

No. 25-1560

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

**BADAR KHAN SURI,
Petitioner-Appellee,**

v.

**DONALD J. TRUMP, ET AL.,
Respondents-Appellants.**

**ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
District Court Case No. 1:25-cv-00480**

**REPLY BRIEF IN SUPPORT OF
MOTION FOR STAY PENDING APPEAL**

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INTRODUCTION

The district court released Suri, notwithstanding the Executive’s decision to detain him pending ongoing removal proceedings. Relief is warranted. Suri claims he challenges only the legality of his detention, but that is belied by the district court’s orders, which go to the heart of his removal proceedings. The district court’s first order blocked Suri’s removal and its last prevents Suri’s redetention without advance notice, regardless of further developments. If allowed to stand, this decision jeopardizes the carefully-delineated jurisdictional bounds Congress set to separate the immigration and district courts.

I. The District Court Lacked Jurisdiction.

Section 1252(g). When an alien challenges detention by arguing that he should not be removed in the first place, he in substance challenges his removal. And when an alien challenges detention at the outset of removal proceedings, that suit is one that “aris[es] from the decision... to commence [removal] proceedings.” 8 U.S.C. § 1252(g).

Here, Suri is not challenging any discrete aspect of his detention; he is challenging the fact he is detained, arguing he cannot properly be removed to begin with. *See, e.g.*, Doc 4-2 at 55-61 ¶¶ 95, 99-101, 109, 111-113, 114-15. That falls squarely within § 1252(g). *See, e.g., Limpin v. United States*, 828 F. App’x 429, 429 (9th Cir. 2020) (“[C]laims stemming from the decision to arrest and detain an alien

at the commencement of removal proceedings are not within any court's jurisdiction.”).¹

Suri's argument otherwise rests on the proposition that his claims are “independent of, or wholly collateral to, the removal process”. Opp. at 13 (quoting *Kong v. United States*, 62 F.4th 608, 614 (1st Cir. 2023) (cleaned up)). But the distinction Suri urges cannot be maintained where his arguments against detention are identical to his arguments against removal. Suri's contention, if endorsed, would allow every detained alien to attack the merits of his removal through a habeas suit nominally challenging his detention, subjecting the government to the burdensome, parallel litigation the INA explicitly prohibits. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482-86 (1999) (“AADC”). Instead, what matters is the “substance” of the challenge. *Delgado v. Quarantillo*, 643 F.3d 52, 55 (2d Cir. 2011). Where, as here, the challenge to detention is essentially a collateral attack on the decision to commence removal proceedings, § 1252(g) applies.

In *AADC*, where the Supreme Court held that materially identical claims were covered by § 1252(g), nowhere did Justice Scalia hint that the same theories could be raised in federal court if they were couched as a challenge to detention rather than

¹ Suri cites *Bello-Reyes v. Gaynor*, 985 F.3d 696, 700 n.4 (9th Cir. 2021) to argue that § 1252(g) does not apply to detention challenges based on alleged First Amendment violations. Opp. at 13. But *Bello-Reyes* involved an allegedly retaliatory re-arrest after an alien's release on bond, not detention at the commencement of removal proceedings.

removal. Nor would that make sense under the logic of *AADC*, which was to bar certain parallel litigation. Preserving *ex ante* litigation that would interrupt the “initiation or prosecution of various stages in the deportation process,” 525 U.S. at 483, runs counter to that logic. That reasoning fully applies here, where Suri is challenging being detained as part of being removed. Doc. 4-2 at 94.

Certainly, the Government does not contend that “§ 1252(g) covers all claims arising from deportation proceedings.” Opp. at 13 (quoting *Öztürk v. Hyde*, 136 F.4th 382, 397 (2d Cir. 2025)). Rather, where litigants bring habeas petitions in district court challenging their detention during removal proceedings on the same grounds that they contest their removal, that challenge is barred by § 1252(g) because it is, in substance, a challenge to the decision to commence removal proceedings. That is the nature of Suri’s petition, and consequently, § 1252(g) precludes jurisdiction.

Sections 1252(a)(5) and (b)(9). The INA’s exclusive review and zipper provisions independently bar Suri’s suit. Suri relies on *Jennings v. Rodriguez* to argue that challenges to detention are outside these bars. Opp. at 14-17. But in *Jennings*, the Supreme Court *specifically said* that whatever § 1252(b)(9)’s reach, it covered the “decision to detain [an] alien in the first place or seek [his] removal.” 583 U.S. 219, 294 (2018).

Properly understood, *Jennings* only excludes from § 1252(b)(9)'s reach detention claims that are both otherwise unreviewable *and* disconnected from the substance of the removal action. 583 U.S. at 291-92. Otherwise stated, if the suit in substance is an indirect challenge to a removal order, it is barred by the INA. *Delgado*, 643 F.3d at 55.

Suri's reading of *Jennings* elides the real issue. There, the Government did not argue that § 1252 barred review. The challenge in *Jennings* was purely to detention—specifically, whether the INA's detention provisions contain implicit requirements for bond hearings after six months. Importantly, neither *Jennings* nor the other recent cases Suri cites involved direct or indirect challenges to the validity of underlying removal proceedings. For example, none of those cases involved a challenge by criminal aliens subject to mandatory detention under 8 U.S.C. § 1226(c) to whether their criminal convictions were a proper foundation for mandatory detention and removal charges. If they had, their challenges would have run headlong into the jurisdiction-stripping provisions of § 1252. But that is precisely what Suri does. He does not bring, for instance, a procedural due process claim for a bond hearing collateral to his removal. Instead, he argues that his removal proceedings are unlawful, and so any detention incident to such proceedings is likewise unlawful. That is not a detention challenge cognizable in habeas. It is a challenge to removal proceedings, regardless of any artful pleading. Allowing such

claims to proceed in district court would open the door to the front-end litigation that § 1252 was meant to stop.

