

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EMMANUEL STEPHANE RUKIRANDE
MUKIZA

Petitioner,

v.

THOMAS BERGAMI, WARDEN,
Prairieland Detention Center,
JOSH JOHNSON, Director, Dallas Field Office,
U.S. Immigration and Customs Enforcement;
KRISTI NOEM Secretary of the U.S.
Department of Homeland Security; and
PAMELA BONDI, Attorney General
of the United States, in their official capacities,

Respondents.

Case No. _____

**ORAL ARGUMENT
REQUESTED**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner EMMANUEL STEPHANE RUKIRANDE MUKIZA (“Petitioner”) is a citizen of the Democratic Republic of the Congo unlawfully re-detained by the Department of Homeland Security (“Defendant DHS” or “DHS”) in Prairieland Detention Center, in Johnson County, Texas since July 3, 2025. He has a final order of removal from 2012 and was released the same year after approximately 3 months of post order custody, in compliance with *Zadvydas v. Davis*, 533 U.S. 678 (2001).

2. Petitioner was under an Order of Supervision until he was arrested at his most recent annual check in with Defendant Immigration and Customs Enforcement (“Defendant

ICE”) on July 3, 2025. He had no new arrests and no changed circumstances before his recent re-detention. Defendant DHS has not obtained any travel documents nor is there a reasonable possibility of Defendant’s actual removal that would warrant his re-detention. Accordingly, to vindicate Petitioner’s statutory, constitutional, and regulatory rights, this Court should grant the instant petition for a writ of habeas corpus.

3. His continued detention violates his Fifth Amendment right to Due Process, his rights under 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable, and Defendant DHS’ own regulations found at 8 C.F.R. § 241.4, and 8 C.F.R. § 241.13.

4. Petitioner asks this Court to find that his detention is unlawful and order Defendants to release him immediately.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

7. This Court may 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

8. Venue is proper because Petitioner is detained at Prairieland Detention Center in Alvarado, Johnson County Texas which is within the jurisdiction of this District.

9. Venue is also 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 her claims occurred in this District. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

10. 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).

11. 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 of England, 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

12. Petitioner is a citizen of the Democratic Republic of Congo. Petitioner is currently detained at Prairieland Detention Center in Johnson County, Texas. Before his detention Petitioner was a resident of Denison, Texas. He is in the custody, and under the direct control, of Respondents and their agents.

13. Respondent Thomas Bergami is sued in his official capacity as the Warden of Prairieland Detention Center who has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Bergami is a legal custodian of Petitioner.

14. Respondent Josh Johnson is sued in his official capacity as the Director of the Dallas Field Office of U.S. Immigration and Customs Enforcement, a component agency of the U.S. Department of Homeland Security. Respondent Johnson is a legal custodian of Petitioner and has authority to release him.

15. 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.

16. 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 and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner.

STATEMENT OF FACTS

17. Petitioner is a 37 -year-old citizen of the Democratic Republic of Congo who was born and raised in Gabon. He originally entered the U.S. as a student in 2008. He was arrested in 2011 for aggravated assault against a then-girlfriend. He pled no contest and was sentenced to 5 years of probation and a fine, both of which he completed. He was ordered removed on May 13, 2012 while in ICE custody, where he continued to be detained after the final removal order.

18. An appeal of the removal order was filed but ultimately withdrawn on July 23, 2012.

19. After the final order of removal Respondent remained detained while Defendant DHS attempted to remove him to both Gabon, where he is not a citizen, and the Democratic Republic of Congo, which refused to issue travel documents.

20. On or about October 16, 2012, after approximately 85 days of post order detention, he was released with an Order of Supervision under Defendant ICE. Exhibit 1.

21. Petitioner dutifully attended his annual ICE check ins every year for more than 12 years as well complied with all other conditions of supervision, including no new arrests.

22. Client is now married to a U.S. citizen, and she has three sons from previous relationships, ages 21, 18, and 16 years old. He was working two jobs to support his family. He worked full time at the Tyson meat processing plant in Denison, Texas, and part time at a convenience store.

23. Respondent's U.S. citizen wife filed an I-130 Petition for Alien Relative for him to possibly obtain permanent residence as the spouse of a U.S. This petition was approved in 2020, and their attorney at the time advised them to file the I-485 Application to Register Lawful Permanent Residence with the U.S. Citizenship and Immigration Service ("USCIS"). This application was ultimately denied because USCIS did not have jurisdiction due to the removal order.

24. Respondent has not been arrested by police or had any criminal problems since his release from ICE detention under the Order of Supervision on October 16, 2012.

25. On July 3, 2025, at his most recent check-in, Petitioner was arrested by ICE. After processing at the Dallas ICE office he was transferred to the Prairieland Detention Center.

26. On July 21, 2025 Petitioner filed a Motion to Re-open his removal proceedings with the Executive Office for Immigration Review Immigration Court in Dallas, Texas. The Motion to Re-open was denied by the immigration judge on July 25, 2025.

