

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

UNITED STATES DISTRICT COURT

for the
Southern District of Florida

MBUTHA ELVIS MULI

[REDACTED]

Pro se petitioner

Vs.

**Garret Riper, Field Office Director
Enforcement;
Pamela Bondi, Attorney General
Kristine Noem, Secretary of Department of
The Homeland Security**

Respondent



Case No. [REDACTED]

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

Petitioner, by and through moves this Honorable Court conduct to a Petition of Habeas Corpus under 28 U.S.C. § 2241. In support of this motion petitioner states as follows:

INTRODUCTION

1. The Petitioner herein, Mbutha Elvis Muli, a lawful permanent resident of the United States, is currently being held in detention at the ICE Krome Miami SPC by the Department of Homeland Security. He has been held in detention since March 3, 2025. Mr. Mbutha Elvis Muli is entitled to immediate release from detention, and he would be released but for DHSs unlawful interpretation of the Immigration and Nationality Act (INA).

2. Mr. is Mbutha Elvis Muli A# [REDACTED] the Petitioner. I was admitted to the united States at Washington , DC on or about February 15, 2010 as an Immigrant Lawful Permanent Resident , Visa class DV1 (Diversity Immigrant).

The Department alleges that on May 8th, 2019, I was convicted in the Circuit Court of the Ninth Judicial Circuit, In and For Orange County, Florida for the offense of Tampering with A Witness to Hinder

Communication to a Law Enforcement in Violation of Florida State Statute 914.22 (1) and on December 16th 2019 sentenced to a term of imprisonment of 51 WEEKS AND 22 DAYS in Orange County Jail, With Credit for 22 Days Time Served.

PARTIES

3. The petitioner is a native of Kenya. He came to the United States by himself to live, work and study and in 2010 and has lived in the United State ever since. . He is a permanent resident of the United States and is being held in detention at the Department of Homeland Security detention facility KROME SPC, in Miami Florida.

5. Defendant Garret Riper is sued in his official capacity as the Field Office Director within the State of Florida for the Immigration and Customs Enforcement, an office of the Department of Homeland Security. Defendant Garret Riper is charged by law with the implementation and enforcement of the immigration laws, and he is the officer who has custody over Petitioner.

6. Defendant Pamela Bondi is sued in his official capacity as the Attorney General of the United States. He has authority over the Immigration Court, and he has authority to direct the court to redetermine the petitioners custody

7. Defendant Kristine Noem is sued in his official capacity as the Secretary of the Department of Homeland Security. She is the executive officer who has been given authority to manage and control the Immigration and Customs Enforcement. As such, he is the ultimate legal custodian of the Petitioner.

JURISDICTION

8. This court has jurisdiction pursuant to 28 U.S.C. 2241 (habeas corpus jurisdiction); 28 U.S.C. 1331 (federal question jurisdiction); and 28 U.S.C. 1361 (jurisdiction over actions for mandamus).

9. Venue in the Southern District of Florida is appropriate under 28 U.S.C. 1391(e) (1) and (2) because the defendant Garret Riper the ICE Field Office Director, resides in this district and because Petitioner is being held in detention in the Southern district.

FACTUAL BACKGROUND

10. Mr. is Mbutha Elvis Muli A# [REDACTED] the Petitioner. I was admitted to the united States at Washington , DC on or about February 15, 2010 as an Immigrant Lawful Permanent Resident , Visa class DV1 (Diversity Immigrant).

The Department alleges that on May 8th, 2019, I was convicted in the Circuit Court of the Ninth Judicial Circuit, In and For Orange County, Florida for the offense of Tampering with A Witness to Hinder Communication to a Law Enforcement in Violation of Florida State Statute 914.22 (1) and on December

16th 2019 sentenced to a term of imprisonment of 51 WEEKS AND 22 DAYS in Orange County Jail, With Credit for 22 Days Time Served.

11. After being cooped up with more than 70 more or less individuals in a cell that can only hold about 25 detainees in the processing center at Krome Miami, We fared poorly due to overcrowding, inaccessibility of basic wants, leg-room to even breath as we slept on cold concrete with no cover and under unbearable human conditions without much care for who was sick with what and our pleas for attention fell on deaf ears, as the department was unable to cope with the overwhelming surge of detainees coming through their doors a situation that lasted about five days for me and two weeks for some individuals.

On the fourth day of my arrival I was diagnosed with anxiety as my blood pressure shot to the roof due to the overcrowding as I am claustrophobic. Five days after being moved to the general population I caught a fever become sweaty started throwing up and coughing mucus with blood clots in it only later the diagnosis came back that I had contracted **COVID-19**. I was placed in the medical unit and after five days of not so very enough medical attention I was put back into general population where the conditions remained the same.