II. The District Court Lacked Habeas Jurisdiction

All agree the seminal case is *Padilla v. Rumsfeld*, 542 U.S. 426 (2004). Here, the district court embraced theorems that *Padilla* rejected, which Suri rehashes on appeal. They are unavailing.

First, the district court minimized *Padilla* as reiterating only “default” rules susceptible to jettison whenever a court feels so inclined. But *Padilla* rejected the proposition, accepted below, that courts may make “ad hoc determinations as to whether the circumstances of a given case are ‘exceptional,’ ‘special,’ or ‘unusual’ enough to require departure from the jurisdictional rules this Court has consistently applied.” *Id.* at 450. Indeed, *Padilla* described the “default rule” as a “bright-line rule” that disallows “a habeas petitioner challenging his present physical custody within the United States to name as respondent someone other than the immediate custodian and to file somewhere other than the district of confinement.” *Id.* at 449-50. The district court incorrectly skirted these “bright-line” rules and invented an exception based on perceived idiosyncrasies of this case. *United States v. Poole*, 531 F.3d 263, 274 (4th Cir. 2008) (rejecting the proposition that habeas “jurisdiction that would otherwise be improper may nevertheless lie based on necessity or a weighing of the equities”).

The district court, *inter alia*, determined that it could circumvent *Padilla* based purely on what Suri’s counsel claim to have known at the time the petition was filed, reasoning that “[t]he *Padilla* majority does not address whether it would be proper to find jurisdiction based on the facts available to diligent counsel through reasonable effort under the circumstances.” Doc. 4-2 at 115. But that is incorrect. The *Padilla* court rejected the application of that reasoning to the scenario presented there and caveated its whole discussion of the reasoning with, “even if this were a valid legal argument.” *Padilla*, 542 U.S. at 449 n.17. *Padilla* addressed the argument that “the facts as they actually existed at the time of filing should not matter, because ‘what matters for present purposes are the facts available to [counsel] at the time of filing’”—accepted below—and rejected it. *Id.* Contrary to Suri’s arguments, the district court—not Respondents—mischaracterized *Padilla* in this respect.

The district court next incorrectly applied the “unknown custodian” exception, originating in *Demjanjuk v. Meese*, 784 F.2d 1114 (D.C. Cir. 1986), to get around the immediate custodian rule, and to further find that it could retain jurisdiction as the district of arrest, even though it was undisputed that Suri had left the district hours before filing and was awaiting check-in to the Alexandria Staging Facility (“ASF”) in Louisiana at that time. Ex. A, ECF#57 ¶¶15-16.

As a threshold matter, *Demjanjuk* bares no factual resemblance to this case. In *Demjanjuk*, petitioner was held by United States Marshals at “a confidential

location” pending imminent extradition to Israel to face criminal charges for genocide. 784 F.2d at 1116. Accordingly, given the exigency of imminent extradition, the court determined “petitioner's attorneys cannot be expected to file in the jurisdiction where petitioner is held. It is impracticable to require the attorneys to file in every jurisdiction, and it would be inappropriate to order the whereabouts of the petitioner made public.” *Id.*

Here, Suri did not face imminent removal; he was referred to immigration removal proceedings as provided in the NTA. And, importantly, the custodian and location of detention was also known—not confidential. At the minute of filing, Suri’s immediate custodian was the officer in charge of ASF, Deputy Field Office Director Ragan Lewis. Ex. B, ECF#49-1 ¶5. If looking at the place of the challenged detention (Prairieland Detention Facility (“PDF”) in Alvarado, Texas), his immediate custodian was the Warden of PDF. Ex. C, ECF#30. The district court ignored this information, instead claiming “his immediate custodian at 5:59 p.m. remains unknowable to all, including the Government.” Doc. 4-2 at 113. The court then used that selective ignorance to apply *Demjanjuk* to retain jurisdiction because Suri “was arrested in this district” and because he was held in Virginia for a few hours pending his flight. *Id.* at 114-15. But *Demjanjuk* does not go so far. *Demjanjuk*, neither accepted nor rejected by *Padilla*, explained, “[s]hould it become known that petitioner is held in a jurisdiction other than this one, a judge of this circuit would

be divested of jurisdiction.” 784 F.2d at 1116. The district court’s application of a “district of arrest” rule is unsupported by *Demjanjuk* and improperly avoids *Padilla*.

