

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
Western District for the Washington

KAYANN DWAYNE ATKINSON

Petitioner

v.

IMMIGRATION COURT DEPARTMENT OF HOMELAND
SECURITY

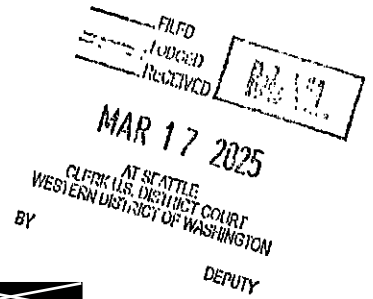
Respondent

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

Case No.

(Supplied by Clerk of Court)

2:25-cv-00484-JHC-GJL



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

Personal Information

1. (a) Your full name: Kayann Dwayne Atkinson
- (b) Other names you have used: N/A
2. Place of confinement:
 - (a) Name of institution: Northwest ICE Processing Center
 - (b) Address: 1623 E. J. Street
Tacoma, WA 98421
- (c) Your identification number: A [REDACTED]
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: N/A
 - (b) Docket number of criminal case: N/A
 - (c) Date of sentencing: N/A☒ 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)

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- ☐ 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): N/A

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

(a) Name and location of the agency or court: U.S. Immigration and Customs Enforcement
Northwest ICE Processing Center

(b) Docket number, case number, or opinion number: A ~~XXXXXXXXXX~~

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
U.S. Immigration and Customs Enforcement. I want to challenge the fact that I was told that I was illegal in the United States and two cases of moral turpitude was against me. One of which was entrapment and is being appeal to overturn. This specific case was dismissed, not not for immigration purposes.
(d) Date of the decision or action: 08/30/2024

Your Earlier Challenges of the Decision or Action7. **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: N/A

8. **Second appeal**

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

☐ Yes ☒ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(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: I was waiting on the result of my first appeal. I will file immediately upon receipts. I'm currently making copies to 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: N/A

(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: I have not filed my second appeal I will file a second appeal and wait on the results prior to filling a thired 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

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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: N/A

(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: N/A

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 02/05/2024

(b) Date of the removal or reinstatement order: 08/30/2024

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes

☐ No

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If "Yes," provide:

(1) Date of filing: 09/27/2024

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: Immigration Custom Officer thought that I was illegal in the United States and brought me into custody. They also stated that my criminal history was extensive to include misdemeanor. The Honorable Judge Richard Bailey ordered me deported.

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

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: N/A

(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: N/A

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

(c) Date of filing: N/A

(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: Violation of my 5th Amendment of United States Constitution and Article 12 of Massachusetts declaration of rights memorandum of Law, Defendant Affidavit and Attorney Affidavit have filed in support of this motion.

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

I was arrested by ICE me ordered me removal because two charges involving moral turpitude, one of these charges include entrapment, which is against constitutional law to entrap someone. I took a plea deal for the second charge I had a court appointed lawyer because I didn't have money to get a real lawyer. I am not illegal in the United States. ICE also told me I was illegal in the country but I am here legally.

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

☒ Yes

☐ No

GROUND TWO: A violation of the due process clause and violation of my 5th Amendment rights of the United States Constitution.

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

I am being deprived of my legal rights to have a bond hearing. I came to the United States legally and as a permanent resident since 1992. I have live in the United States ever since. I'm currently in ICE detention for over a year. I currently do not have legal representation but I'm currently waiting to be contacted.

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

☒ Yes

☐ No

GROUND THREE: N/A

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

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

☐ Yes

☒ No

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GROUND FOUR: N/A

(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: The court used my criminal history as a grounds for deportation. Most of the charges were dismissed or misdemeanor and or traffic violations. Some of these charges are more than ten years old.

Request for Relief

15. State exactly what you want the court to do: To look into my case. According to district court and state laws the charges used against me are not moral turpitude. It is already proven that I have the right to be in the United States legally. I know I am telling the truth and will use honesty and integrity in my life, as I've learned. Please assist me with this motion, so that I can have a chance to possibly seek better assistance as I work on my case.

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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:

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: 03/12/2025

Kayann Albinson
Signature of Petitioner

N/A

Signature of Attorney or other authorized person, if any



UNITED STATES DISTRICT COURT OF WESTERN PENNSYLVANIA²
For the


KAYANN DWAYNE ATKINSON
Petitioner

)
)
) Case No.
)
)
)


Immigration File No.