About two weeks later I contracted influenza that went unchecked even after putting in about three sick calls, I complained of chest pains and after a brief medical emergency without proper medication I was again sent to general population where I still continue to suffer all the above medical issues

12. This is a matter the Immigration Department of Homeland Security has been keeping within fold and away from public scrutiny and as I write this, there also has been a diagnosis for **TUBERCULOSIS** and rampant cases for **INFLUENZA** a matter the department is aware and has been unable to conjure any attainable solution as to resolving the imminent health crisis.

13. The Respondents, knows or still knows that the petitioners conditions of confinement posed excessive risks to his health and that his specific medical attentions were unmet hence actually suffering from serious injuries by Ignoring the conditions of confinement that are likely to cause imminent life threatening illness by:

- i) Not implementing the specific measures to identify protect and treat inmates who are who are at a heightened risk or suffering grave complications from Covid-19 like the petitioner who has pre-existing conditions.
- ii) No mention of process of screening shielding from infection or consideration for release of high risk individuals.
- iii) Protection of detainees with underlying health conditions appear to be limited. There's no daily monitoring with a plan to remove the inmates from the rest of the population should need arise
- iv) Not taking meaningful steps to prevent infection in the first place
- v) Social distancing is not being practiced even in common area, detainees nor the workers are being required to practice social distancing, e.g. while in recreation, using the telephone, in the chow lines or inside the sleeping pods.
- vi) ICE has not offered no evidence indicating that testing is widely offered to ascertain the scope of the health crisis in order to better treat the outbreak within the facility/.
- vii) Failing to address whether symptomatic or high risk individuals are tested and under what circumstance or explain whether other individuals will be tested.
- viii) Lack of sanitation.

14. The Housing Pods are currently overcrowded with lack of proper or quality sanitation. The dirty molded walls particularly in my pod 5 can attest to the lack of filter change in the air conditioning vents. When I spoke to the Deputy Facility Ms. Thomas Rebecca about the issuance of masks and what measurements in her capacity as the facility assistant, she was undertaking towards the above complaints, she said the facility is currently not following the '**COVID-19 Protocol**'

15. The petitioner suffers from **High Blood Pressure a pre-existing condition** and the respondent is inadequately protecting the petitioner from contracting any other communicable diseases and is being deliberately indifferent to the petitioners medical needs and has showed systematic failure to identify and protect the petitioner and other individuals in immigration detention who are at a high risk of complication from Covid-19.

16. Petitioner is suffering and will continue to suffer irreparable injury because of the government's actions. Every day that he is held in custody he suffers further injury, which is irreparable. The fact that the department knows that the condition of confinement stated above pose an excessive risk to the petitioners health and failed to take appropriate action due to unmet medical attention to the petitioner and other detainees shows a substantive due process violation of their Fifth Amendment Rights

17. The fact that the petitioner contracted Covid-19 in detention shows the respondent recklessly failed to act with reasonable care to mitigate the risk of the plaintiff health or safety. The equities and public interest weigh heavily in petitioners favor. First the petitioner faces irreparable harm to his constitutional rights and to their health. Potential harm to respondent is limited as they are unable to identify a specific reason to continued petitioners detention. Public interest favors petitioner release.

18. The continued detention of Mr. Mbutha Elvis Muli has caused and will continue to cause extreme and irreparable hardship to Mr. Mbutha Elvis Muli and it violates the statute and the United States Constitution.

REQUEST FOR RELIEF

The Petitioner herein respectfully requests the following relief:

(1). That this Court issue a Writ of Habeas Corpus under 28 U.S.C. § 2241 directing the Respondents to bring the Petitioner to this Court at a time to be specified and explain why the Petitioner should not be released from custody immediately due to health crisis posed by **Covid-19** that he contracted in detention

(2). The petitioner is also requesting, Temporary Restraining Order and entitlement to Preliminary Injunction under Fed R Civ. 65.

(3). That this Court issues a declaratory judgment stating that Petitioner is eligible to be released and continued detention violates his Fifth Amendment and the Due Process Clause of the Constitution of the United States;

(4). That this Court issue a declaratory judgment stating that Petitioner is not an arriving alien, but is a lawful permanent resident of the United States entitled to the protection of the Due Process Clause and the Eighth Amendment of the Constitution;

Dated this 8th day of May, 2025.

MBUTHA ELVIS MULI

[REDACTED]


Pro se petitioner

VERIFICATION

I HEREBY CERTIFY that true and correct copies of the foregoing Petition of Habeas Corpus under 28 U.S.C. § 2241, included in this filing, was placed in the hands of KROME SPC officials for mailing was mailed/delivered to the following interested parties

The Petitioner Mbutha Elvis Muli is *Pro se* in these habeas corpus proceedings. The Petitioner, Mbutha Elvis Muli, is currently being held in detention at the KROME SPC MIAMI Immigration Detention Facility.

Respectfully Submitted,


MBUTHA ELVIS MULI

A- [REDACTED]

KROME SERVICE PROCESSING CENTER
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Applicant



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US DISTRICT COURTS
SOUTHERN DISTRICT OF FLORIDA
CLERKS OF THE COURT
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MIAMI, FLORIDA 33128