In retort, Suri relies on rhetorical hyperbole, arguing that properly applying *Padilla* is “[a] chilling suggestion that habeas corpus would not be available for some government-controlled period after the government effectuates a person’s incommunicado detention.” Opp. at 7. First, the Suspension Clause is in Article I of the U.S. Constitution and restricts the legislature, and—in any event—the writ is not suspended by fleeting impracticalities attendant to detainee transportation. *Boumediene v. Bush*, 553 U.S. 723, 793 (2008) (“Practical considerations... inform the definition and reach of the law’s writs, including habeas corpus.”). Second, habeas corpus was never suspended, and the writ was always available. The petition should have been filed in the Northern District of Texas *ab initio* because that is where the challenged confinement was set to take place, and Suri’s Notice to Appear (“NTA”), dated March 17, 2025, advised him of that fact. Doc. 4-2 at 72-74. The NTA identified the street address of PDF as Suri’s residence, listed the PDF’s telephone number as Suri’s telephone number, and identified the “Prairieland Detention Center” as the room from which Suri would appear at his immigration hearing. *Id.* Suri’s counsel had access to the NTA hours before the Petition was filed and thus had notice. Ex. D, ECF#21-1. When faced with this, the district court dismissed the NTA as “irrelevant” because Suri was arrested in Virginia and then

transported midday next to ASF in Louisiana, where he stayed for under 72 hours pending the foretold transit to Texas. But the initial arrest in Virginia and holding there overnight pending an outbound flight did not make Virginia the “original” “district of confinement.” *Poole*, 531 F.3d at 273.

Finally, this case is a full step beyond *Öztürk*, which affirmed habeas jurisdiction in Vermont where a petitioner was held in a Vermont facility pending transit to Louisiana at the time of the petition². *Cf. Öztürk*, 136 F.4th at 391. Here, it is undisputed that Suri was not detained in the Eastern District of Virginia at the time the Petition was filed; he was in Louisiana. Ex. E, ECF#57 ¶15. Consequently, under the *Öztürk* analysis, habeas jurisdiction is *still* improper in Virginia because he was physically located in Louisiana at the time of filing. *Id.* at 391 (“At the time the petition was filed, that ‘one district’ was the District of Vermont, where *Öztürk* was... for the night.”).³ No authority supports the proposition that the district “from which Petitioner was removed” prior to filing can retain habeas jurisdiction merely because it is “where Petitioner resides with his wife and children, it is where Petitioner was arrested, and it was where Petitioner was detained from the evening of March 17” until his midday flight on March 18. Doc. 4-2 at 122-24. Indeed, Suri

² *Öztürk*’s petition was originally filed in Massachusetts and transferred.

³ *Contra Poole*, 531 F.3d at 273.

acknowledges this case outstretches *Öztürk*. Opp. 9, n.4. The district court granted habeas relief without habeas jurisdiction.

III. The Balance of Equities Support a Stay

While Suri claims his detention will cause financial harms and limit speech, those harms are common to all people who are lawfully detained. In contrast, Suri's release harms the government's sovereign interests in immigration, which, "during the deportation process,... includes detention." *Miranda v. Garland*, 34 F.4th 338, 364 (4th Cir. 2022). Absent intervention, the harms to that interest are irreparable, despite repeated Congressional action to cabin judicial review. *Id.* ("Congress has repeatedly shown that it considers immigration enforcement—even against otherwise non-criminal aliens—to be a vital public interest, so vital that it has tried to cabin judicial review of immigration enforcement."). Such harm is further magnified here given the intrusion on a foreign affairs matter—Secretary of State Rubio's determination that "Suri's presence and activities in the United States would have potentially serious adverse foreign policy consequences." (Doc. 4-2 at 68 ¶6); *see also* 8 U.S.C. § 1227(a)(4)(C)(i).

As for public interest, Suri, like the district court, "erred by not identifying, and thus not considering, the government's significant interest in detaining aliens pending their removal hearings." *Miranda*, 34 F.4th at 365. Further, they fail to recognize the public interest in swift Executive action to carry out its immigration

policies. *See Cheney v. U.S. Dist. Ct. for D.C.*, 542 U.S. 367, 382, (2004) (recognizing “the paramount necessity of protecting the Executive Branch from vexatious litigation that might distract it from the energetic performance of its constitutional duties”). By interfering, the district court committed the same error the Supreme Court has recently repeatedly corrected: overzealous judicial obstruction of the Executive regarding immigration. *See e.g. Noem v. Doe*, 605 U.S. ___, ___ (May 30, 2025); Order of the Court, *Noem v. National TPS Alliance*, 24A1059 (May 19, 2025); *Noem v. Abrego Garcia*, 604 U.S. ___, ___ (April 10, 2025); *Trump v. J.G.G.*, 604 U.S. ___, ___ (April 7, 2025). Like in those and other cases, a stay is necessary for the Executive to enact its policies under Congress’s laws without undue delay.

IV. Mandamus is Warranted

Alternatively, mandamus relief is warranted. Suri argues that mandamus is inappropriate to review a jurisdictional decision, but the Supreme Court “h[as] not limited the use of mandamus by an unduly narrow and technical understanding of what constitutes a matter of jurisdiction.” *Kerr v. U. S. Dist. Ct. for N. Dist. of California*, 426 U.S. 394, 402 (1976). Instead, “where unwarranted judicial action threaten[s] to embarrass the executive arm of the government in conducting foreign relations,” mandamus is appropriate. *Will v. United States*, 389 U.S. 90, 95 (1967) (cleaned up). Just as a discovery order can intrude on the separation of powers to

justify mandamus, so too can a release order, let alone one that implicates foreign policy interests, *see Cheney*, 542 U.S. at 382, issued when the district court lacks jurisdiction, *see In re Roman Cath. Diocese of Albany, N.Y., Inc.*, 745 F.3d 30, 37 (2d Cir. 2014).

