

INCARCERATED

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA**

ATAWA KUMA TERRELONGE

Petitioner

v.

**KRISTI NOEM, SECRETARY OF HOMELAND SECURITY, U.S. DEPARTMENT
HOMELAND SECURITY, ;**

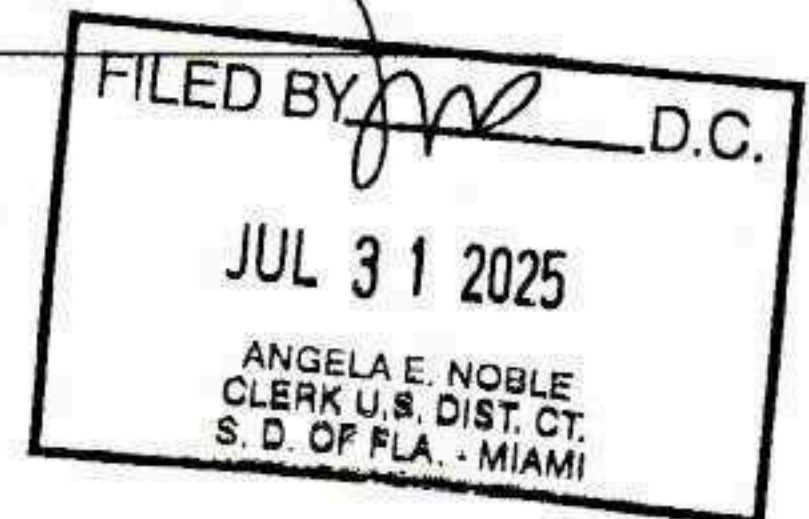
PAMELA BONDI, ATTORNEY GENERAL OF THE UNITED STATES; and


**JUAN AGUDELO, MIAMI FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT**

Respondents

PETITION FOR WRIT OF HABEAS CORPUS

HON. DARRIN GAYLES



DETAINED ADDRESS
Atawakuma Terrelonge # 
18201 SW 12th Street
Miami, FL 33194

PETITION FOR REVIEW

This is a petition for a writ of habeas corpus filed on behalf of Atawa Kuma Terrelonge, ("Petitioner"), seeking relief to remedy his unlawful detention. Petitioner is currently being detained by U.S. Immigration and Customs Enforcement ("ICE") at Krome Detention Center in Miami, Florida.

Petitioner has fully cooperated with Respondents and attended all Immigration Court Proceedings. To date, Petitioner has been detained for more than seven (7) months. Petitioner is not a flight risk or a danger to the community.

Prior to his detention, Petitioner voluntarily reported to the United States on December 10, 2024 with travel documents provided by the U.S. Embassy pursuant to Board of Immigration Appeal ("BIA") July 11, 2024 decision to overturn the Immigration Court decision to deny relief and remand for further proceedings consistent with the BIA decision.

Petitioner voluntarily reported, even paying for his own flight and flew commercial, declining the ICE provided free flight in order to attend his Immigration Court Hearing on December 16, 2024. His prolonged detention is no longer justified under the Constitution or the Immigration and Nationality Act (INA).

On or about December 10, 2024, Respondents arrested Petitioner and placed him in the custody of the Krome Detention Center. Petitioner's detention was for the purpose of Immigration Court Withholding Proceeding which last hearing was held on January 17, 2025.

On or about March 2025, Respondents claimed they reviewed the custody status of Petitioner and determined that he should be detained. At no time prior to the issuance of the decision to continue detention was Petitioner given advance notice of custody status review to be held, no interview with Petitioner was held prior to issuance of custody status decision, the

Petitioner nor the Petitioner's Immigration Attorney was informed of custody status review before a decision was made, nor was the Petitioner or the Petitioner's Immigration Attorney given an opportunity to submit any documents on Petitioner's behalf before a custody status review. Instead Petitioner was told that ICE had decided to continue detention by the deportation officer, Juan H. Martinez and not provided an opportunity to present evidence or arguments for his release.

