

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

PIERRE YVES DESGAZONS)

Petitioner,)

v.)

MICHAEL NESSINGER, Donald W. Wyatt)
Detention Facility)
PATRICIA HYDE, Field Office Director;)
MICHAEL KROL, HSI New England Special)
Agent in Charge; TODD LYONS, Acting)
Director U.S. Immigrations and Customs)
Enforcement; and KRISTI NOEM, U.S. Secretary)
of Homeland Security,)

Respondents.)

Case No. 25-459

A Number [REDACTED]
**EMERGENCY
PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Pierre Yves Desgazons is a Hattian national. He was admitted to the United States pursuant to humanitarian parole, is currently an applicant for Temporary Protected Status and is a beneficiary of an approved I-130 Petition filed by his United States citizen parent. On information and belief, he was unlawfully detained by federal immigration agents on or about September 11th, 2025, in the Commonwealth of Massachusetts.
2. Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.
3. Petitioner asks this Court to find that he was unlawfully detained and order his release.

JURISDICTION

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
5. Venue is proper because Petitioner is detained in Central Falls, RI, and on information and belief is detained in the District of Rhode Island.

PARTIES AND FACTS ALLEGED

6. The Petitioner was lawfully paroled into the United States pursuant to the authority of the Secretary of Homeland Security. He is diligently pursuing legal status and has an active application for temporary protected status and an approved petition filed on his behalf by his U.S. Citizen parent. He resides in Malden, Massachusetts.
7. Respondent Patricia Hyde is the New England Field Office Director for U.S. Immigration and Customs Enforcement.
8. Respondent Michael Krol is the New England Special Agent in Charge for Homeland Security Investigations for U.S. Immigration and Customs Enforcement.
9. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs Enforcement.
10. Respondent Kristi Noem is the U.S. Secretary of Homeland Security.
11. Respondent Michael Nessinger is the Superintendent at the Donald W. Wyatt Detention Facility, the facility where the Petitioner is currently detained.
12. All respondents are named in their official capacities.
13. Petitioner is a Haitian national and an applicant for temporary protected status.¹ He is also

¹ At least two U.S. District Courts have set aside the Secretary of Homeland Security's attempt to terminate previous designations of Temporary Protected Status for people from Haiti and TPS for Haiti is currently set to expire no earlier than February 3rd 2026. *Haitian Evangelical Clergy*

- waiting for a visa to become available for his approved I-130 as a married adult child of a United States Citizen. On information and belief, he was detained without cause by U.S. Immigration and Customs Enforcement agents on September 11th 2025
14. On information and belief, Petitioner is currently in custody in the District of Rhode Island, and one or more of the Respondents is his custodian:
15. At the time of Petitioner's detention, there was no active case pending before the Executive Office of Immigration Review, and as of this date, neither Petitioner, nor his family or counsel are aware of the legal basis for his detention
16. In addition, Petitioner has been present in the United States for over two years, pursuant to lawful parole, to the extent that Respondents

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

1. On information and belief, Petitioner is currently being arrested and detained by federal agents without cause and in violation of his constitutional rights to due process of law.
2. To the extent that Respondents intend to place the Petitioner into expedited removal, Petitioner is not eligible for such proceedings. See, *Coal. for Humane Immigrant Rights vs. Noem*, No. 25-5289 (D.C. Cir. Sept. 12, 2025) (order denying stay pending appeal of District Court order staying agency action that purported to subject individuals paroled into the United States to expedited removal).
3. Petitioner cannot be detained for, or subjected to, Expedited Removal because he has been continuously present in the United States for greater than two years.

Ass'n vs. Trump, E.D.N.Y., No. 25-CV-1464 (BMC) (July 1, 2025); Nat'l TPS All. *vs.* Noem, N.D. Cal., No. 25-CV-01766-EMC (Sept. 5, 2025).

4. The Expedited Removal statute largely “precludes judicial review,” and therefore challenges to “confinement and removal” under that statute fall within the “core” of the writ of habeas corpus. See *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006-07 (2025); cf. *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, (2020) (holding attempt “to obtain additional administrative review of his asylum claim” after Expedited Removal order was outside the “core” of habeas relief).
5. Accordingly, to the extent 8 U.S.C. § 1252(e)(2) purports to preclude habeas review of whether Petitioner is ineligible for detention and removal via Expedited Removal due to the length of his presence in the United States, that limitation violates the Suspension Clause and is void and without effect.
6. Indeed, if there were no judicial review whatsoever of the immigration agencies’ determinations that people have been present for less than two years, then the immigration agencies would be free to find that essentially any arrested noncitizen without status is subject to Expedited Removal, in direct violation of the procedures and safeguards required for removal proceedings by the laws and Constitution of the United States.
7. Even assuming Petitioner is eligible for detention for removal proceedings, he has not been served with any NTA to initiate any such proceedings, and he has not been provided any opportunity to receive a bond hearing to which he is entitled during any such proceedings. The only current basis for Petitioner’s detention and potential deportation—Expedited Removal—is one that categorically does not apply to him.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the District of Rhode Island;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Direct the Clerk of Court to serve the Respondents and the U.S. Attorney for the District of Rhode Island with this Petition and Order that this shall constitute good and sufficient service.
- (5) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,
/s/Carl Hurvich/s/
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Counsel for Petitioner

Dated: September 13th, 2025.

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

I am submitting this verification on behalf of the Petitioner because he is detained and I am his attorney, I have reviewed the record in this matter. Based on personal knowledge and, on

information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge. I also verify that the exhibit attached to this Complaint contains true and accurate copies of immigration documents concerning the Petitioner.

/s/ Carl Hurvich