June 12, 2025

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CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 27(d)(2)(C), I certify that the foregoing was prepared using 14-point Times New Roman type, is proportionally spaced and contains less than 2,600 words, exclusive of the tables of contents and citations, and certificates of counsel.

June 12, 2025

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CERTIFICATE OF SERVICE

I certify that on May 23, 2025, I filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Fourth Circuit by using the Court's CM/ECF System. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished through that system.

June 12, 2025

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Ex. A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

BADAR KHAN SURI,

Petitioner,

v.

DONALD J. TRUMP, *et al.*,

Respondents.

Case No. 1:25-cv-00480 (PTG/WBP)

NOTICE OF SUBMISSION

Pursuant to the Court's May 1, 2025 Order (ECF #55), attached is the Declaration of Mark Graham, Assistant Field Office Director, Richmond, Virginia Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement.¹

¹ Federal Respondents wish to explicitly correct undersigned counsel's representation at the May 1, 2025 hearing that the Simon Declaration filed on April 21, 2025, *see* Dkt. 49-1 ¶ 3, presented time-stamps in Eastern Daylight Time. Counsel's understanding was based on the April 1, 2025 Simon Declaration, *see* Dkt. 26-1 ¶ 11, which specifies Eastern Daylight Time. As reflected in the attached Graham Declaration, *see* ¶ 15, Suri was recorded as booked into the Alexandria Staging Facility shortly after 6:42 p.m. Eastern Daylight Time, which is 5:42 Central Daylight Time.

DATE: May 2, 2025

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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BADAR KHAN SURI)	
)	
Petitioner,)	
)	Civil Action No. 1:25-cv-480
v.)	
)	
DONALD J. TRUMP, <i>et al.</i> ,)	
)	
)	
Respondents.)	
_____)	

DECLARATION OF MARK GRAHAM

I, Mark Graham, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an Assistant Field Office Director (“AFOD”) in the Richmond, Virginia sub-office of the Washington Field Office of Enforcement and Removal Operations (“ERO Virginia”) at U.S. Immigration and Customs Enforcement (“ICE”) within the U.S. Department of Homeland Security (“DHS”). I have been employed with ERO since July 2007 as an Immigration Enforcement Agent. In July 2011, I was promoted to Deportation Officer. In March 2017, I was promoted to Supervisory Detention and Deportation Officer. In April 2023, I was promoted to my current role as AFOD.

2. As the AFOD, I am responsible for the intake and removals portfolios, meaning I am responsible for the officers that process incoming detainees, and the decisions made in the intake process including custody determinations and detention decisions. I am also responsible for efforts to execute final orders of removal. In my role as the AFOD, I have access to records

maintained in the ordinary course of business by ICE, including documentary records concerning ERO Virginia and the alien detainees who fall within its responsibility.

3. I am aware that Badar Khan Suri (“Suri”) has filed a Petition for a Writ for Habeas Corpus before this Court.

4. I provide this declaration in response to questions posed by U.S. District Court Judge Giles. The information is based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, and other DHS employees, and information portals maintained and relied upon by DHS in the regular course of business.

5. As noted in DFOD Simon’s April 1 declaration, from March 1, 2025, to March 13, 2025, ICE, in conjunction with other federal, state, and local partners conducted a surge of targeted enforcement actions within the Northern Virginia and Washington D.C. region which resulted in an additional 214 arrests beyond its daily operations. As a result of this operation, ICE was operating its Virginia detention facilities at a high capacity, often referred to within ICE as “high compression,” at the time Suri came into ICE custody. Additionally, local jails in the Northern Virginia area are unwilling to hold ICE detainees on short-term contracts.

6. Homeland Security Investigations Special Agents arrested Suri at approximately 9:30 p.m. on Monday, March 17, 2025, in Arlington, Virginia. The arresting agents transported Suri to the ERO Washington office in Chantilly, Virginia for the purpose of initial processing, including making a decision on a detention location.

7. Bedspace in ICE facilities is divided between high classification detainees and low classification detainees. A preliminary classification of a detainee is done at the time of processing for bedspace selection purposes; Suri was preliminarily classified as a high classification detainee.

8. The Farmville Detention Center only houses male detainees and had a total capacity of 317 high classification beds, of which nine (9) were unoccupied, however all 9 were reserved for other arrests. Also at the time, the Farmville Detention Center had a total capacity of 415 low classification beds, of which 10 were unoccupied with each reserved for existing arrests. Similarly, the Caroline Detention Center had a total of 112 high classification male beds and 168 low classification beds. However, at the time Suri was arrested, the Caroline Detention Center had no available beds and only had limited emergency bedspace. This data is based on internal ICE databases and tracking tools that are updated at least daily.

9. ICE's detention capacity nationwide is strained, notably ICE is operating at approximately 23% more detainees than is appropriated. ICE takes a nationwide approach to utilizing that bedspace. Thus, it is common for arrestees to be transported shortly after being arrested to facilities around the country. As noted above, while some beds in Farmville were empty at the moment Suri was arrested, many of those beds were already reserved for other arrests. Prairieland Detention Facility had bed space available. Because ICE was able to secure bedspace at Prairieland Detention Facility with transport scheduled quickly, use of emergency bedspace in Virginia was unnecessary and was retained for more urgent needs. Temporary use of plastic cots during transitional periods is an expected part of facility practice and does not indicate the facility lacked bedspace for Suri. With those factors in mind, the decision to detain Suri at the Prairieland Detention Facility was made at approximately 10:00 pm on March 17, 2025. Accordingly, Suri was placed on a plastic cot, temporarily, upon arrival at the Prairieland Detention facility.