On or about June 2025, Respondents again claimed they reviewed the custody status of Petitioner and determined that he should be detained. At no time prior to the issuance of the decision to continue detention was Petitioner given advance notice of custody status review to be held, no interview with Petitioner was held prior to issuance of custody status decision, the Petitioner nor the Petitioner's Immigration Attorney was informed of custody status review before a decision was made, nor was the Petitioner or the Petitioner's Immigration Attorney given an opportunity to submit any documents on Petitioner's behalf before a custody status review. Instead Petitioner was told that ICE had decided to continue detention by the deportation officer, Juan H. Martinez and not provided an opportunity to present evidence or arguments for his release.

Petitioner submits that his detention is in violation of his constitutional rights. His prolonged detention is not justified under the Constitution or the Immigration and Nationality Act (INA). Petitioner seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release Petitioner from their custody.

CUSTODY

1. Petitioner is in the physical custody of Respondents and is under the direct control of Respondents and their agents. At the time of the filing of this petition, Petitioner is detained at the Krome Detention Center in Miami, Florida.

JURISDICTION

2. This action arises under the Constitution of the United States, 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. This Court has jurisdiction under 28 U.S.C. 2241 (“Habeas Corpus”), Art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”), U.S. Const. amend. V (“Due Process”), U.S. Const. amend. XIV (“Due Process” an “Equal Protection”), 42 U.S.C. § 1983 (“Due Process”), U.S. Const. amend. VIII (“Cruel & Unusual Punishment”), 5 U.S.C. § 706 (Judicial review of immigration agency actions”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief under any of the provisions stated above. This Court may also grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the Southern District of Florida, the judicial district in which Petitioner is detained. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner claims occurred in this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

4. The Court must grant the petition for writ of habeas corpus or issue an order to show cause

(OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within **three days** unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

5. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law, affording as it does a **swift** and imperative remedy in all cases of illegal restraint or confinement.” Fay v. Noia, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

6. Petitioner is a national and citizen of Jamaica who was accorded lawful permanent resident status on or about February 4, 1990 at 15 years old and Withholding Proceedings concluded on January 17, 2025.

7. Respondent Juan Agudelo, is sued in his official capacity as the Miami Field Office Director for U.S. Immigration and Customs Enforcement. Respondent Agudelo is a custodial official acting within the boundaries of the judicial district of the United States Court for the Southern District of Florida. Respondent Agudelo is a legal custodian of Petitioner and has the authority to release him.

8. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention. Respondent Noem is a legal custodian of Petitioner and has the authority to release

him.

9. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases, withholding proceedings and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner and has the authority to release him.

STATEMENT OF FACTS AND LEGAL BASIS OF RELIEF

10. Petitioner is a national and citizen of Jamaica who was previously accorded lawful permanent resident status in February 4, 1990 but was ordered removed on or about 2002.

11. In August 2023 Petitioner applied for protection under Withholding of Removal and Convention against Torture. On January 9, 2024 Petitioner began his Withholding Proceedings in Miami Immigration Court with his first appearance without counsel.

12. On January 17, 2024 Petitioner filed for a Motion To Change Venue requesting change to Hyattsville, Maryland immigration Court as the removal order was issued in Maryland, Petitioner's home state with ease for gathering evidence, and witness to testify and close to his pro-bono Immigration Attorney who is not licensed and does not live in Florida. The Immigration Judge denied the Motion stating "can argue change of venue at a master calendar hearing on a later date." During the hearing on January 29, 2024 Immigration Judge failed to reconsider the Motion to Change Venue and stated that if the ICE Deportation Officer agrees he will grant. The ICE Deportation Officer Juan H. Martinez stated it is not up to him but the Immigration Judge.

13. On March 18, 2024 the Immigration Judge denied the Petitioner relief under Withholding of Removal and Convention against Torture and ordered Petitioner removed.

