

Civil Action No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

VS. Judge \_\_\_\_\_

\_\_\_\_\_  
Defendant

Magistrate Judge \_\_\_\_\_

**MOTION FOR APPOINTMENT OF COUNSEL  
UNDER SECTION 706 (f) OF THE CIVIL RIGHTS ACT OF 1964**

PART 1: EFFORTS TO OBTAIN COUNSEL

Declaring that the information I have given below is true and correct, I apply to the court for appointment of an attorney.

A. Have you talked with any attorney about handling your claim?

Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes," give the following information about each attorney with whom you talked:

Attorney: \_\_\_\_\_

When: \_\_\_\_\_

How (by telephone, in person, etc.): \_\_\_\_\_

Why was this attorney not employed to handle your claim? \_\_\_\_\_

\_\_\_\_\_

Attorney: \_\_\_\_\_

When: \_\_\_\_\_

How (by telephone, in person, etc.): \_\_\_\_\_

Why was this attorney not employed to handle your claim? \_\_\_\_\_

\_\_\_\_\_



Attorney: \_\_\_\_\_

When: \_\_\_\_\_

How (by telephone, in person, etc.): \_\_\_\_\_

Why was this attorney not employed to handle your claim? \_\_\_\_\_

\_\_\_\_\_

- B. Explain any other efforts you have made to contact an attorney to handle your claim:

\_\_\_\_\_

\_\_\_\_\_

- C. Give any other information which supports your application for the court to appoint counsel:

\_\_\_\_\_

\_\_\_\_\_

- D. Name and address of each attorney who has represented you in the last ten (10) years:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PART 2: FINANCIAL INFORMATION

(DO NOT COMPLETE THIS PART IF YOU HAVE ALREADY SUPPLIED THIS INFORMATION IN THE APPLICATION TO PROCEED *IN FORMA PAUPERIS*.)

1. Full Name \_\_\_\_\_

2. Address \_\_\_\_\_

(Street Address or P.O. Box)

(City)

(State) (Zip Code)

3. Marital Status: Single \_\_\_\_\_ Married \_\_\_\_\_ Separated \_\_\_\_\_

Divorced \_\_\_\_\_ Widowed \_\_\_\_\_

4. Are you presently employed? Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "Yes," give your occupation, the name and address of your employer and the gross and net amount of your salary.

(Occupation)

(Gross Salary)

(Net Salary)

(Name and Address of Your Employer)

5. If you are not presently employed, state the date of your last employment, the name and address of your employer and your salary.

(Date Last Employed)

(Salary)

(Name and Address of Your Last Employer)

6. If you are married and if your spouse is employed, state his/her name, occupation, employer, address of employer and salary.

(Name of Spouse)

(Occupation)

(Salary)

7. Approximately how much money have you received in the past twelve months from the following sources:

as wages, salary, commissions or earned income of any kind? \_\_\_\_\_

as workman's compensation or disability insurance? \_\_\_\_\_

as rent payments, interest, dividends? \_\_\_\_\_

as pensions, annuities or life insurance payments? \_\_\_\_\_

from social security, unemployment compensation or welfare payments? \_\_\_\_\_

as gifts or inheritance? \_\_\_\_\_

from other sources? \_\_\_\_\_

8. How much money do you own or have in any checking or savings account? \_\_\_\_\_

9. Do you own or have any interest in any real estate, automobiles or other vehicles, boats, stocks, bonds, notes, or any other valuable property (excluding ordinary household furnishings and clothing)? Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes," give a description of the property and its estimated value. \_\_\_\_\_

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10. Is anyone dependent on you for support? Yes \_\_\_\_\_ No \_\_\_\_\_  
If "Yes," give names, ages, relationship to you, and the amount you contribute toward their support. \_\_\_\_\_

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11. List any debts you have and the amount owed.

<u>Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

12. List your monthly living expenses.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Under penalty of perjury, I declare that the information given in this motion is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Street Address or P.O. Box)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Area Code) (Telephone Number)

# **Appendix F**

## **Final Blank English Documents to Fill in and Send to Court:**

- Form AO 242 “Petition for Habeas Corpus”
- Memorandum of Law
- Order to Show Cause
- Form AO 240 “Application to proceed in district court without prepaying fees or costs.”
- Motion for Appointment of Counsel

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

### Instructions

1. **Who Should Use This Form.** You should use this form if
  - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
  - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
  - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
  - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
  - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
  - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and \_\_\_\_ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.