10. Notices to Appear (NTAs) are charging documents filed with the U.S. Department of Justice's Executive Office for Immigration Review (EOIR). The detention facility is a vital component of the NTA. NTAs issued for aliens who will be detained are issued listing the

detention facility as the current address. This is required and standard practice as it informs the Immigration Court, operated by EOIR, of the alien's location which often determines which court and docket, as well as the date and time for initial appearances, which are vital components of the NTA. Additionally, detention facility is often the appropriate address for EOIR to serve the alien correspondence relevant to his removal proceedings. For individuals who are issued NTAs but who are not detained by ICE, their private home address would be listed.

11. Suri was issued his NTA after the detention facility was decided and the detention facility was included as his address for these standard practice reasons.

12. On Monday, March 17, 2025, ICE made arrangements to transport Suri to the Prairieland Detention Facility. ICE utilizes a combination of ground and air transportation to transport detainees between detention centers. ICE has dedicated air transportation known as ICE Air Operations (ICE Air) which are chartered flights. ICE Air operates a standard domestic schedule; however, ICE Air charters do not service every U.S. airport. For the efficiency of the government, it is a regular occurrence to use commercial charters for mass movements from one region of high compression to another region where ground transportation can be leveraged for areas of lower compression. Suri was scheduled to do the bulk of his transit via a regularly scheduled ICE Air charter flight that runs from Richmond, VA. That regularly scheduled charter flight stops at the Alexandria Staging Facility in Alexandria, LA. The most efficient means to transport Suri from Virginia to the Prairieland Detention Facility was via this regularly scheduled charter the day after his arrest and then utilize ground transportation to transport from Alexandria, LA to the Prairieland Detention Facility in TX.

13. ICE's operations run 24 hours a day, 7 days a week. Suri was arrested in the evening. ICE offices do not have the capacity to house detainees in holding rooms more than 12

hours except in emergency circumstances. Suri was transported as soon as possible after his arrest and processing to an appropriate ICE facility that could appropriately care for him pending his scheduled charter flight. This necessitated transport from the ICE office in Chantilly, VA to the Farmville Detention Center during late hours, over midnight; this is standard practice for aliens coming into custody in the evening given ICE's inability to hold for long durations and local jails in the Northern Virginia area being unwilling to hold ICE detainees on short-term contracts.

14. Suri departed Virginia aboard the regularly scheduled charter flight on Tuesday, March 18 at 2:47 p.m. Eastern Daylight Time. Forty-four (44) other detainees from the Farmville Detention Facility were on the flight en route to either Louisiana or Texas. The number of available beds referenced above incorporates these departures.

15. Suri arrived in Alexandria, LA at approximately 5:03 p.m. Eastern Daylight Time (4:03 p.m. Central Daylight Time) on March 18, 2025. He was recorded as booked into the Alexandria Staging Facility shortly after at 6:42 p.m. Eastern Daylight Time (5:42 p.m. Central Daylight Time). The Alexandria Staging Facility is located in the same facility as the Alexandria Airport.

16. Suri was transported from Alexandria Staging Facility to the Prairieland Detention Facility via regularly running ground transport on Friday, March 21 departing approximately at 9:30 a.m. Eastern Daylight Time (8:30 a.m. Central Daylight Time) and arriving at approximately 7:30 p.m. Eastern Daylight Time (6:30 p.m. Central Daylight Time).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of May 2025.

**MARK A
GRAHAM**

Digitally signed by
MARK A GRAHAM
Date: 2025.05.02
15:41:06 -04'00'

Mark Graham
Assistant Field Office Director
Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Ex. B

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BADAR KHAN SURI)	
)	
Petitioner,)	
v.)	
)	Civil Action No. 1:25-cv-480
DONALD J. TRUMP, <i>et al.</i> ,)	
)	
)	
Respondents.)	
)	

DECLARATION OF JOSEPH SIMON

I, Joseph Simon, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am a Deputy Field Office Director (“DFOD”) in Chantilly, Virginia Field Office of Enforcement and Removal Operations (“ERO Virginia”) at U.S. Immigration and Customs Enforcement (“ICE”) within the U.S. Department of Homeland Security (“DHS”). I have been employed with ERO since September 2009 as an Immigration Enforcement Agent. In September 2012, I was promoted to Deportation Officer. In March 2020, I was promoted to Assistant Field Office Director. In October 2022, I was promoted to my current role as DFOD.

2. The following declaration is a supplement to my prior April 1, 2025, declaration.

3. Based on DHS internal databases, Suri was booked into the Alexandria Staging Facility (“ASF”) at 5:42 PM on March 18, 2025. He was booked out of the ASF at 8:31 AM on March 21, 2025. Suri was then booked into the Prairieland Detention Center at 6:32 PM the same day.

4. Assistant Field Office Director (“AFOD”) Ragan Lewis is the officer in charge of the ASF.

I declare, under penalty of perjury that the foregoing is true and correct.

Executed this 21st day of April 2025.

