

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
COLUMBUS DIVISION

A No.:



VICTOR IDOWU

Petitioner,

v.

MERRICK GARLAND, ATTORNEY GENERAL;

Alejandro N. Mayorkas,

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. \_\_\_\_\_

FILED 25 FEB 14 PM 9 01 MGA-OL

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

Petitioner, VICTOR IDOWU appearing hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In writ of 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

1.

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 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.

3. This Court has jurisdiction under 28 U.S.C. Section 2241; art. I Section 9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. Section 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in the violation of the Constitution, laws, all treaties of the United States. This court may grant relief pursuant to 28 U.S.C. Section 2241, 5 U.S.C. Section 702, and the All Writs Act, 28 U.S.C. Section 1651.

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

## VENUE

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

## PARTIES

6. Petitioner is a native and citizen of Nigeria. Petitioner was first taken into ICE custody on March 25, 2024, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on May 31, 2024.

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 N. Mayorkas 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 (1<sup>st</sup> Cir. 2000), *cert. Denied*, 122 S.Ct. 43 (2001).

10. Respondent Warden of Stewart 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, Victor Idowu is a native and citizen of Nigeria. Petitioner has been in ICE custody since March 25, 2024. An Immigration Judge ordered the Petitioner removed on May 31, 2024 on the grounds that he is removable because he is an aggravated felon.

12. Petitioner appealed from the Immigration Judges order of removal stemming from petitioner's Reasonable Fear Interview conducted on May 16, 2024 to United States Court of Appeals For The Eleventh Circuit Court of Appeals; since an Immigration Judge affirmed the decision of a negative Reasonable Fear Interview with the Arlington Asylum Office. Petitioner Idowu has had an administratively final order of removal. The Petitioner has a pending Petition for Review with the Eleventh Circuit Court of Appeals, but there is no "Stay of Removal" pending adjudication. Petitioner is not being represented by an Undersigned Counsel on his aforesaid Petition for review.

13. Petitioner was taken into custody by ICE on March 25, 2024 and has been in the

custody of ICE for more than six months since his removal/deportation exclusion order became final.

14. Petitioner 180 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 November 31, 2024, Petitioner Victor Idowu is not in receipt of a decision. If is order to be release in the U.S., Petitioner will reside at 3129 Eastpark Drive., Garland, Texas 75044

15. To date, however, ICE has been unable to remove Petitioner to Nigeria or any other country.

1) The Immigration Judge erred its decision making by denying the Petitioner the opportunity to present evidences pertinent to prove his claim and/or granted the petitioner an extension of time to further prepare his evidence regarding his overall case and to seek counsel.

16. Petitioner has cooperated fully with all efforts by ICE to remove him from the United States. Petitioner had spoke with the Nigerian embassy (consulate) attempting to obtain his travel document. On December 4<sup>th</sup>, 2024 the Petitioner filed for parole with the aid of Duke Immigrant Rights Clinic (University). On December 17<sup>th</sup>, 2024 the Petitioner was scheduled for a phone communication with the Nigerian embassy. Thereafter, petitioner was informed by the Nigerian embassy regarding his fight itinerary, that it was scheduled for December 22, 2024. Petitioner contacted ICE via emailed through Tablet provided by the Stewart Detention Facility and his Ice Officer responded, stating, petitioner's scheduled date was January, 2024, and not specifying an exact day. Subsequently, on December 31<sup>st</sup>, petitioner

contacted the Duke Immigrant Rights Clinic (University) and was informed by Duke they heard from an ICE officer who told them the specific date of petitioner's removal was scheduled for January 27<sup>th</sup>, 2025.

17. Since the petitioner's been detained in ICE custody on March 25, 2024 ICE has not conducted any custody status review with the petitioner. To be sure, Petitioner was never served a written decision ordering his continued detention, or otherwise being verbally advised.

18. The Petitioner suffers from several serious chronic medical problems/conditions includes hypertension (high blood pressure) diabetes, constant migraine headache, high, cholesterol, and mental health issues.

19. On or around March 25, 2024, Petitioner was severed with a notice transferring authority over his custody status to ICE HQPDU.

### **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 ordered removal on May 31, 2024 and the removal order became final on November 31, 2024. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on December, 9th, 2024.

**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 Nigeria 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**

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



28. 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

### **MEDICAL PROBLEMS**


29. Petitioner urges this honorable court to take into consideration his active medical problems, as he currently is suffering from serious chronic medical problems/conditions of hypertension (high blood pressure) diabetes, constant migraine headaches, high, cholesterol, and mental health issues. Petitioner would be able to better care for and treat his medical problems, preventing them from metastasizing and/or aggravated, the sooner he is release from custody.

**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; and
- 4) 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: .  
Victor Idowu

Petitioner's Name: VICTOR IDOWU

Date: 02/05/2025

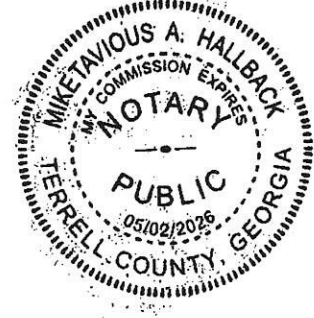
A No.: 

Stewart Detention Center  
146 CCA Road  
P.O Box 248  
Lumpkin, Georgia 31815

**PUBLIC NOTARY**

Miketavious Hallback  
Miketavious Hallback

Signature



**CERTIFICATE OF SERVICE**

I Victor Idowu hereby certify that on 02/05/2025 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