Petition for Writ of Habeas Corpus Pursuant
to 28 U.S.C. 2241

DECLARATION

I Kayann Dwayne Atkinson was born , in Kingston Jamaica. My mother has five children me and my four siblings. I have two sisters and one brother. My mother Olivia Hill took both me and my four siblings legally to the United States on May 1992 as a legal permanent resident. I attended Grover Cleveland middle school in Boston, Massachusetts. I studied auto mechanics and graduated in 1999 with a high school diploma. I continued my education; in 1999 I took a course at the National Aviation Academy in Bedford Massachusetts. Upon graduation in 2001, I received a technician diploma. I worked for Delta Airlines as a Ramp Agent, Swissport Airlines as a G.S.E mechanic, F.M.C. technology as a G.S.E. mechanic, US Airways as a GSE mechanic, Herb Chambers as an auto mechanic. I work many other jobs. My last job was working at FedEx. I have made some bad decisions in my life. I know and I take full responsibility for my actions. I have change and I am a changed man and not the same person I used to be. I've been working part time at FedEx and working on my mental health. I've been seeing a psychologist, working and trying to live a normal life even though I'm often depressed. I was returning from work when I was picked up by ICE. I regretted the bad decisions I have made in the past and that is part of what makes me anxious. Every person that I have met have failed me. I am trying to be a role model to my only daughter and a good example for others to imitate. I am the only significant parent in my daughter's life. Her mother is not around and cannot be located. My daughter is currently in foster care. My sister is getting custody until I am released from Northwest ICE Processing Center. I want my daughter to have a father in her life because I did not have a father in my life. It is very sad and depressing to know that my only daughter is in foster care, and I am not able to provide for her, watch over her, teach her about God, and to walk in the right path, obey the laws of the land, being respectful, and teaching her not to make the same mistakes that I've made.

Petitioner Kayann Dwayne Atkinson, I am asking the court from the bottom of my heart to please grant me the relief to Writ of Habeas Corpus, and to relieve the petitioner from continued detention. Petitioner Kayann Dwayne Atkinson submits this Memorandum of Law in support of the petition for relief of Habeas Corpus. Petitioner has been detained since 02/05/2024 for over twelve months. Petitioner is a citizen of Jamaica and a permanent resident of the United States. Petitioner, along with his sisters and brother family left Jamaica in 1992 with no reason to return.

My three sisters and mother are United States Citizens, and their children are born in the United States including my daughter. One of sister does not have any children, she served more than 20 years in the United States Navy and retired. Almost all my immediate family lives in the United States and are either citizens or naturalized. This includes uncles, aunts, cousins, and in-laws. Therefore, I'm asking the Honorable Judge of this court to find that this incarceration can be reasonable change and I be given a bond or release to continue to live in a state where I have family and support, and I will contribute to the betterment of the United States. I don't know much about Jamaica, and I don't want to be in a country with no place to live and live in fear every day. My family were suffering there and the memories a very stressful. I wholeheartedly appreciate your consideration. I've been in the United States for almost thirty-three years, and I have no place in any other country include Jamaica. I respectfully request to be release. I think that if Petitioner argument fails in immigration court petitioner knows that his argument will prevail in the Board of Immigration Appeals or through Habeas Corpus district court. I the petitioner was told upon being arrested that immigration officers believe that I had no legal rights in the United States, that I came into the country illegally. Biometric confirms that the Petitioner Kayann Dwayne Atkinson identity and federal database that I am a legal immigrant. An indication that I do not lack immigration status under which is removable under the United States Immigration Law. The Petitioner has proven that he is a permanent legal resident.

INCIDENTS THAT LEAD TO ARREST

Petitioner was also informed by Immigration ICE officer that he has two cases that involves moral turpitude. Which can be deportable by the laws of the United States and immigration status and laws. One of the cases, sexual misconduct for a fee, this happened 22 years ago when I was much younger, and it involves entrapment which a female officer poses to be a female asked my cousin and me if we wanted to pay her. We asked how much, and this is why this is considered entrapment. Entrapment is the act of entrapping someone or something or the condition of being entrapped. This is an illegal act of tricking someone into committing a crime so the person she tricked can get arrested. The illegal action of luring an individual into committing a crime to prosecute the person for it. Entrapment by a government official who mislead a person into a violation of the law derives from the due process and is rendered erroneous because this case has been dismissed in Boston Municipal court on 10/19/2005. I am currently hearing that there's still something that I should've done to prevent this case from showing up. I'm not entirely sure. I didn't use wise judgment. I take full responsible for my actions, and this is one of the consequences. I was told by the judge that this case not dismissed for immigration purposes I never had knowledge of this I thought once a case is dismissed it remained Dismissed. Also, my record shows not applicable or not available where this case is concerned. I am currently acting as my own legal representative because I am not sure how long it will take me to get legal representation.