If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

# UNITED STATES DISTRICT COURT

for the

District of \_\_\_\_\_

\_\_\_\_\_  
*Petitioner*

v.

Case No. \_\_\_\_\_

(Supplied by Clerk of Court)

\_\_\_\_\_  
*Respondent*

(name of warden or authorized person having custody of petitioner)

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

### Personal Information

1. (a) Your full name: \_\_\_\_\_  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: \_\_\_\_\_  
(b) Address: \_\_\_\_\_  
(c) Your identification number: \_\_\_\_\_
3. Are you currently being held on orders by:  
☐ Federal authorities      ☐ State authorities      ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
If you are currently serving a sentence, provide:  
(a) Name and location of court that sentenced you: \_\_\_\_\_  
(b) Docket number of criminal case: \_\_\_\_\_  
(c) Date of sentencing: \_\_\_\_\_  
☐ Being held on an immigration charge  
☐ Other (explain): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Decision or Action You Are Challenging

5. What are you challenging in this petition:  
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

- ☐ Pretrial detention
- ☐ Immigration detention
- ☐ Detainer
- ☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- ☐ Disciplinary proceedings
- ☐ Other (*explain*): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:

- (a) Name and location of the agency or court: \_\_\_\_\_
- (b) Docket number, case number, or opinion number: \_\_\_\_\_
- (c) Decision or action you are challenging (*for disciplinary proceedings, specify the penalties imposed*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (d) Date of the decision or action: \_\_\_\_\_

**Your Earlier Challenges of the Decision or Action**

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

- ☐ Yes ☐ No

(a) If “Yes,” provide:

- (1) Name of the authority, agency, or court: \_\_\_\_\_
- (2) Date of filing: \_\_\_\_\_
- (3) Docket number, case number, or opinion number: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

(b) If you answered “No,” explain why you did not appeal: \_\_\_\_\_

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

- ☐ Yes ☐ No



(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you answered “No,” explain why you did not file a second appeal: \_\_\_\_\_

\_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If “Yes,” provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(b) If you answered “No,” explain why you did not file a third appeal: \_\_\_\_\_

\_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☐ No

If “Yes,” answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

If “Yes,” provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☐ No

If “Yes,” provide:

- (1) Name of court: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Date of filing: \_\_\_\_\_
- (4) Result: \_\_\_\_\_
- (5) Date of result: \_\_\_\_\_
- (6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

# 11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☐ Yes ☐ No

If “Yes,” provide:

- (a) Date you were taken into immigration custody: \_\_\_\_\_
- (b) Date of the removal or reinstatement order: \_\_\_\_\_
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☐ No

If "Yes," provide:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## 12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

\_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:**

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(a) Supporting facts (*Be brief. Do not cite cases or law.*):

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(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☐ No

**GROUND TWO:**

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(a) Supporting facts (*Be brief. Do not cite cases or law.*):

---

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(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☐ No

**GROUND THREE:**

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(a) Supporting facts (*Be brief. Do not cite cases or law.*):

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(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

**GROUND FOUR:**

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

15. State exactly what you want the court to do:

**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

---

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Petitioner*

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*

**MEMORANDUM OF LAW IN SUPPORT OF PETITION OF WRIT OF HABEAS  
CORPUS PURSUANT TO 28 U.S.C. § 2241**

Name: Click or tap here to enter text.

Alien Registration No.: Click or tap here to enter text.

Pro Se Petitioner-Detained

Detention Center: Click or tap here to enter text.

Address: Click or tap here to enter street address.

Clickhere to enter City, State, and Zip Code.