Joseph Simon
Deputy Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Ex. C

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BADAR KHAN SURI)	
)	
Petitioner,)	
)	Civil Action No. 1:25-cv-480
v.)	
)	
DONALD J. TRUMP, <i>et al.</i> ,)	
)	
)	
Respondents.)	
_____)	

DECLARATION OF YOUSUF KHAN

I, Yousuf Khan, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an Assistant Field Office Director (“AFOD”) in the Dallas, Texas Field Office of Enforcement and Removal Operations at U.S. Immigration and Customs Enforcement (“ICE”) within the U.S. Department of Homeland Security (“DHS”).

2. As the AFOD, I am responsible for the detained and detention portfolios, meaning I am responsible for the officers that process incoming detainees, manage the immigration cases of detainees, and oversee the detention facilities in the field office to ensure compliance with relevant standards.

3. I am providing the following declaration in support of the Government’s Opposition to Petitioner’s, Badar Khan Suri (“Suri”), Motion for Release on Bond. The information in this declaration is based upon my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, and other DHS employees, and information portals maintained and relied upon by DHS in the regular

course of business.

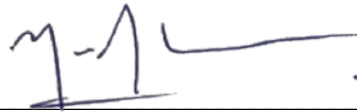
4. Suri is an alien who is detained by ICE at the Prairieland Detention Facility (“PDF”), 1209 Sunflower Lane, Alvarado, Texas 76009. PDF is structured with multiple housing dorms. Each dorm has approximately 45 detainees who sleep in grouped bunkbeds. Each dorm has its own bathroom and leisure facilities.
5. From March 22, 2025, to April 2, 2025, Suri was provided a temporary arrangement of a sleeping mat and movable plastic cot. For the first two nights, the cot was placed in the common room, attached to the housing dorm with the television, and then it moved to the main dorm. Immediately upon becoming available, Suri was then moved to a permanent bunk in the housing unit. He is currently on a top bunk and was told he can move to a bottom bunk when it is available.
6. Suri is provided clothing that is standard for detainees at PDF. Suri is provided with a red shirt and blue pants, similar to medical scrubs, with, white socks, and orange sandals.
7. Suri is not being prevented from practicing his faith. When Suri arrived at PDF, during the month of Ramadan, he stated he was fasting during transport to PDF but since the sun had set by the time of his arrival, he needed to break his fast and eat. Suri requested food to break his fast, which was immediately provided. He was provided a sandwich and some apple at intake. The Chaplain at PDF is working to accommodate Suri’s requests so that he can practice his faith. Specifically, the Chaplain is coordinating Halal meals with the local Imam at Hurst, TX.
8. Suri was provided a copy of the Quran upon his arrival when he requested it. Suri then requested a specific non-Arabic version of the Quran. The Chaplain is working to get the specific Quran and a prayer mat. Suri was informed that a soft backed, or paperback,

version of the Quran could be sent to him from outside the facility if he wished.

9. Suri was provided the name of the ICE officer managing his detention, DO Michael Thompson, and instructions on how to contact him via facility tablet. Suri made his first request to speak with DO Thompson, on April 2, 2025. Suri has been told he can also make requests to DO Thompson if he feels facility staff have not been sufficiently responsive. He has met DO Thompson and Acting Supervisory Detention and Deportation Officer Erich Klein, who is also involved in managing his detention, in person and is familiar with them.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 3rd day of April 2025.



Yousuf Khan
Assistant Field Office Director
Enforcement and Removal Operations
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security

Ex. D

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

BADAR KHAN SURI

Petitioner,

v.

DONALD TRUMP, *et al.*,

Respondents.

Case No. 1:25-cv-480

DECLARATION OF HASSAN AHMAD

I, Hassan Ahmad, declare under the penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true to the best of my knowledge and ability:

1. My name is Hassan Ahmad. I am a licensed attorney in good standing in the Commonwealth of Virginia. I am an attorney of record in the above-captioned case.
2. I represent the Petitioner, Badar Khan Suri, in this action.
3. On March 17, 2025, at approximately 10:42 PM, I received a phone call from my former law partner, Ashraf Nubani informing me of the arrest of Dr. Badar Khan Suri less than two hours before. Mr. Nubani is very close to Mapheze Saleh, Dr. Khan Suri's wife. At the time, I did not know Dr. Khan Suri or his family.
4. After speaking to Mr. Nubani, I did not have enough facts about Dr. Khan Suri or his situation to take legal action on his behalf, however I agreed to be a point of contact as more information developed.
5. The following morning, March 18, 2025, at 8:34 AM, I was contacted by Nigel Edwards, an attorney whose office is of counsel to my firm in Raleigh, NC, and he connected me

with Djaouida Siaci, an attorney in Charlotte, NC, who had also been in contact with Dr. Khan Suri's family about his arrest.

6. Recognizing the need for immediate legal action in the jurisdiction where he was last believed to be detained, I agreed to assist in the efforts to help Dr. Khan Suri as a Virginia-barred attorney. Between 9:00 AM and 11:00 AM, I engaged in detailed discussions with Mr. Nubani to understand more about Dr. Khan Suri, his family, and the circumstances of his arrest.

At approximately 1:52 PM, I spoke directly with Mapheze Saleh, Dr. Khan Suri's spouse, gathering critical personal insights and affirmations of the events leading to Dr. Khan Suri's detention. This conversation was pivotal in shaping our legal strategy and to ensure that all factual assertions in our filings were accurate and substantiated under the circumstances.

