

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the District of Minnesota

Kratos Toko Fernando

Petitioner

v.

Todd Lyons, Official Performing the Duties of the Director of U.S. Immigration & Customs Enforcement; Pamela Bondi, U.S. Atty. Gen.

Respondent

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

Case No. 25-CV-2742

(Supplied by Clerk of Court)

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

Personal Information

- 1. (a) Your full name: Kratos Toko Fernando
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: Sherburne County Jail
(b) Address: 13880 Business Center Dr. NW Elk River, MN 55330
(c) Your identification number: A [redacted]
3. Are you currently being held on orders by:
[Federal authorities] [State authorities] [Other - explain: ICE - Immigration]
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:
(b) Docket number of criminal case:
(c) Date of sentencing:
[Being held on an immigration charge]
[Other (explain):]

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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)
- 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): _____

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

(a) Name and location of the agency or court: Immigration Court, 1 Federal Drive, STE 1850, Fort Snelling, MN 55111.

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

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

ICE's refusal to bring me to a medical appointment that must occur prior to my release from custody. I have been told by the immigration court I will get released with permanent residence once this is done. I cannot compel the necessary civil surgeon doctors to come to me in the jail and ICE refuses to release or transport.

(d) Date of the decision or action: _____

Your Earlier Challenges of the Decision or Action

7. **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: Immigration Court

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: Denied / ignored

(5) Date of result: _____

(6) Issues raised: I have repeatedly informed the immigration court about this issue and they keep telling me that they feel really bad for me and this is not fair but that they cannot compel ICE to transport me to a medical appointment even though it is necessary for my case.

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(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

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

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 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: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not file a third 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

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: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: Because I am not challenging a conviction or sentence. I am challenging ICE's refusal to transport me to a medical appointment.

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

- Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 04/22/2025
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?

- Yes No

If "Yes," provide:

- (1) Date of filing: _____
- (2) Case number: _____
- (3) Result: _____
- (4) Date of result: _____
- (5) Issues raised: _____

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

- Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Date of filing: _____
- (3) Case number: _____

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

- (c) Date of filing: _____
- (d) Docket number, case number, or opinion number: _____
- (e) Result: _____
- (f) Date of result: _____
- (g) Issues raised: _____

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.

GROUND ONE: ICE is violating my due process rights by inhibiting my ability to be released from detention with lawful permanent residence by denying me access to a civil surgeon and the necessary I-693 medical examination that is necessary for me to be released from custody and to obtain a final decision from the immigration court.

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

I need a civil surgeon to conduct a medical examination. Civil surgeons I have contacted are unwilling to come to jail to perform the exam or charge such exorbitant travel fees to cause me to be unable to afford the fee. They regularly fail to answer calls from jail, and I fear I will be detained forever if ICE is not ordered to transport me. I have been trying to find any other solution, and all have failed. I have asked ICE to release me on conditions, including but not limited to an ankle monitor, and all of these requests have been denied.

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

Yes No

GROUND TWO: 28 U.S.C. 2241(c)(1)-(5)

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

See supporting facts for Ground One.

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

Yes No

GROUND THREE:

(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:

(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:

Request for Relief

15. State exactly what you want the court to do: Issue a writ of habeas corpus under 28 U.S.C. 2241(c) ordering ICE to transport me to the first available civil surgeon appointment in Minnesota that I am able to schedule. Alternatively, order ICE to release me (with or without conditions) so that I can complete the appointment on my own.

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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: 07/01/2025

/s/ Kratos Fernando

Signature of Petitioner

/s/ Nico Ratkowski

Signature of Attorney or other authorized person, if any