*This was prepared by Rapid Defense Network, ACLU of Louisiana, and the Southern Poverty Law Center as part of a pro se guide.*

## INTRODUCTION

1. Petitioner, [Click or tap here to enter your Full Name](#), petitions this Court for a writ of habeas corpus to remedy Petitioner's indefinite detention by Respondents. Petitioner submits this Memorandum of Law in Support of the Petition for a Writ of Habeas Corpus.
2. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), noncitizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for six months. Detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a noncitizen's removal. But after that six-month period, once a 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." And the longer a noncitizen has been detained, the stronger the government's showing must be.
3. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrates that there is a significant likelihood of removal in the reasonably foreseeable future.
4. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to order the Respondents to file a return within three days, unless they can show good cause for additional time. *See* 28 U.S.C. § 2243 (stating that an order to show cause why a petition for a writ of habeas corpus should be denied is returnable "within three days unless for good cause additional time, not exceeding twenty days, is allowed").



5. In order to permit full judicial review of the claims herein and requested relief, Petitioner respectfully requests that the Court order Respondents not to transfer Petitioner outside the jurisdiction of this Court pending consideration of this Petition.

### **STATEMENT OF FACTS**

6. Petitioner was born in: Click or tap here to enter your country of birth.
7. Petitioner entered the United States on or about: Click or tap here to enter the date you entered the United States
8. An Immigration Judge ordered Petitioner removed from the United States on or about Click or tap here to enter the date of your final removal order.
9. Regarding Appeals:  
Click or tap here to enter text.
10. Petitioner has cooperated fully with all of ICE's efforts to remove Petitioner. Petitioner has cooperated with ICE in the following ways:  
Click or tap here to enter text.
11. Nonetheless, ICE has been unable to remove Petitioner from the United States. ICE is unlikely to remove Petitioner in the reasonably foreseeable future because:

Click or tap here to enter text.

12. Regarding Petitioner Detention:

Click or tap here to enter text.

13. If released, Petitioner will be supported by family and friends in the United States. In particular:

Click or tap here to enter text.

**ARGUMENT**

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”) §§ 101–507, 8 U.S.C. § 1101–1537, amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.
15. This Court has jurisdiction under 28 U.S.C. § 2241, the Suspension Clause, U.S. Const. art. I § 9, cl. 2, and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and Petitioner’s custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (habeas corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).
16. The Due Process clause applies to all persons in the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical lies at the heart of the liberty that [the Due Process] Clause protects.” 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). The Court noted, “[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem.” *Id.*; *see also Plyer v. Doe*, 457 U.S. 202, 210 (1982) (“Aliens, even aliens whose presence in this country is unlawful, have long been recognized as ‘persons’ guaranteed due process of law by the Fifth and Fourteenth Amendments.”).
17. Under 8 U.S.C. § 1231(a)(2), noncitizens subject to final orders of removal “shall” be detained during the first 90 days—the “removal period”—and they “shall” be removed

during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government “may” continue detention beyond the 90-day removal period if a noncitizen falls within certain broad categories of removability or is determined “to be a risk to the community or unlikely to comply with the order of removal.” 8 U.S.C. §1231(a)(6).

18. In *Zadvydas*, the Supreme Court construed 8 U.S.C. §1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. at CITE. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to the Government to “respond with evidence sufficient to rebut [the alien’s] showing.” *Id.* at 701.
19. Courts have rejected conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights or repatriation agreements, that removal is imminent. “[A] theoretical possibility of eventually being removed does not satisfy the government’s burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future.” *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at \*5 (W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted). “[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Id.* at \*5 (internal quotation marks and citation omitted). *See also*, *Gomez Barco v. Witte*, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had

not been able to secure necessary travel documents, noting that the ICE officer “clearly has no factual basis for his ‘belief’ that there is no foreseeable impediment to Petitioner’s removal or that her removal is imminent,” and that there was no foundation for the “expectation” that the COVID-19 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).<sup>1</sup> In granting Ms. Balza’s release, the court considered and rejected a conclusory declaration by a local ICE Assistant Field Officer that removal was imminent. *Id.* at \*5. In *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE’s vague statements that it was “endeavoring to rectify the issue” and concluded there was no end in sight for detention, and recommended release. The District Court Judge agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge

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<sup>1</sup> Other district courts in the Fifth Circuit and elsewhere have similarly granted habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting habeas relief to petitioner detained for approximately sixteen months due to a lack of diplomatic relations with Venezuela); *Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d 703 (S.D. Tex. 2020) (granting habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Sharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond to a travel document request for more than seven months).

on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011), report and recommendation adopted, No. CIV.A. 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

20. Courts in this District have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See, e.g., Gomez Barco*, 2020 WL 7393786 (ordering release of an immigrant detainee who was a native and citizen of Venezuela who was detained longer than six months because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at \*5 (ordering release of petitioner and noting that “[a]fter more than a year of detention, Petitioner’s removal need not necessarily be imminent, but it cannot be speculative”) (internal quotation marks omitted).

