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U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA


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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

DANIEL J. MCCOY, CLERK

BY: _____

Mr. Gueye, (A# ) Petitioner,	Civil Action No.: <u>1:25-cv-01274</u>
v. Warden, Wynn Correctional Center; Merrick B. Garland, Attorney General; Alejandro Mayorkas, Secretary of Homeland Security; U.S. Immigration and Customs Enforcement, Respondents.	Judge: _____ Magistrate Judge: _____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner Mr. Gueye respectfully submits this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. Mr. Gueye is a native of Senegal who has been granted withholding of removal under the Convention Against Torture (CAT), yet remains detained by U.S. Immigration and Customs Enforcement (ICE) at Wynn Correctional Center in Louisiana. Despite his lawful protection from removal, ICE has continued to hold him indefinitely, even though he poses no danger and has strong ties to his community.

This continued detention violates the Due Process Clause of the Fifth Amendment and the controlling principles set forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Because removal to Senegal is not possible, the government lacks lawful authority to detain Mr. Gueye indefinitely. He seeks immediate release, or at minimum, a bond hearing where the government must justify his detention.

ARGUMENT

I. Indefinite Detention is Unconstitutional Under *Zadvydas v. Davis*

In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that noncitizens who cannot be removed may not be detained indefinitely. Detention is presumptively reasonable for up to six months, but after that, the government must show a significant likelihood of removal in the reasonably foreseeable future. Here, because Mr. Gueye has been granted withholding of removal under CAT, removal to Senegal is legally barred. Thus, his continued detention serves no legitimate purpose and is unconstitutional.

II. Withholding of Removal Under CAT Bars Deportation to Senegal

Mr. Gueye has been granted protection under the Convention Against Torture. This means that U.S. law prohibits returning him to Senegal because he has a well-founded fear of persecution or torture there. The government cannot lawfully deport him, and thus cannot justify indefinite detention on the basis of removal.

III. Circuit Courts Have Recognized the Need for Bond Hearings

In *Johnson v. Arteaga-Martinez*, 142 S. Ct. 1827 (2022), the Supreme Court acknowledged that prolonged detention under INA § 241(a)(6) raises serious constitutional concerns. Circuit courts, including the Third and Second Circuits, have required bond hearings after six months of detention. See, e.g., *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020). Mr. Gueye's prolonged detention without a hearing violates these principles.

IV. Mr. Gueye's Strong Equities Support Release

Mr. Gueye has deep ties to his community. He volunteered with the Hanifeeya non-profit, assisting Imam Sall and contributing significantly to local charitable work. He has no serious criminal history, and he complied with ICE's supervision until he was detained during a routine ICE check-in. These equities demonstrate that he is neither a flight risk nor a danger to the community.

RELIEF REQUESTED

For the reasons set forth above, Petitioner respectfully asks this Court to grant his writ of habeas corpus under 28 U.S.C. § 2241.

Specifically, Petitioner requests that the Court:

1. Order his immediate release from custody under reasonable conditions of supervision, in light of his grant of withholding of removal under the Convention Against Torture, the impossibility of removal to Senegal, and the unconstitutionality of indefinite detention under *Zadvydas v. Davis*, 533 U.S. 678 (2001);

OR, IN THE ALTERNATIVE

2. Order the government to provide Petitioner with a bond hearing before an Immigration Judge within 30 days, at which the government must bear the burden of proving, by clear and convincing evidence, that Petitioner's continued detention is necessary to prevent flight or danger to the community.

Petitioner further requests that this Court grant such other and further relief as justice may require.

TABLE OF AUTHORITIES

Cases

Zadvydas v. Davis, 533 U.S. 678 (2001)	Passim
Johnson v. Arteaga-Martinez, 142 S. Ct. 1827 (2022)	Passim
Velasco Lopez v. Decker, 978 F.3d 842 (2d Cir. 2020)	12, 15
Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011)	14

Statutes

8 U.S.C. § 1231(a)(6)	11
28 U.S.C. § 2241	1

Other Authorities

U.S. Department of State, Country Reports on Human Rights Practices: Senegal	
Exhibit G	

TABLE OF EXHIBITS

Exhibit	Description	Source
Exhibit A	Immigration Judge's Decision Granting Withholding of Removal under CAT	Immigration Court
Exhibit B	ICE Custody Records and Detention History	ICE / DHS
Exhibit C	Affidavit of Mr. Gueye (personal declaration)	Petitioner
Exhibit D	Letter of Support from Imam Sall, Hanifeeya Non-Profit	Community Leader
Exhibit E	Country Conditions Report on Senegal (U.S. Dept. of State, Human Rights Reports)	U.S. Department of State
Exhibit F	Additional Letters of Support from Family, Community, and Employers	Family & Community