

FILED 25 FEB 4 AM 8:52 MDGA-COL
UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
COLUMBUS DIVISION

A No.: 

NTONE NDEMBA SAMMY JACKSON

Petitioner,

v.

MERRICK GARLAND, ATTORNEY GENERAL;

ALEJANDRO MAJOKOS,

SECRETARY OF THE DEPARTMENT

OF HOMELAND SECURITY;

PATRICK J. LECHLIETNER

U.S IMMIGRATION AND CUSTOMS ENFORCEMENT;

RUSSELL WASHBURN, U.S. ICE FIELD OFFICE

DIRECTOR FOR THE GEORGIA FIELD OFFICE and

WARDEN OF IMMIGRATION DETENTION FACILITY,

Respondents.

Case No. 4:25-CV-43

PETITIONER FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. SECTION 2241

Petitioner, NTONE NDEMBA SAMMY JACKSON appearing hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In writ habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the Stewart Detention Center Lumpkin, Georgia, pursuant to a contractual agreement with the Department of Homeland Security.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.C.S. Section 1101 et seq., as amended by the Illegal Immigration

3. Reform and Immigration Responsibility Act of 1996 (“IIRIRA”) Pub. L. No. 104 – 208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. Section 701 et seq.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493 – 500 (1973), venue Lies in the United States District Court for the Georgia, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Cameroon. Petitioner was first taken into ICE custody on October 02, 2024 and has remained in ICE custody continuously since that date. Petitioner was ordered removed by an Immigration Judge on February 01, 2001 in Oakdale Louisiana.

7. Respondent Merrick Garland is the Attorney General of the United States and is responsible for the administration of ICE and the Implementation and Enforcement of the Immigration and

Naturalization Act (INA). As such Respondent Merrick Garland has ultimate custodial authority over Petitioner.

8. Respondent Alejandro Majokos is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Alejandro Majokas is the legal custodian of Petitioner.

9. Respondent Russell Washburn is the Field Officer Director of the Atlanta Field Office of ICE and is Petitioner's immediate custodian. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. Denied*, 122 S.Ct. 43 (2001).

10. Respondent Warden of Stuart Detention Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, Ntone Ndemba Sammy Jackson is a native and citizen of Cameroon. Petitioner has been in ICE custody since October 02, 2024. An Immigration Judge ordered the Petitioner removed on February 01, 2001 on the grounds that he is removable because he is an aggravated felon.

12. Petitioner has not filed an appeal, or attempted to fight his case; neither have the Petitioner appeared before an Immigration Judge in the instant case. Previously, in January of 2010 Petitioner appeared before an Immigration Judge, in Oakdale, Louisiana, wherein the Judge issued the Petitioner a final order of removal. However, because the Petitioner does not possess a birth certificate

of Cameroon, after the Petitioner filed an writ of habeas corpus pursuant to 28 U.S.C. Section 2241 on the ground that Cameroon does not have his "Birth Certificate, the petitioner was subsequently release on November 11, 2011. Therefore, in the instant case, the circumstances revolving around the Petitioner's case has not change, and is not foreseeable that it will change. Hence, the Petitioner has exceeded 90 days since in ICE custody on October 02, 2024 thereby making order final on January 02, 2024 from the date he been in ICE Custody.

13. Petitioner was taken into custody by ICE on October 02, 2024 and has been in the custody of ICE for more than three months since his removal/deportation exclusion order became final.

14. Petitioner 90 days Custody Review by the Department of Homeland Security Headquarter Post-Order Detention Unit ("HQCDU") in Washington DC has not been conducted on or about January 2nd, 2025 Petitioner Ntone Ndemba Sammy Jackson is not in receipt of any notice from his ICE officer. If the Petitionere is order to be release in the U.S., he will reside with his cousin Sue Kovasi at: 4015 Trillium Wood Trial, Snellville, GA 30039.

15. To date, however, ICE has been unable to remove Petitioner to Cameroon or any other country. 1) Since petitioner transferred to ICE custody on October 02, 2004, the ICE has failed to conduct a 90 days review pursuant to section 237(a). See **Exhibit -A, DETAINEE TRANSFER NOTIFICATION.**

16. Petitioner through via email has fully cooperated with all the efforts ICE (Agent M. Bush) regarding his removal from the United States. About one month after the Petitioner been in ICE custody his Ice Officer M. Bush hand delivered to him a FORM for the Petitioner to complete, which

Petitioner immediately completed and signed in front of his ICE officer; to allow Petitioner's consulate to release his traveling documents. Petitioner, ICE officer M. Bush told him he would release him in three months. To date the Petitioner's consulate has not issued any traveling documents. Petitioner signed his deportation papers and conducted his finger prints with ICE. Petitioner had called the Cameroon embassy attempting to obtain his Passport and Birth Certificate, but the Cameroon embassy was unable to help him retrieve such documents.