Petitioner was not informed of immigration consequences, and I took a plea deal of eighteen months' probation on an indecent assault and battery charge. In 2006 I was twenty years old at the time and the allege victim was twenty six years old at the time of this incident this case is also in violation of my 5th Amendment rights I was not informed of the consequences of taking plea deal on this charge I did not have the money at this time to pay an attorney to vacate admission to sufficient facts and to withdraw admission no sufficient facts which according to

state laws indecent A and B should not be known to the general public. I tried to attest this by sending a letter to the court, but nothing could be done as far as I known. According to state law this case should not be used against an individual after ten years period it's been eighteen years since I took the pleas deal. Also, I was not able to fully express myself because I was told that I didn't show much remorse. Her story was not corroborated with mine. I have explained the truth numerous times. About three or four years ago I wrote the court to investigate the case, but they were not able to. Also, this turned out to be he said story with no proof, this allege victim also stated that I choked her which she lied, she had no bruises on her neck, and he was light complexion I have never choked a lady in my life. If I can be granted a new trial, I can provide circumstantial evidence which can prove my innocence and the error of me agreeing to the court to take a plea deal. I now known and understand that it is not what someone says that determines your future. It takes the court to grant the correct due process which is based on truth that is surrounded by facts.

DETENTION

Petitioner is detained in immigration custody at Northwest ICE Processing Center, Tacoma, WA since 02/05/2024 and has not received a band hearing before an immigration judge. This action arises under the constitution of the United States in violation of the 5th Amendment rights and not granted due process this prolonged custody violates 5th Amendment rights 28 U.S.C 2241. I the petitioner is asking the court to please conduct a full review of this claim. Petitioner cannot fully provide for myself or get direct access to my daughter. I please request that D.H.S. prosecutor and the Honorable Judge Richard Bailey to prevent any deportation order. Most of my life has been in the United States. I wouldn't know what to do or function in another country. I don't have a home there or call it home. My family are here in the United States. I am trying to do everything possible to prevent from being depressed or have a nervous breakdown while I wait in detention. Please I'm asking if you can please help me with this motion.

PETITION COOPERATION

Petitioner has cooperated with ICE in the following ways: by providing copy of my permanent resident card and providing letters of support from family such as my mother three sister and my brother. Petitioner cooperated with ICE and the court. I had a lawyer in my first immigration case but I or my family did not have the money to pay another lawyer in my first appeals case. His sister Sophia Atkinson had no luck finding a lawyer to represent me. The appeals was submitted and reviewed by the petitioner.

I was incarcerated for five and a half months due to my daughter's mother planned for me to lose custody. My daughter was taken away from me due to me being in jail. At that time, I didn't have any money to obtain a lawyer, and I didn't want it to be any false accusation. My Sister Sophia Atkinson and my mother Olivia Hill found a lawyer, Attorney Brenda Klein and paid her to represent me. It took almost two years before the court found out that she lied, and I was acquitted. I was a devoted Christian until I started becoming depressed and anxious with all the sad currencies in my life. But God is who I'm depending on to keep me safe in this life because it's a real struggle to go on living like this. I'm living in the unknown and I hope the court look favorable in my situation. I have been in detection for more than twelve months without a bond hearing. I the petitioner is not being informed or guided to case laws and what I can apply for or I what I qualify for.

I, the petitioner spent majority of my life in Massachusetts where I reside for thirty-three years. We were suffering in Jamaica. We were raised by my single mother my father was a very abusive man who was never there. I've never been in prison in my entire life, and I want the chance to find ways to help me as I wait on a decision. I had a psychologist that was helping cope with the stress of life, of life, my anxiety, and depression. I now have limited access to talk to a counselor and I don't feel comfortable addressing a psychologist now. Upon my release I will be living with my sister Tracy Atkinson who lives at 93 Nilsson Street, in Brockton Massachusetts and try to get on my feet. I will try to get an employment and find my own place and have a chance to spend time with my only child. Letters are available in support of my three sisters, mother, and brother to help. I don't have any friends my family are the people I talk to. My sister is my biggest support. She spent twenty-two years in the United States Navy, and she was always there to either write, call

CLAIMS FOR RELIEF

Petitioner alleges by referencing to the above paragraphs as set forth herein due process clause of the 5th Amendment rights forbids DHS ICE and law enforcements from depriving any person from liberty without having due process. Petitioner have been detained and brought from Massachusetts to Moshannon Valley Correctional Facility in PA for over twelve months. Petitioner was transported and now in detention at Northwest ICE Processing Center, Tacoma, Washington without a bond hearing.

