

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

IN MATTER OF

Date : 05/24/25

Clive E Foster PETITIONER.

Case No:

4:25-CV-117 (COO)

-V-

DEPARTMENT OF HOMELAND SECURITY
RESPONDENT.

MOTION FOR IMMEDIATE RELEASE FROM DETENTION

Here came the Petitioner in the above caption case, acting with the Aide of a Counsel and Pursuant to the Federal Rule of Civil Procedure , Hereby move this Honorable Court to enter Ruling of motion for immediate release from custody action in the favor of the Petitioner .

Under the Due Process Clause of the Fifth Amendment, alien is entitled to a timely and meaningful opportunity to demonstrate the s/he should not be detained .Petitioner in this case, been denied that opportunity. ICE does not make decision concerning aliens' custody status in neutral and impartial manner .The failure of Respondent to provide a neutral decision maker to review the continued custody of Petitioner violates Petitioner's rights to procedural due process.

Section 241 of the Immigration and nationality Act permits the detention of an alien with a final order of removal for a period of 90 days . Beyond the statutory period, the Supreme Court has held that six month is a presumptive reasonable period of detention for the government to effect removal . **Zadvy v, Davis ,533 U.S 678. 701.** Once six months have passed , the alien must be release is there in no reasonable likelihood of removal in the reasonably foreseeable future **Zadvydas v . Davis, 533 U.S 699, 700.** In this case , D.H.S has detained petitioner for more than six months since the issuance of his final order of removal . No special circumstance exist to justify petitioner continued detention .

This Action arises under the Constitution of the United States, and the Immigration and Nationality Act (INA) 8 U.S.C 1101 et seq... as amended by the Illegal Immigration Reform and Immigrant Responsibility Act 1996 (IIRIRA), Pub L. No. 104-208, 110 Stat. 1570 and Administrative , Procedure Act (A.P.A) . 5 U.S.C Sec 701 et seq . The United States Constitution (" Suspension Clause) and 28 U.S.C Sec 1331 , as Petitioner is presently in custody under color of the authority of the United States , and such custody is in violation of the Constitutions. Law , or Treaties of the United States . This Court may granted relief , 5 U.S.C 702, and the All Writs Act , 28 U.S.C Sec 1651.

FILED JUN 25 2025
MDGA-COL

Jurisdiction exist in this Court pursuant to 28 U.S.C 2241 et seq., 28 U.S.C 1331, the APA 5 U.S.C et seq the Declaratory Judgment Act 28 U.S.C . et seq and the All Writs Acts , 28 U.S.C 1361.

A Federal court should not equitable interfere with state criminal proceeding's "except in the most narrow and extraordinary of circumstances." Gilliam v. Foster, 75 F.3d 881, 903 (4th Cir . 1996) . Therefore , the petitioner is likely subject to summary dismissal.

The fact that Respondent represent the Government of the United States , does not excused their failure to comply with Court Order and Governing Rules . Once the Respondents litigant is in court s[he] in subjective to relevant laws of the Court including a " Court Order " ordering a response to Order or Motion (See eg Laquinta -Wallace v Furman .2023 U.S Dist. LEXIS 132493,2023 WL ,. 4888337, at * 1 (S.D Fla July 31,2023) .

PRAYER FOR RELIEF

WHEREFORE: Petitioner prays that this Honorable Court to grant the following relief

1. Declaring that petitioner contained detention is not authorized by the D.H.S and / or violates the Fifth Amendments.
2. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner .
3. Award Petitioner attorney 's fee and cost under the Equal Access to Justice Act ("EAJA") as amended 5 U.S.C 504 and 28 U.S.C 2412, on any other basis justified under law; and
4. Grant any other and further relief that this Court deems just and proper .

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

Respectfully Submitted

By: Oliver E Foster

Stewart Detention Center

146 CCA Road P.O.Box 248

Lumpkin GA 31815