

FILED '25 APR 18 AM 8:16 MDCR-COL

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

SAMUEL FRIMMBONG ADUSAH

Petitioner.

v.

PAM BOND ATTORNEY
GENERAL;
KRIST NOEM
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;
Pete FLORES
U.S. ICE FIELD OFFICE DIRECTOR FOR
THE Sean Ervin FIELD OFFICE;
and WARDEN OF IMMIGRATION
DETENTION FACILITY,

Respondents.

Civil Action No. _____

A 

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

Petitioner, SAMUEL F ADUSAH, hereby petitions this Court for a 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 Customs Enforcement ("ICE"). Petitioner is detained at the

Stewart Detention Center Lumpkin, Georgia in
Pursuant to a Contractual agreement with
the Department of Homeland Security

Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. 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 of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

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

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 GHANA. Petitioner was first taken into ICE custody on October 15, 24 and has remained in ICE custody continuously since that date. Petitioner was ordered removed on December 17, 2010

7. Respondent PAM BONDI is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration & Naturalization Act (INA). As such, Pam Bondi has ultimate custodial authority over Petitioner.

8. Respondent KRIST NOEM 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, Krist Noem is the legal custodian of Petitioner.

9. Respondent Sean Ervin is the Field Office Director of the ATLANTA Field Office of ICE and is Petitioner's immediate custodian. See Vásquez v. Reno, 233 F.3d 688, 690 (1st 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, Samuel F. Adusah, is a native and citizen of GHANA. Petitioner has been in ICE custody since October 15, 24

An Immigration Judge ordered the Petitioner removed on December 17, 2010

The Petitioner do have a pending Motion, Extraordinary Motion for New Trial on September 24, 2024, with the Gwinnett County Superior Court. In the motion, the attorney explained they obtained New evidence since he was convicted in May 2008. filed by Petitioner Criminal defense attorney.

13. Petitioner Suffers from several Medical Conditions, Including [REDACTED]

[REDACTED] If released Petitioner, will reside at: [REDACTED] Villa Rica

14. Ga [REDACTED] Will live with his wife Sharonda Adusah, They have been married for more than twenty years, and She has visited him at Stewart Multiple times and Has Place money in his commissary account. She also Provides evidence of their bona fide marriage

Such as a joint checking account, several other family members wrote letters of support, Petitioner earned several certificates while in prison and attended class and in therapy class now.

15. To date, however, ICE has been unable to remove Petitioner to

GHANA or any other country. Immigration Judge and the BIA Erred in their analysis pursuant to the modified categorical approach, On December 17, 2010 a final order of removal was issued By a Immigration Judge at Diagnostic and Classification State prison. Located at 2978 GA-36 Jackson GA 30233. Even under the categorical approach. 2.1546(A) is a divisible statute. 3) false Statement in Immigration application does not meet the Standard for an aggravated felony under the INA Section 237(A)(2)(A)(iii) and 101(A)(43)(P)

16. Petitioner has cooperated fully with all efforts by ICE to remove him

from the United States. Petitioner signed his deportation Papers and conducted his ~~for~~ finger prints with ICE; Petitioner has cooperated with ICE and ~~stated~~ Most Recently spoke with an official with Ghana embassy on February 7, 2025, Petitioner Request for Release under an ~~an~~ Order of Supervision (OSUP).

17. Petitioner's custody status was first reviewed on March 3, 2025.

On March 3, 2025 Petitioner was served with a written decision ordering his/her continued detention.

18. On March 3, 2025, Petitioner was served with a notice transferring authority over his/her custody status to ICE Headquarters Post-Order Detention Unit ("HQPDU"). _____

LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. 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 C.F.R. § 241.18(b)(2)(ii).

20. Petitioner was ordered removed on December 17, 2010, and the removal order became final on December 17, 2010. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on December 17, 2010.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 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 GHANA or any other country is not significantly 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

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

24. 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.

25. 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 significantly 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 has 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 reasonable foreseeable future. Petitioner not pose a danger to the community or risk for flight, and no special circumstances exist to justify his continued detention. As petitioners is not dangerous, not a flight risk, and cannot be

Removed, his indefinite detention is not 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 and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant any other and further relief that this Court deems just and proper.