14. Petitioner timely appealed the Immigration Judge's decision to the Board of Immigration Appeals. The BIA issued an automatic stay on the Petitioner's deportation.

15. Despite that judicial stay, Respondents illegally removed the Petitioner in March 2024 without informing the Petitioner's immigration attorney.

16. On July 11, 2024 the Board of Immigration Appeals overturned the Immigration Judge's decision and remanded the case back to the Immigration Court.

17. At the subsequent Immigration Court hearing Respondents informed the Court and Petitioner's attorney that they had unlawfully removed the Petitioner and were ordered to bring back Petitioner to the United States for further proceedings.

18. In December 2024 Petitioner was given travel documents from the U.S. embassy, and allowed to fly on commercial flight on his own accord into the United States, providing details of the flight and all information requested by Respondents including his photo the day of travel.

19. On December 10, 2024 as Petitioner arrived in the U.S. with the documents provided by the U.S. Embassy and Respondents, the Petitioner was arrested and detained by the Respondents and incarcerated at the Krome Detention Center in Miami, Florida.

20. Petitioner attended his December 16, 2024 Immigration Court Withholding Proceedings Hearing and despite the Respondents and Immigration Judge knowing about the hearing since July 2024 and the subsequent five (5) monthly master calendar hearing the Respondents requested a delay and extension to prepare for the case and accommodate their attorney vacation although the Respondent is a government entity that employs many attorneys that handle the

Miami Immigration cases and could have stepped in. Which the Immigration Judge obliged and remanded the case for January 17, 2025 detaining the Petitioner for another month.

21. On January 17, 2025 the Petitioner attended his Immigration Court Withholding Proceedings Hearing. During which Respondents stated they were unprepared and wanted more time to be able to submit additional documents despite receiving a month extension and without providing cause for the additional time request to which the Immigration Judge obliged the Respondents despite the Petitioner's Immigration attorney objections and gave the Respondent January 21, 2025 until to submit all documents. The Respondents submitted the document late without a motion to accept late filing as required by regulations.

22. Throughout the remanded Immigration Court Withholding Proceedings after the Board of Immigration Appeal July 11, 2024 decision there were seven (7) hearings that took place before the Immigration Judge and including the Petitioner's brother's Immigration Court Hearing which claim for Withholding has same facts and circumstance where the Immigration Judge made constant remarks that "he doesn't know why the BIA overturned his decision", "he thought he wrote a good decision" "he doesn't want this case to come back" "he wants the case to be over with" "he's been on the bench for (i don't recall how many years) and he's only had (don't recall specific number) of successful appeals". This shows that the Immigration Judge is being bias, not impartial and punishing Petitioner because he exercised his right to appeal and won and now purposely delaying and holding Petitioner in incarceration because the Immigration Judge knows the Respondents won't release the Petitioner. This Court can obtain the hearings transcript, which is not available to Petitioner to see the statements the Immigration Judge made although some were made off the record either before or after the Immigration Court began recording. Petitioner's family and Immigration Attorney who were there at the hearings can validate that the Judge made these statements. Matter of Exame, 18 I&N Dec. 303

(BIA 1982): IJ must remain impartial; bias can require recusal.