LEGAL FRAMEWORK

It is established that the 5th Amendment entitles legal immigrants or non-immigrants to due process of law in deportation proceedings freedom from imprisonment from government custody detention or other forms of psychical restraints that lies at the heart of liberty, where the due process Claus protects. This fundamental due process protection applies to all non-citizens, including both removal and inadmissible. Petitioner is not a flight risk or a danger to society. Petitioner had a job prior to his arrest at FedEx Ground in Middleboro, Massachusetts that he was working for the past two and a half years. Petitioner has been taking courses while in immigration custody. He took a total of eighty-one courses, such as Driving courses, Anger Management, Parenting courses, Domestic Violence, Forklift courses, Cardiopulmonary Resuscitation, among many other courses. Petitioner has rehabilitated himself by taking courses and seeing his past mistakes and growing both spiritually and mentally.

CLAIMS FOR RELIEF

To be eligible for cancellation of removal you must be a lawful permanent resident lawfully admitted in the United States for not less than five years and has resided in the United States continuously for seven years after been admitted. Petitioner has no aggravated felonies and has been residing in the United States for more than thirty-two years. Petitioner child would suffer emotional as well as mentally hardship by not having her father around to supply all that she needs, love and care for her emotional support and strong family bond. Separation from a child can cause mental, emotional, and psychological harm. I had to deal with this in my life and I don't want to see or know that my daughter would ace the same. The petitioner is keeping his

mind busy to keep from being depressed or anxious my being detained. He spent his time working on courses, writing, reading the Bible, and reading many articles. He has no friends, only a sister that he is closest to from his four siblings.

CONCLUSION

In conclusion, Petitioner Kayann Atkinson's detention without a bond is unconstitutional and violates his 5th Amendment Rights not granted Due Process Petitioner request the court to make a correct and proper judgement in this case so that Habeas Corpus shall be granted to petitioner and petitioner shall be release from detention. Petitioner is respectfully requesting the court to grant further relief for a detention for over twelve months that possible violates constitutional rights. He understands that the court is an imperative part of decision making and is the judicial system that will uphold the law.

Sincerely,

Respectfully Submitted:
Kayann Dwayne Atkinson
03/12/2025

Kayann Atkinson


A 

UNITED STATES DISTRICT COURT
Eastern District of Pennsylvania
United States Courthouse
601 Market Street, Room 2609
Philadelphia, PA 19106-1797

George Wylesol
Clerk of Court

Clerk's Office
215-597-7704

12/11/2024

KAYANN ATKINSON
A: 
MOSHANNON VALLEY
PROCESSING CENTER
555 GEO DRIVE
PHILIPSBURG, PA 16866

RE: IN RE: KAYANN ATKINSON
Case No. 2:24-cv-6439

Dear Mr. Atkinson,

This letter is to inform you that the above-captioned case has been transferred to the United States District Court for the Western District of Pennsylvania pursuant to order of Judge Costello filed on 12/11/2024.

Sincerely,

George Wylesol
Clerk of Court

By: s/Stephen Gill
Stephen Gill, Deputy Clerk

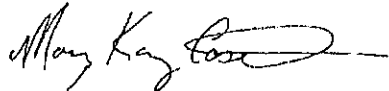
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: :
: CIVIL ACTION NO. 24-CV-6439
KAYANN ATKINSON :

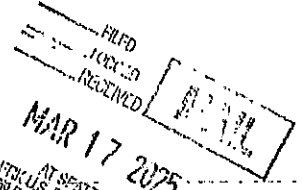
ORDER

AND NOW this 11th day of December, 2024, in consideration of Kayann Atkinson's Petition for a *Writ of Habeas Corpus* under 28 U.S.C. § 2241 (ECF No. 1), pursuant to *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004) (jurisdiction is vested with the district court in the district where the petitioner is being held), and recognizing that Atkinson is challenging his current custody at Moshannon Valley Immigration Processing Center, which despite a mailing address in Phillipsburg, Pennsylvania, in the Middle District of Pennsylvania, is actually located in Clearfield County, Pennsylvania, in the Western District of Pennsylvania, *see Miller v. Mannion*, No. 1:22-CV-00840, 2022 WL 3044650 (M.D. Pa. July 11, 2022), report and recommendation approved and adopted, No. 1:22-CV-840, 2022 WL 3036047 (M.D. Pa. Aug. 1, 2022) (transferring to W.D. Pa.), the Clerk of Court is **DIRECTED** to transfer the above-captioned case to the United States District Court for the Western District of Pennsylvania and close this case.

BY THE COURT:



MARY KAY COSTELLO, J.



AT SEATTLE
CLINTON DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

Kayann Dwayne Atkinson

A 

Northwest Ice processing center
1623 East J Street
TACOMA Washington 98421

more information can be submitted
at a later date if needed, such
as my criminal Attorneys information
phone # (617) 851-8404 mr. Edward
Crane C. p.c attorney information on
my criminal case which is one of
my charges involving moral turpitude
which was Dismissed on 10/19/2005
in Boston municipal Court.