FACTUAL ALLEGATIONS

Petitioner has cooperated fully with all efforts with ICE to Remove Petitioner from the United States and also cooperated full with official with Ghana Embassy on February 7, 2025 and also fully cooperated with ICE Conducted Petitioner Finger prints, Signed deportation Papers and also working with Petitioner's family's for help with ICE. As example, ICE asked Petitioner for update passport due that Petitioner passport is expired, Petitioner's wife and family is working hard to get updated passport for ICE. Petitioner will also take the immigration system seriously.

2. Petitioner has been referred to therapy for Mental Health by the medical staff PMHNP Tameika Bogan Patterson. Petitioner with an assessment of P.T.S.D, Petitioner was stabbed about fifteen time while in prison. And reported to medical staff at Stewart Detention Center PMHNP Tameika Bogan-Patterson. Petitioner suffers from several Medical condition including

[REDACTED] Petitioner is a victim of a crime, Petitioner does not present a danger to himself or others at this time. Petitioner wife Sharonda-L. Adusah have health issues and need husband home. Petitioner fear if deported back to Ghana, He will not get Medical condition or help see Exhibits.

3. Petitioner have received a death threat from his home country Ghana from Muslim extremist see Exhibits.

4. Petitioner been married for more than twenty years and Petitioner's wife has place money in Petitioner commissary account, she have visited him at Stewart Detention Center Multiple times, she has visited him at prison, Multiple times as well. This show Evidence of their bona fide marriage. If Petitioner is Release, Petitioner will work hard with ICE, Report to ICE and comply with all condition of Release, strengthen my relationships with my family and take good care of my wife

Petitioner also has a joint checking account, tax records, submitted as couple, car insurance in both of their names and photos and also additionally several other family members wrote letters of support.

5.

Petitioner has earned several certificates while in prison and attended class and also Petitioner is taken therapy class now at Stewart Detention Center. See Exhibits

6.

Petitioner has a criminal defense attorney, and he filed an extraordinary motion for New Trial on September 24, 2024 with the Gwinnett County Superior Court. In the motion for New Trial, the attorney Rodney Zell "State Bar No 784650" explained they obtained new evidence since he was convicted in May 30, 2008, see Exhibits

7.

Petitioner do not believe he is a flight risk and pose a danger to the community because around 2006 when petitioner learned there was an arrest warrant for his arrest warrant, petitioner went to the police and turned his self into the authorities. ICE has detained petitioner for more than six months since October 15, ~~2024~~ 2024, the issuance of his final order of removal on December 17, 2024 see Exhibits

There is no significant Likelihood that petitioner removal will occur in the Reasonable foreseeable future.

8.

Under the Due process clause of the fifth Amendment, an alien is entitled to timely and meaningful opportunity to demonstrate that s/he should not be detained. also 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 alien. Department of Homeland Security administrative regulations Also recognize that HQPDU has six-month Period for determining whether there is a Significant Likelihood of an alien's removal in the reasonably foreseeable future 8 C.F.R. 241.13(b)(2)(4).

9. Petitioner was first taken in ICE custody on October 15, 2024, until now. Petitioner been in ICE custody for over ~~6~~ Six Months and should ~~be~~ Release. I pray that Honorable Immigration Judge Release Petitioner. Please ~~see~~ See all EXHIBIT'S

Petitioner removed on December 17, 2010, Petitioner was taken into ICE Custody on October 15, 2024, on March 3, 2025 Petitioner was served with a written decision ordering Petitioner @ Continued Detention ~~Which~~ Post three months Post order Detention Unit (#0000).

Petitioner I've had a lot of jobs since he entered the U.S. Petitioner work as Fork Lift Driver for Coca-Cola, worked for Publix as a

Meat Cutter, worked as a meat cutter at other places and worked as a cashier at a McDonald's. Petitioner would like to work with a temp agency to find a job as a Fork Lift driver.

