

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
DISTRICT OF NEW JERSEY

RECEIVED

JAN 29 2025

AT 8:30 _____ M
CLERK, U.S. DISTRICT COURT - DNJEVANGELISTA MOSQUETE-PEREZ*Petitioner*

v.

Case No. _____

*(Supplied by Clerk of Court)*UNITED STATES OF AMERICA*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: EVANGELISTA MOSQUETE-PEREZ
 (b) Other names you have used: Evangelista Moquete-Perez
2. Place of confinement:
 (a) Name of institution: BOP/FCI - FT. DIX
 (b) Address: PO BOX 2000
JOINT BASE MDL, NJ 08640
 (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: United States District Court,
District of Puerto Rico
 (b) Docket number of criminal case: 3:20-cr-0311-03 (ABC)
 (c) Date of sentencing: June 29, 2021
☐ Being held on an immigration charge
☐ Other (explain): _____

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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): IMMIGRATION REMOVAL PROCESS

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

(a) Name and location of the agency or court: DEPT. HOMELAND SECURITY/ICE532 FELLOWSHIP ROAD, SUITE A, MOUNT LAUREL, NJ 08054(b) Docket number, case number, or opinion number: FILE No. 216 648 794

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

ISSUANCE ORDER OF EXPEDITED REMOVAL(d) Date of the decision or action: MAY 15, 2024**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: BOARD OF IMMIGRATION APPEALS(2) Date of filing: NOT FILED - REJECTED(3) Docket number, case number, or opinion number: FILE No. 216 648 794(4) Result: NOT FILED - REJECTED(5) Date of result: N/A(6) Issues raised: VIOLATION OF STATUTE AND CONSTITUTION DUE PROCESS

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(b) If you answered "No," explain why you did not appeal: BIA REJECTED PETITION; DID NOT
FIND FILE NUMBER OR DECISION FOR REVIEW; DID NOT FILE

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: _____
THIS IS SECOND APPEAL PROCESS

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: _____

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(b) If you answered "No," explain why you did not file a third appeal: _____

THIS IS SECOND APPEAL PROCESS

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: _____

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- (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: SEPTEMBER 26, 2020
- (b) Date of the removal or reinstatement order: MAY 15, 2024
- (c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: BIA NEVER ACCEPTED APPEAL, NO RECORD
- (2) Case number: FILE No. 216 648 794
- (3) Result: REJECTED - NO RECORD OF ORDER FOR REMOVAL
- (4) Date of result: NONE
- (5) Issues raised: STATUTE AND CONSTITUTION VIOLATIONS
- _____
- _____
- _____
- _____

- (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: _____

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- (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: _____
- _____
- _____
- _____
- _____
- _____

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.

GROUND ONE: DENIED PROPER HEARING UNDER DUE PROCESS CLAUSE OF THE UNITED STATES
CONSTITUTION

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

MR. MOSQUETE-PEREZ WAS DENIED ANY FORM OF DUE PROCESS REGARDING HIS REMOVAL PROCESS. HE WAS NOT AFFORDED COUNSEL, NOTICE OF REASONS, INTERPRETER, A HEARING TO GIVE STATEMENTS, NOR A COPY OF DOCUMENTS.

* SEE MEMORANDUM OF LAW FOR ADDITIONAL FACTS, ARGUMENT & AUTHORITIES *

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

☒ Yes

☐ No

GROUND TWO: DENIED STATUTORY DUE PROCESS

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

THE STATUTE RELATING TO EXPEDITED REMOVAL CONTAINS MANDATORY DUTIES THAT MUST BE PROVIDED DURING THE PROCESS, THEY WERE NOT DONE IN THIS CASE.

* SEE MEMORANDUM OF LAW FOR ADDITIONAL FACTS, ARGUMENTS & AUTHORITIES *

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

☒ Yes

☐ No

GROUND THREE: PROCESS FOR DETERMINATION USED TO ISSUE ORDER OF EXPEDITED REMOVAL IS INVALID IN THIS CASE

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

MR. MOSQUETE-PEREZ WAS PAROLED INTO THE UNITED STATES. UNDER THE EXPEDITED REMOVAL PROCESS, IF A PERSON WAS PAROLED INTO THE UNITED STATES, THE EXPEDITED REMOVAL PROCESS IS NOT APPLICABLE.

* SEE MEMORANDUM OF LAW FOR ADDITIONAL FACTS, ARGUMENTS & AUTHORITIES *

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

☒ Yes

☐ No

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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: ALL WERE RAISED IN BIA APPEAL, HOWEVER THE BIA REFUSED TO FILE APPEAL

Request for Relief

15. State exactly what you want the court to do: EITHER VACATE THE ORDER OF EXPEDITED REMOVAL OR
SUSPEND THE ORDER OF EXPEDITED REMOVAL UNTIL A PROPER HEARING CAN BE HELD

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Declaration Under Penalty Of Perjury

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

January 23 2025

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: January 23, 2025

XMOQUETE EVANGELISTA

Signature of Petitioner

Signature of Attorney or other authorized person, if any