23. In addition to the facts stated in #18 and #19, the Immigration Judge allows the Respondent to disregard the procedural regulations for Immigration Court infringing on due process, equal protection rights and showing bias and impartiality. The first Withholding Proceeding Merit Hearing was scheduled for February 20, 2024, which was to take place after 3 prior hearings. At the January 29, 2024 hearing the Immigration Judge stated the call up deadline to submit all documents and evidence was February 13, 2024 for the February 20, 2024 merit hearing. The Respondents, DHS submitted their document on the day of the merit hearing on February 20, 2024, late, without motion to accept late filing and show of cause for the lateness as required under regulations. The Immigration Judge then proceeded to cancel the February 20, 2024 merit hearing without stating a reason, and rescheduled it for February 28, 2024. At the rescheduled February 28, 2024 merit hearing the Petitioner's Immigration Attorney asked the court to rejected the acceptance of the Respondents, DHS documents as they were submitted late with no motion to accept lateness and no extraordinary reason provided for lateness and in accordance with regulations. Nonetheless, the Immigration Judge accepted the Respondents, DHS late filing. The Judge made it clear at the January 29, 2025 hearing that if any of the Petitioner's documents were late he would dismiss the case and order removal but allowed the Respondents, DHS to submit documents so late it was submitted the day of the court hearing with no consequences. Wong Yang Sung v. McGrath, 339 U.S. 33 (1950): Immigration proceedings must be fundamentally fair under due process. Cinapian v. Holder, 567 F.3d 1067 (9th Cir. 2009): Procedural due process violation found when BIA failed to consider evidence fairly and neutrally. Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009): Supreme Court held that a judge's failure to recuse due to potential bias can violate due process.

24. On January 17, 2025 the Immigration Judge held the Withholding Proceedings Merit

Hearing where and stated that after the January 21, 2025 extension to the Respondents he will issue a decision, and concluded the Withholding Proceedings.

25. It has now been six (6) months since the Immigration Withholding Case has concluded and Petitioner has been detained for over seven (7) months. The Immigration Judge has yet to issue a decision and under the law the Immigration Judge there is no defined deadline to issue a decision.

26. Petitioner has now been in detention for more than seven (7) months pending his removal. Respondents continue to detain Petitioner even though it is clear that Respondents cannot lawfully remove him and it is unknown when or if he can be lawfully removed for an indefinite period of time.

27. Petitioner has fully cooperated with Respondents' and even provided his travel documents, providing the address of the home in the U.S. that he has lived in since about or around 1997, willing to check-in with Respondents on their demand and wear any ankle monitoring device or home detention if released from detention.

28. Respondents have twice reviewed Petitioner's custody status at 90 days and 180 days and have determined that he should be detained.

29. It is unconstitutional for Respondents to continue to detain Petitioner for over seven (7) months as they have done, **"limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention."** Zadvydas v. Davis, 533 U.S. 678, 689 (2001). The Court in Zadvydas, read § 1231 to authorize detention of an alien for only six months. Therefore, the Petitioner who has been detained for over seven (7) months should be released until if and when removal is certain.

30. Petitioner is not a danger to the community or a flight risk. Petitioner returned to U.S. on after being removed in violation of judicial stay order on December 10, 2024 with permission of the U.S. government and provided travel documents by the U.S. Embassy in Jamaica. Petitioner voluntarily attended Immigration Court upon his return on December 16, 2024.

31. Petitioner has deep roots in this community having been a lawful permanent resident since he was 15 years old in February 4, 1990. He has four U.S. citizen children and his mother, siblings and extended family are U.S. Citizens

32. Petitioner is not a danger to the community and has no pending criminal cases.

33. Respondents' decision to detain Petitioner is no longer legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Petitioner's request for release.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

34. Petitioner alleges and incorporates by reference paragraphs 1 through 33 above.

35. Petitioners' detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO STATUTORY CLAIM

36. Petitioner alleges and incorporates by reference paragraphs 1 through 35 above.

37. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

Immigration Judges who are colleagues and know the current Immigration Judge well. The only way to remedy the due process violation, bias, and impartiality is to transfer to another Immigration Court and a transfer to Hyattsville Court Immigration Court for all the reasons stated above would be the best venue of the Immigration Court if this Court can not decide the Withholding Proceedings;

5. Award Petitioner reasonable costs and attorney's fees under the Equal Access to Justice Act, and on any other basis justified under law; and,

6. Grant any other relief which this Court deems just and proper.

Respectfully Submitted,



Atawakuma Terrelonge

Dated: July 22, 2025