7. At 2:11 PM, after speaking to Ms. Saleh, I filed an EOIR-28 to formally enter my appearance in Dr. Khan Suri's immigration case, giving notice to the government that I was representing him and also enabling me to access his immigration charging document, Notice to Appear (NTA).

8. With the help of counsel in this case, I worked quickly to draft a habeas petition for Dr. Khan Suri. The petition was filed at 5:59 PM, on March 18, 2025, in the Eastern District of Virginia, Alexandria Division. At the time of filing, I believed that Dr. Khan Suri was detained in Virginia because of the information he relayed to his wife from the ICE Washington Field Office.


9. Despite the team's efforts to repeatedly check for Dr. Khan Suri's location through the ICE online detainee locator, he did not appear in the system until March 19, when it showed he was being held at the Alexandria Staging Facility in Alexandria, Louisiana.

Dr. Khan Suri is currently detained in Prairieland, Texas, and I am unable to travel to him.

10. I was first granted access to speak confidentially with Dr. Khan Suri on March 25, 2025, in a virtual attorney-client meeting. We reviewed the substance of his motion for bond and confirmed the facts therein as they pertain to him.

11. I hereby verify that the factual statements in his motion for bond (ECF No. 20) as they pertain to Dr. Khan Suri are true and correct to the best of my knowledge.

Executed on March 27, 2025



Hassan Ahmad, (VSB #83428)
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Ex. E

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

BADAR KHAN SURI,

Petitioner,

v.

DONALD J. TRUMP, *et al.*,

Respondents.

Case No. 1:25-cv-00480 (PTG/WBP)

NOTICE OF SUBMISSION

Pursuant to the Court's May 1, 2025 Order (ECF #55), attached is the Declaration of Mark Graham, Assistant Field Office Director, Richmond, Virginia Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement.¹

¹ Federal Respondents wish to explicitly correct undersigned counsel's representation at the May 1, 2025 hearing that the Simon Declaration filed on April 21, 2025, *see* Dkt. 49-1 ¶ 3, presented time-stamps in Eastern Daylight Time. Counsel's understanding was based on the April 1, 2025 Simon Declaration, *see* Dkt. 26-1 ¶ 11, which specifies Eastern Daylight Time. As reflected in the attached Graham Declaration, *see* ¶ 15, Suri was recorded as booked into the Alexandria Staging Facility shortly after 6:42 p.m. Eastern Daylight Time, which is 5:42 Central Daylight Time.

DATE: May 2, 2025

ERIK S. SIEBERT
United States Attorney

By: /s/
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Respectfully Submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General
Civil Division

DREW C. ENSIGN
Deputy Assistant Attorney General

WILLIAM C. PEACHEY
Director
Office of Immigration Litigation
District Court National Security Section

YAMILETH G. DAVILA
Assistant Director

/s/ David J. Byerley
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TOM B. SCOTT-SHARONI
Trial Attorney

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

BADAR KHAN SURI)	
)	
Petitioner,)	
)	Civil Action No. 1:25-cv-480
v.)	
)	
DONALD J. TRUMP, <i>et al.</i> ,)	
)	
)	
Respondents.)	
_____)	

DECLARATION OF MARK GRAHAM

I, Mark Graham, pursuant to 28 U.S.C. § 1746, declare under penalty of perjury as follows:

1. I am an Assistant Field Office Director (“AFOD”) in the Richmond, Virginia sub-office of the Washington Field Office of Enforcement and Removal Operations (“ERO Virginia”) at U.S. Immigration and Customs Enforcement (“ICE”) within the U.S. Department of Homeland Security (“DHS”). I have been employed with ERO since July 2007 as an Immigration Enforcement Agent. In July 2011, I was promoted to Deportation Officer. In March 2017, I was promoted to Supervisory Detention and Deportation Officer. In April 2023, I was promoted to my current role as AFOD.

2. As the AFOD, I am responsible for the intake and removals portfolios, meaning I am responsible for the officers that process incoming detainees, and the decisions made in the intake process including custody determinations and detention decisions. I am also responsible for efforts to execute final orders of removal. In my role as the AFOD, I have access to records

maintained in the ordinary course of business by ICE, including documentary records concerning ERO Virginia and the alien detainees who fall within its responsibility.

3. I am aware that Badar Khan Suri (“Suri”) has filed a Petition for a Writ for Habeas Corpus before this Court.

4. I provide this declaration in response to questions posed by U.S. District Court Judge Giles. The information is based on my personal knowledge, reasonable inquiry, and information obtained from various records, systems, databases, and other DHS employees, and information portals maintained and relied upon by DHS in the regular course of business.

5. As noted in DFOD Simon’s April 1 declaration, from March 1, 2025, to March 13, 2025, ICE, in conjunction with other federal, state, and local partners conducted a surge of targeted enforcement actions within the Northern Virginia and Washington D.C. region which resulted in an additional 214 arrests beyond its daily operations. As a result of this operation, ICE was operating its Virginia detention facilities at a high capacity, often referred to within ICE as “high compression,” at the time Suri came into ICE custody. Additionally, local jails in the Northern Virginia area are unwilling to hold ICE detainees on short-term contracts.

6. Homeland Security Investigations Special Agents arrested Suri at approximately 9:30 p.m. on Monday, March 17, 2025, in Arlington, Virginia. The arresting agents transported Suri to the ERO Washington office in Chantilly, Virginia for the purpose of initial processing, including making a decision on a detention location.