17. Petitioner's custody status has not been reviewed since in ICE custody on October 2nd January 2nd, 2024. The Petitioner was not served a written decision ordering his continued detention.

18. On or around October 02, 2024, Petitioner was severed with a notice transferring authority over his custody status to ICE HQPDU. **See Exhibit – B, U.S. Department of Homeland Security, Immigration and Customs Enforcement, Warning for Failure to Depart.**

19. On October 29, 2024 the Petitioner's cellmate forcefully pushed him into the wall resulting in the Petitioner's right elbow broken. Initially, in November of 2024 the Petitioner's right elbow was ex-ray, and on January 16, 2025 a CAT scan was conducted on the Petitioner's right elbow to which both results shows that the Petitioner's right elbow was broken. Subsequently, Stewart facility scheduled an appointment for January 23, 2025 with Dr. Dil Breland at Phoebe Sumiter Orthopedic for the Petitioner to be transported to the outside hospital for surgery, but due to the weather the appointment was postpone. The Petitioner has been bearing with the pain and injury of his broken elbow for about three months. For instant, it is very difficult for the Petitioner to sleep on a 3 by 61/2 bunk without sleeping on his broken elbow causing additional damage to his broken elbow. The sooner the Petitioner is release, the sooner the Petitioner will be able to seek the appropriate medical attention

and to sleep on a bed wherein he would be able to comfortably rest his arm while sleeping. Therefore, Petitioner ask that the Court also take his medical problem into consideration.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

20. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. *Id.* at 702. In *Clark v. Martinez*, 543 U.S. 371 (2005), the Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible aliens. Department of Homeland Security Administrative regulations also recognize that the HQPDU has a six month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 U.F.R. Section 241.13(b)(ii).

21. Petitioner was previously ordered removal on February 01st, 2001, and the removal order became final on or about August 1st, 2001. And, also regarding Petitioner's instant case he has been in ICE custody sine October 02nd, 2024. Therefore, the ninety (90) days custody review presumptively reasonable removal period for Petitioner ended on or about January 02, 2025.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

22. Petitioner's re-alleges and incorporates by reference paragraphs 1 through 20 above.

23. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. Section 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Cameroon or any other country is not significant likely to occur in the reasonably foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO
SUBSTANTIVE DUE PROCESS VIOLATION

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

25. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

26. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and Petitioner's removal is not significant likely to occur in the reasonably foreseeable future.

COUNT THREE
PROCEDURAL DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case had been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Ice has detained Petitioner for more than six months since the issuance of his final order of removal. There is no significant likelihood that Petitioner removal will occur in the reasonably foreseeable future. Petitioner does not pose a danger to the community or a risk for flight, and no special circumstances exist to justify his continued detention. As petitioner is not dangerous, not a flight risk, and cannot be removed, his indefinite detention is not justified and violates substantive due process. See *Zadvydas*, 533 U.S. At 690-91

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary in permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Award Petitioner Attorney's fees and cost under the Equal Access to Justice Act ("EAJA"),

as amended, 5 U.S.C. Section 504 and 28 U.S.C. Section 2412, and on any other basis justified under law;

5) Grant any other and further relief that Court deems just and proper.

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

Signature: _____

Petitioner's Name: _____

JACKSON NTDNE

Date: _____

01/23/25

A No. _____

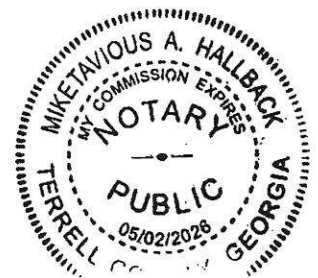
146 CCA Road

Lumpkin, Georgia 31815

PUBLIC NOTARY

M. Hallback

Signature



1/23/25

CERTIFICATE OF SERVICE

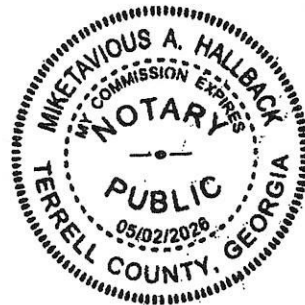
I NTONE NDEMBA SAMMY JACKSON hereby certify that on 01/23/25 a copy of this Petition for Writ Habeas Corpus which it was send via priority mail to:

United States District Court
For the Middle District of Georgia
Columbus Division
P.O. Box 124
Columbus, Georgia 31902

Executed under the penalty of perjury pursuant to 28 U.S.C. Section 1746 on this 23rd day of January 2025.



Ntone Ndemba Sammy Jackson



01/23/25