Petitioner had my Fork Lift certification before he was arrested, Petitioner also was taken at

1. Certification class and will like to take more class. Petitioner believe that he would be able to do the class and training again. Petitioner father pass away and Mother as well around 2023. Petitioner was unable to go to the funeral. Petitioner have lost both parents. The reason why petitioner

was unable to attend his Mother funeral because petitioner was in prison. Petitioner is a changed person and now born again

Christian. I pray every day while incarcerated I have learned to do good to others and to myself. I made a promise to myself to be law abiding and have absolute respect for the law at all levels. Petitioner also took the necessary steps to rehabilitate myself by taking programs to prepare myself to re-enter society. I have learned from my past mistake and would never take my second chance for granted. I would love to live the rest of my life in peace.

Petitioner do Not have family in Ghana, All Petitioner family Live in the U.S.

Petitioner also submitted a request to ICE and for his release due to petitioner several Medical Condition. Petitioner's Request was submitted on February 14, 2025 with the help of Duke Law School's Immigrant Right Clinic. ICE and the field office has NOT Respondece to the Request submit since February 14, 25 Until ~~the~~ NOW. See Exhibits

Petitioner also submit a Copy of his Medical records from Stewart Detention Center and Copy of his Extraordinary Motion for New Trial to official with the Ghana embassy on Friday February 7, 2025 ask by Ghana official Tamaykloe. Petitioner want to be able to take care of his wife, work hard, Report to ICE and comply with condition of release also strengthen my Relationships with the family I have left. Petitioner pray for 14. 2nd chance in life.

Petitioner is neither a security risk nor a flight Risk and the Circumstances of Petitioner case Justify a favorable exercise of your discretion. Alternatively, Petitioner is eligible for release under §241-13, given that his removal since October 15, 2024 And remains detained. The U.S. Supreme Court recognized that the state "DOES NOT PERMIT INDEFINITE DETENTION" of non-citizens with removal orders ZADVYDAS v. DAVIS, 533 U.S. 678 (2001).

Petitioner Whether removal is significantly Likely in the reasonably foreseeable future; for several reasons, petitioner removal to Ghana is Not occur in the reasonably foreseeable future.

First, ICE's own documents and actions support the proposition that petitioner will not be removed in the reasonably foreseeable future. Petitioner was Ordered ~~Not~~ Removed on December 17, 2010 and his Motion to Reopen was denied on ~~September 26, 2022~~ September 26, 2022. See Exhibits E. During this time, Petitioner was in State criminal Custody and his hearings were conducted via the Institutional Hearing Removal Program. To Undersigned Counsel's knowledge, ICE did not prepare Travel Documents for his removal. Again, from when Petitioner was transferred to ICE custody on October 15, 2024, to the present, ICE has known when his prison sentence will END yet has not shown evidence of producing travel Document to effectuate petitioner. Given that ICE has Has notice of petitioner removal order for more THAN A DECADE, it is unlikely petitioner ~~removal~~ Removal significantly likely in the foreseeable future.

Second, ICE own deportation history in 2024 further supports the proposition that Petitioner will Not be removed in the reasonably foreseeable future. In 2024, ICE reported to have deported only 94 people to Ghana, In 2023, ICE deported only 62 people to Ghana, In 2022 and 2021 this figure was 46 and 56 respectively.

Third, ICE has been Un able to physically Remove the Majority of Ghanaian Citizens with final orders of removal. According to a November 2024 Report prepared by ICE, 3448 Ghanaian Citizens Resided in the US - outside of immigration detention But had final order of removal. In the previous three years Combined. ICE removed 258 people to Ghana Although Ghana is not considered a recalcitrant Country The data Suggests that ICE will not be able to remove Petitioner promptly.

Fourth, Petitioner has been in full Compliance With ICE, Petitioner Met With ICE ERO on Friday Feb 7, 2025, in the late Morning or early Afternoon. He also Spoke with a representative of the Ghana embassy on the phone for thirty Minutes to an hour. Petitioner full Cooperated And answered all of their questions and Undersigned Counsel also emailed the embassy on Wednesday Feb 12 Petitioner has not received any document Since this interaction, other than written Response, from ICE ERO via tablet on Monday Feb 10. Petitioner in ICE detention for than six Months. Since Petitioner was

Transferred from Criminal Custody, Petitioner has always had a final order of Removal. Because petitioner will not be removed soon, This factor weighs in favor of RELEASING petitioner.