21. Under *Zadvydas*, courts have found that there is no significant likelihood of removal and granted relief where:

- No country will accept the petitioner. *See, e.g., Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).<sup>2</sup>
- The petitioner’s country of origin refuses to issue a travel document. *See, e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas relief to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. of Immigr. & Customs Enf’t*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad’s refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner

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<sup>2</sup> *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at \*4 (W.D.N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed “that the countries with which he has any affiliation will not accept him”); *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

detained nineteen months because Nigeria refused to issue travel documents due to petitioner's HIV status).<sup>3</sup>

- There is no removal agreement between the United States and a country. In these scenarios, courts have found that the lack of a formal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. *See, e.g., Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of petitioner's parents was not Ethiopian).<sup>4</sup>
- There is either no response from a country designated for removal or a significant delay in receiving a response. *See, e.g., Gonzalez-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to petitioner detained thirteen months where there was no response from Venezuelan officials).<sup>5</sup>

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<sup>3</sup> *See also Ka v. Bureau of Immigr. & Customs Enf't*, No. B-07-197, 2008 WL 11462867, at \*8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal "refused to issue Ka a travel document because he d[id] not have proper identity documentation"); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

<sup>4</sup> *See also Gomez Barco*, 2020 WL 7393786; *Islam v. Kane*, No. CV-11-515-PHX-PGR (LOA), 2011 WL 4374226, at \*3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh "is one of fifteen countries identified by ICE as least likely to issue travel documents"); *Carreno*, 2020 WL 8366735; *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to a lack of diplomatic relations with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government's ability to remove the petitioner to Somalia).

<sup>5</sup> *See also Sharifi*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL 4581465 (W.D.N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D.N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D.N.Y. 2019); *Butt v. Holder*, No. CA 08-0672-CG-C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistani Embassy

- ICE fails to take action to secure travel documents for a prolonged period. *See, e.g., Senor*, 401 F. Supp. 3d at 430–31 (granting habeas relief after ICE initially requested travel documents but where “there [wa]s no indication from the record that anyone ha[d] taken any further action in the eight months since that time . . . to facilitate Senor’s receipt of the necessary travel documents”).<sup>6</sup>

22. As the length of detention grows, the period of time that would be considered the “reasonably foreseeable future” shrinks. *See, e.g., Zadvydas*, 533 U.S. at 701 (stating that as the length of time in detention grows “what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”); *Senor*, 401 F. Supp. 3d at 430 (“[T]he passage of time combined with’ the ‘government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody’ [is] sufficient to meet that ‘initial burden.’”); *Lawrikow*, 2009 WL 2905549, at \*12.

23. Petitioner’s continued detention is unlawful, and Petitioner is unlikely to be removed in the reasonably foreseeable future. Therefore, Petitioner’s detention violates the statute and s/he is entitled to immediate release.

24. Petitioner’s detention also violates the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. “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*, 533 U.S. at 690 (citing *Foucha v.*

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that travel documents would be issued); *Lawrikow v. Kollus*, No. CV–08–1403–PHX–GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawford*, No. 06–02436 PHX JWS (MEA), 2007 WL 1063413 (D. Ariz. Jan. 31, 2007); *Gui v. Ridge*, No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft*, No. 02 C 7737, 2003 WL 1964290 (N.D. Ill. Apr. 28, 2003).

<sup>6</sup> *See also Chun Yat Ma v. Asher*, No. C11–1797 MJP, 2012 WL 1432229, at \*4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner’s release where the government failed “to provide any documentation of efforts . . . to effectuate removal . . . [for] nearly six months”).



*Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner’s prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner’s detention violates Petitioner’s right to due process.

### **CONCLUSION**

25. In conclusion, Petitioner’s indefinite detention violates the detention statute and is unconstitutional. Petitioner respectfully requests that this Court order Respondents to show cause why the writ should not be granted “within three days unless for good cause additional time, not exceeding twenty days, is allowed,” and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.

Respectfully submitted,

Signature: \_\_\_\_\_

Name: Click or tap here to enter text

A-Number: Click or tap here to enter text

Detention Center: Click or tap here to enter text.

Address: Click or tap here to enter text.

Click or tap here to enter text.

Name: Click or tap here to enter text.  
A Number: Click or tap here to enter text.  
Address: Click or tap here to enter Name of the Detention Center  
Click or tap here to enter Street Address  
Click or tap here to enter City, State, and Zip Code.

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## UNITED STATES DISTRICT COURT

Choose an item.

Click or tap here to enter your full name,	)	<b>Case No.</b> Click to enter text.
	)	
Petitioner,	)	
	)	
v.	)	
	)	
CARIDAD CEPHAS KIMBROUGH,	)	<b>[PROPOSED]</b>
Field Office Director, New Orleans Field Office,	)	<b>ORDER TO SHOW CAUSE</b>
United States Immigration and Customs	)	
Enforcement; TAE JOHNSON, Acting Director,	)	
United States Immigration and Customs	)	
Enforcement; ALEJANDRO MAYORKAS,	)	
Secretary, United States Department of Homeland	)	
Security; and	)	
	)	
Click or tap here to enter the warden's name,	)	
WARDEN OF IMMIGRATION DETENTION	)	
FACILITY,	)	
	)	
Respondents.	)	

Upon consideration of Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. 2241, and memorandum of law that requests, *inter alia*, the issuance of an Order to Show Cause pursuant to 28 U.S.C. §2243, IT IS HEREBY ORDERED that:

1. Respondents are ORDERED to file a return on the Order to Show Cause why the Petition for a Writ of Habeas Corpus should not be granted by Click or tap here to enter date that is 2 weeks after the date you file the habeas documents.

2. Petitioner shall have an opportunity to reply by [Click or tap here to enter the date 2 weeks](#)  
after the date you entered in question number 1.

3. A hearing on this case shall be set on \_\_\_\_\_

And such other and further relief as the Court may find appropriate.

IT IS SO ORDERED.

Dated:

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UNITED STATES DISTRICT COURT

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff/Petitioner*

v.

\_\_\_\_\_  
*Defendant/Respondent*

)  
)  
)  
)  
)

Civil Action No. \_\_\_\_\_

## APPLICATION TO PROCEED IN DISTRICT COURT WITHOUT PREPAYING FEES OR COSTS (Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. *If incarcerated.* I am being held at: \_\_\_\_\_.

If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. *If not incarcerated.* If I am employed, my employer's name and address are:

My gross pay or wages are: \$ \_\_\_\_\_, and my take-home pay or wages are: \$ \_\_\_\_\_ per  
(specify pay period) \_\_\_\_\_.

3. *Other Income.* In the past 12 months, I have received income from the following sources (*check all that apply*):

- |  |                              |                             |
|--|------------------------------|-----------------------------|
| (a) Business, profession, or other self-employment | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (b) Rent payments, interest, or dividends          | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (c) Pension, annuity, or life insurance payments   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (d) Disability, or worker's compensation payments  | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (e) Gifts, or inheritances                         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| (f) Any other sources                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

*If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.*

4. Amount of money that I have in cash or in a checking or savings account: \$ \_\_\_\_\_.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name *(describe the property and its approximate value)*:

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses *(describe and provide the amount of the monthly expense)*:

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

8. Any debts or financial obligations *(describe the amounts owed and to whom they are payable)*:

*Declaration:* I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Applicant's signature*

\_\_\_\_\_  
*Printed name*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
\_\_\_\_\_  
DIVISION

Civil Action No. \_\_\_\_\_

\_\_\_\_\_  
Plaintiff

VS. Judge \_\_\_\_\_

\_\_\_\_\_  
Defendant

Magistrate Judge \_\_\_\_\_

**MOTION FOR APPOINTMENT OF COUNSEL  
UNDER SECTION 706 (f) OF THE CIVIL RIGHTS ACT OF 1964**

PART 1: EFFORTS TO OBTAIN COUNSEL

Declaring that the information I have given below is true and correct, I apply to the court for appointment of an attorney.