7. Bedspace in ICE facilities is divided between high classification detainees and low classification detainees. A preliminary classification of a detainee is done at the time of processing for bedspace selection purposes; Suri was preliminarily classified as a high classification detainee.

8. The Farmville Detention Center only houses male detainees and had a total capacity of 317 high classification beds, of which nine (9) were unoccupied, however all 9 were reserved for other arrests. Also at the time, the Farmville Detention Center had a total capacity of 415 low classification beds, of which 10 were unoccupied with each reserved for existing arrests. Similarly, the Caroline Detention Center had a total of 112 high classification male beds and 168 low classification beds. However, at the time Suri was arrested, the Caroline Detention Center had no available beds and only had limited emergency bedspace. This data is based on internal ICE databases and tracking tools that are updated at least daily.

9. ICE's detention capacity nationwide is strained, notably ICE is operating at approximately 23% more detainees than is appropriated. ICE takes a nationwide approach to utilizing that bedspace. Thus, it is common for arrestees to be transported shortly after being arrested to facilities around the country. As noted above, while some beds in Farmville were empty at the moment Suri was arrested, many of those beds were already reserved for other arrests. Prairieland Detention Facility had bed space available. Because ICE was able to secure bedspace at Prairieland Detention Facility with transport scheduled quickly, use of emergency bedspace in Virginia was unnecessary and was retained for more urgent needs. Temporary use of plastic cots during transitional periods is an expected part of facility practice and does not indicate the facility lacked bedspace for Suri. With those factors in mind, the decision to detain Suri at the Prairieland Detention Facility was made at approximately 10:00 pm on March 17, 2025. Accordingly, Suri was placed on a plastic cot, temporarily, upon arrival at the Prairieland Detention facility.

10. Notices to Appear (NTAs) are charging documents filed with the U.S. Department of Justice's Executive Office for Immigration Review (EOIR). The detention facility is a vital component of the NTA. NTAs issued for aliens who will be detained are issued listing the

detention facility as the current address. This is required and standard practice as it informs the Immigration Court, operated by EOIR, of the alien's location which often determines which court and docket, as well as the date and time for initial appearances, which are vital components of the NTA. Additionally, detention facility is often the appropriate address for EOIR to serve the alien correspondence relevant to his removal proceedings. For individuals who are issued NTAs but who are not detained by ICE, their private home address would be listed.

11. Suri was issued his NTA after the detention facility was decided and the detention facility was included as his address for these standard practice reasons.

12. On Monday, March 17, 2025, ICE made arrangements to transport Suri to the Prairieland Detention Facility. ICE utilizes a combination of ground and air transportation to transport detainees between detention centers. ICE has dedicated air transportation known as ICE Air Operations (ICE Air) which are chartered flights. ICE Air operates a standard domestic schedule; however, ICE Air charters do not service every U.S. airport. For the efficiency of the government, it is a regular occurrence to use commercial charters for mass movements from one region of high compression to another region where ground transportation can be leveraged for areas of lower compression. Suri was scheduled to do the bulk of his transit via a regularly scheduled ICE Air charter flight that runs from Richmond, VA. That regularly scheduled charter flight stops at the Alexandria Staging Facility in Alexandria, LA. The most efficient means to transport Suri from Virginia to the Prairieland Detention Facility was via this regularly scheduled charter the day after his arrest and then utilize ground transportation to transport from Alexandria, LA to the Prairieland Detention Facility in TX.

13. ICE's operations run 24 hours a day, 7 days a week. Suri was arrested in the evening. ICE offices do not have the capacity to house detainees in holding rooms more than 12

hours except in emergency circumstances. Suri was transported as soon as possible after his arrest and processing to an appropriate ICE facility that could appropriately care for him pending his scheduled charter flight. This necessitated transport from the ICE office in Chantilly, VA to the Farmville Detention Center during late hours, over midnight; this is standard practice for aliens coming into custody in the evening given ICE's inability to hold for long durations and local jails in the Northern Virginia area being unwilling to hold ICE detainees on short-term contracts.

14. Suri departed Virginia aboard the regularly scheduled charter flight on Tuesday, March 18 at 2:47 p.m. Eastern Daylight Time. Forty-four (44) other detainees from the Farmville Detention Facility were on the flight en route to either Louisiana or Texas. The number of available beds referenced above incorporates these departures.

15. Suri arrived in Alexandria, LA at approximately 5:03 p.m. Eastern Daylight Time (4:03 p.m. Central Daylight Time) on March 18, 2025. He was recorded as booked into the Alexandria Staging Facility shortly after at 6:42 p.m. Eastern Daylight Time (5:42 p.m. Central Daylight Time). The Alexandria Staging Facility is located in the same facility as the Alexandria Airport.

16. Suri was transported from Alexandria Staging Facility to the Prairieland Detention Facility via regularly running ground transport on Friday, March 21 departing approximately at 9:30 a.m. Eastern Daylight Time (8:30 a.m. Central Daylight Time) and arriving at approximately 7:30 p.m. Eastern Daylight Time (6:30 p.m. Central Daylight Time).

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 2nd day of May 2025.

**MARK A
GRAHAM**

Digitally signed by
MARK A GRAHAM
Date: 2025.05.02
15:41:06 -04'00'

Mark Graham
Assistant Field Office Director
Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security