Petitioner Convictions and Criminal Misconduct. has the following Criminal history and Contacts with Law enforcement, including A pending Extraordinary Motion for a New Trial in the Gwinnett County Superior Court. Petitioner was cited for disorderly conduct on July 8 2001, In Doraville GA, he pleaded No Contest to the citation and paid a fine See Exhibits.

Petitioner was cited with theft by taking. But the charge was dismissed on February 12, 2012 Id. If petitioner is successful with the Extraordinary Motion for new Trial and if the Conviction is vacated, Petitioner may be eligible for a motion to Reopen with the BIA and apply for Adjustment of status in removal proceeding as a form of relief. Petitioner sole charge of removability at that point would most likely be for nonimmigrant overstay under INA § 237(a)(1)(B). The simple battery conviction under GA law is Not a CIMT and would not be basis for either removability or Mandatory detention. Petitioner provided a letter of support, In it, petitioner explained that both of petitioner parents have passed away - which affected him. ~~the~~ ~~over~~ petitioner maintained family ties the best petitioner could. Since petitioner has been Detained and that petitioner continues to have close relationship with family, several family members wrote letter of support see Exhibits.

Petitioner was convicted in May 2008 when Petitioner was twenty-seven (27) years old. Petitioner is now ~~forty-four~~ (44) going on (45) years old in June 16, 2025. According to a Report by the United States Sentencing Commission, "Age ~~exerted~~ exerted A STRONG INFLUENCE ON RECIDIVISM ACROSS ~~ALL~~ ALL SENTENCE LENGTH CATEGORIES. OLDER OFFENDERS WERE LESS LIKELY TO RECIDIVATE AFTER RELEASE THAN YOUNGER OFFENDERS". . . .

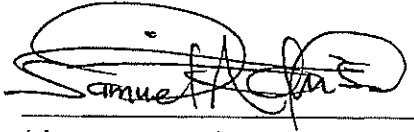
Petitioner finally has a plan in place if Released. Including complying with probation.

The fact that petitioner was placed On probation underscores the fact that the Judge who presided over the criminal case Determined not only should the sentences be concurrent As opposed to consecutive but the petitioner is not a Danger to the community to the point where he could Not be released to reside in society again. However, With the additional safeguards in place, petitioner will comply while reuniting with his family. petitioner has several positive equities that support his release from custody.

Petitioner also previously worked with Mental Health services explore coping mechanisms. Petitioner will attend all future reporting dates without fail. petitioner will take Immigration court system very seriously and will comply with related orders and requests. Thus, Based on foregoing evidence and argument and on Behalf of Mr. Aduah, I respectfully request that you Grant My release. Thank you for your ~~kind~~ attention to the matter.

2. Grant any other and further relief this court may deem appropriate.

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



(sign your name)

Petitioner

Samuel Frimmbong Adusoh

petitioners name

(today's date)

April 15, 2025

A#



(alien number)

146 @CA Road

(use these two lines to write your mailing address)

Lumpkin, GA, 31815

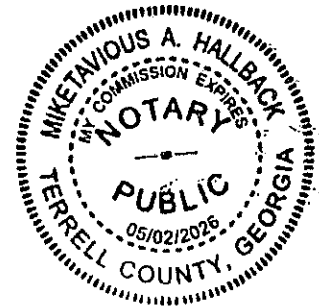
PUBLIC NOTARY

4/14/25

(SEAL)



SIGNATURE



CERTIFICATE OF SERVICE

I,

hereby certify that on April 15, 2025 a copy of this

Petition for Writ Habeas Corpus

which it was send via priority mail to:

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

And placed a copy of this
petition for Writ Habeas Corpus

in the proper ICE Drop Box
2, United States Attorney
Stewart Detention Center
146 CCA Road
Lumpkin, GA, 31815

Therefore under the "Mailbox Rule", the date a prisoner/detainee delivers a copy of a petition or other filing document to the detention authorities for mailing is considered to be the date filing with the Court. See Washington v. United States, 243 F.3d 1299, 1301 (11th cir. 2011)

Detainee's Name;
A#
Stewart Detention Center
146 CCA Road
Lumpkin, GA, 31815