A. Have you talked with any attorney about handling your claim?

Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes," give the following information about each attorney with whom you talked:

Attorney: \_\_\_\_\_

When: \_\_\_\_\_

How (by telephone, in person, etc.): \_\_\_\_\_

Why was this attorney not employed to handle your claim? \_\_\_\_\_

\_\_\_\_\_

Attorney: \_\_\_\_\_

When: \_\_\_\_\_

How (by telephone, in person, etc.): \_\_\_\_\_

Why was this attorney not employed to handle your claim? \_\_\_\_\_

\_\_\_\_\_

Attorney: \_\_\_\_\_

When: \_\_\_\_\_

How (by telephone, in person, etc.): \_\_\_\_\_

Why was this attorney not employed to handle your claim? \_\_\_\_\_

\_\_\_\_\_

- B. Explain any other efforts you have made to contact an attorney to handle your claim:

\_\_\_\_\_

\_\_\_\_\_

- C. Give any other information which supports your application for the court to appoint counsel:

\_\_\_\_\_

\_\_\_\_\_

- D. Name and address of each attorney who has represented you in the last ten (10) years:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PART 2: FINANCIAL INFORMATION

(DO NOT COMPLETE THIS PART IF YOU HAVE ALREADY SUPPLIED THIS INFORMATION IN THE APPLICATION TO PROCEED *IN FORMA PAUPERIS*.)

1. Full Name \_\_\_\_\_

2. Address \_\_\_\_\_

(Street Address or P.O. Box)

(City)

(State) (Zip Code)

3. Marital Status: Single \_\_\_\_\_ Married \_\_\_\_\_ Separated \_\_\_\_\_

Divorced \_\_\_\_\_ Widowed \_\_\_\_\_

4. Are you presently employed? Yes \_\_\_\_\_ No \_\_\_\_\_

If the answer is "Yes," give your occupation, the name and address of your employer and the gross and net amount of your salary.

(Occupation)

(Gross Salary)

(Net Salary)

(Name and Address of Your Employer)

5. If you are not presently employed, state the date of your last employment, the name and address of your employer and your salary.

(Date Last Employed)

(Salary)

(Name and Address of Your Last Employer)

6. If you are married and if your spouse is employed, state his/her name, occupation, employer, address of employer and salary.

(Name of Spouse)

(Occupation)

(Salary)



7. Approximately how much money have you received in the past twelve months from the following sources:

as wages, salary, commissions or earned income of any kind? \_\_\_\_\_

as workman's compensation or disability insurance? \_\_\_\_\_

as rent payments, interest, dividends? \_\_\_\_\_

as pensions, annuities or life insurance payments? \_\_\_\_\_

from social security, unemployment compensation or welfare payments? \_\_\_\_\_

as gifts or inheritance? \_\_\_\_\_

from other sources? \_\_\_\_\_

8. How much money do you own or have in any checking or savings account? \_\_\_\_\_

9. Do you own or have any interest in any real estate, automobiles or other vehicles, boats, stocks, bonds, notes, or any other valuable property (excluding ordinary household furnishings and clothing)? Yes \_\_\_\_\_ No \_\_\_\_\_

If "Yes," give a description of the property and its estimated value. \_\_\_\_\_

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10. Is anyone dependent on you for support? Yes \_\_\_\_\_ No \_\_\_\_\_  
If "Yes," give names, ages, relationship to you, and the amount you contribute toward their support. \_\_\_\_\_

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11. List any debts you have and the amount owed.

<u>Creditor</u>	<u>Amount Owed</u>
_____	_____
_____	_____
_____	_____
_____	_____

12. List your monthly living expenses.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Under penalty of perjury, I declare that the information given in this motion is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Street Address or P.O. Box)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Witness)

\_\_\_\_\_  
(Area Code) (Telephone Number)