27. Petitioner has been diligently trying to contact the consulate of the Democratic Republic of Congo by calling the embassy on an almost daily basis, but has not been able to speak to an actual person because only an automated response system responds to the telephone call.

28. Petitioner has also requested status updates from Defendants DHS and ICE regarding the status of his physical removal from the U.S. but has not received any response.

29. Petitioner has now been re-detained a total of 33 days with no foreseeable removal or end to detention.

LEGAL FRAMEWORK

I. PETITIONER'S CONTINUED DETENTION IS UNLAWFUL UNDER *ZADVYDAS* BECAUSE THERE ARE NO CHANGED CIRCUMSTANCES, HIS REMOVAL IS NOT REASONABLY FORESEEABLE, AND THIS COURT SHOULD ACCORDINGLY ORDER HIS IMMEDIATE RELEASE

30. The Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001) that "indefinite detention" would raise "serious constitutional concerns" and proceeded to construe 8 § 1231(a)(6) to contain an implicit time limit. 533 U.S. at 682. The Court held that § 1231(a)(6) authorizes detention only for "a period reasonably necessary to bring about the [non-citizen]'s removal from the United States. *Id.* At 689. Six months of post-removal order detention is considered "presumptively reasonable." *Id.* At 701.

31. Defendant DHS then promulgated regulations providing that, before the end of the 90-day removal period that ensues upon a non-citizen's removal order becoming final, the local ICE field office with jurisdiction over the non-citizen's detention must conduct a custody

review to determine whether the non-citizen should remain detained. See 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released following the 90-day custody review, jurisdiction transfers to ICE Headquarters (ICE HQ), *id.* § 241.4(c)(2), which must conduct a custody review before or at 180 days. *Id.* § 241.4(k)(2)(ii). In making these custody determinations, ICE considers several factors, including whether the non-citizen is likely to pose a danger to the community or a flight risk if released. *Id.* § 241.4(e). If the factors in § 241.4 are met, ICE must release the non-citizen under conditions of supervision. *Id.* § 241.4(j)(2).

32. DHS issued additional regulations found at in 2001 that established “special review procedures” to determine whether detained non-citizens with final removal orders are likely to be removed in the reasonably foreseeable future. See Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4’s custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when “the [noncitizen] submits, or the record contains, information providing a substantial reason to believe that removal of a detained [non-citizen] is not significantly likely in the reasonably foreseeable future.” *Id.* § 241.4(i)(7).

33. Revocation of Release is found at 8 C.F.R. § 241.4(l). Section § 241.4(l)(1) details that any alien who violates the conditions of release under an order of supervision may be returned to custody. In fact, the regulations specify the procedure by which the release may be revoked for violation of condition of release:

“Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” *Id.*

34. 8 C.F.R. § 241.4(l)(2) also allows revocation in the exercise of discretion by the Executive Associate Commissioner, as well as by a district director, when in the opinion of the

district director, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner. *Id.* Release may be revoked based on the following 4 grounds: (i) The purposes of release have been served, (ii) The alien violates any condition of release; (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien, or (iv) the conduct of the alien, or any other circumstances, indicates that release would no longer be appropriate. *Id.*

35. 8 U.S.C. § 1231(a)(6) and the Zadvydas framework, including the relevant regulations, apply to Respondent's case because he was already detained for more than 90 days since he received a final order of removal. He was properly released in 2012 under the statute and relevant regulations as removal was not reasonable foreseeable.

36. There has been no violation of his conditions of release as required under the regulations at 8 C.F.R. § 241.4(l) that warrant his re-detention, and continued detention after his release in 2012 under an order of supervision.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

37. The allegations in the above paragraphs are realleged and incorporated herein.

38. Defendants arbitrarily re-detained Petitioner when there was no material change in circumstances and no violation of the Order of Supervision.

39. Defendants have not provided any reason at all for Petitioner's re-detention.

40. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1231 of the Immigration and Nationality Act and related regulations 8 C.F.R. § 241.4

41. The allegations in the above paragraphs are realleged and incorporated herein.

42. Respondent did not violate the conditions of his release under the order of Supervision.

43. Respondent was not given notice or an opportunity to respond to the reason for revocation.

44. Respondent has not been provided with any information as to the basis for the revocation of his release, if any such basis actually exists.

45. There is no significant likelihood of removing Respondent in the reasonably foreseeable future.

46. For these reasons, Petitioner's detention violates 8 U.S.C. §1231, as well as Defendant DHS' own regulations found at 8 C.F.R. § 241.4.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231, and 8 C.F.R. § 241.4 and 241.13;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner; and
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/Amy Hsu
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ATTORNEY FOR PETITIONER

Dated: August 6th, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, EMMANUEL STEPHANE RUKIRANDE MUKIZA, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6th day of August, 2025.

/s/ Amy Hsu
Amy Hsu