

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the

FILED

OCT 07 2025

JOAN KANE, CLERK
U.S. DIST. COURT, WESTERN DIST. OKLA.
BY AW, DEPUTY

LEROY McLEAN

Petitioner

v.

PAMELA Bondi, AG; KRISTI Noem
DHS; SCARLET GRANT WARDEN

Respondent

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

Case No. CIV-25-1165-PRW
(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: LEROY McLEAN
(b) Other names you have used:
2. Place of confinement: ICE Detention
(a) Name of institution: CIMARRON COLL. FAC.
(b) Address: 3200 S. KINGS HWY
Cushing, OK 74023
(c) Your identification number: 
3. Are you currently being held on orders by:
☐ Federal authorities ☐ State authorities ☒ Other - explain:
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):

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)

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- ☐ 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:

(b) Docket number, case number, or opinion number: *REMOVAL #* [REDACTED]

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

DENIAL OF COUNSEL BY IJ AND FAILURE TO FOLLOW REGULATION AND PROVIDE EQUITABLE NOTICE

(d) Date of the decision or action: *April 2nd, 2025*

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:

BOARD OF IMMIGRATION APPEAL

(2) Date of filing: *ON OR ABOUT 7-21-2025*

(3) Docket number, case number, or opinion number: [REDACTED]

(4) Result: *THE APPEAL DISMISSED AND MOTION TO REOPEN DENIED*

(5) Date of result: *8-29-2025*

(6) Issues raised: *1) BIA JURISDICTION VEST WITH A LACK OF FINAL ORDER; 2) FACTS AND THEORIES.*

IJ ORDER; 3) IAC FAILURE; 4) IJ FAILURE TO PROVIDE REASONABLE OPPORTUNITY TO PRESENT EVIDENCE; 5) RESPONDENT'S RIGHT TO A FAIR HEARING BEFORE AN IMPARTIAL DECISION MAKER; 6) DENIAL OF CAT PETITION WITHOUT PROBING QUESTIONING OF IJ; 7) WAS DOCUMENT SERVED BY DPO SHOULD HAVE BEEN FILED WITH THE COURT FOR JUDICIAL REVIEW; 8) WAS RESPONDENT WRONGFULLY CHARGED UNDER INA STATUTORY CODES; AND 9) GOVT OFFICIALS ACTED UNDER COLOR OF LAW, WHEN THEY LABELLED RESPONDENT A LAW ENFORCEMENT THAT AMPLIFIED HIS RISK OF BEING HARM BY ORGANIZED CRIME GROUP.

(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

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(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:

Petition for review was recently filed, due to chemo therapy, such within time allotted and was timely.

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:

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

Pending response from Petition for review

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

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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:

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: *April 17, 2024*
- (b) Date of the removal or reinstatement order: *April 2, 2025*
- (c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes ☐ No

If "Yes," provide:

(1) Date of filing: *on or about 7-21-2025*(2) Case number: *[REDACTED]*(3) Result: *Appeal dismissed & motion to reopen denied*(4) Date of result: *8-29-2025*(5) Issues raised: *1) BIA jurisdiction vest with a lack of final order; 2) facts and theories of IS order;**3) IAC failure; 4) IS failure to provide reasonable opportunity to present evidence; 5) Respondent's right to a fair hearing before an impartial decision maker; 6) Denial of CAT petition without probing questioning of IS; 7) Was Respondent wrongfully charged under INA statutory codes; And 9) Govt officials acted under color of law, when they labelled respondent a law enforcement that amplified his risk of being harm by organized crime group.*

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

☒ Yes☐ No

If "Yes," provide:

(1) Name of court: *10th circuit court of Appeals*(2) Date of filing: *9-19-2025*(3) Case number: *Pending Appeal Number*(4) Result: *Pending*

(5) Date of result:

(6) Issues raised: *All that mentioned above, 1) Final order without IS signature; 2) Denial of motion to remand; 3) IS outburst during merit hearing; 4) Not evaluation of relocation; 5) The facts and theories of the IS order; Ineffectiveness of counsel failure to submit documents; discard charges without Petitioner's knowledge amongst other things.*

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. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE:

THE IS DENIED PETITIONER COUNSEL DURING THE REMOVAL PROCEEDINGS TO OBTAIN EVIDENCE

(a) Supporting facts (Be brief. Do not cite cases or law.): *THE PETITIONER'S DUE PROCESS CLAIM INEXORABLY LINKED WITH THE IS'S DENIAL OF COUNSEL, WHEN HE (COUNSEL) COULD NOT PREPARE TO ADEQUATELY REPRESENT THE PETITIONER WITH SOME EVIDENCE, THAT IS HAD INQUIRIES ABOUT DURING THE MERIT HEARING. THE IS OBSTRUCTED PETITIONER'S ABILITY THROUGH COUNSEL TO OBTAIN CRITICAL EVIDENCE AND UNDERMINED HIS RIGHT TO A FAIR AND COMPLETE REVIEW PROCESS. SEE ATTACHMENT 1, EXHIBIT 1*

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

☒ Yes

☐ No

GROUND TWO:

THE DHS CASEFILE OF PETITIONER, SUBMITTED TO THE IMMIGRATION COURT WAS INCOMPLETE AND INSUFFICIENT FOR JUDICIAL REVIEW

(a) Supporting facts (Be brief. Do not cite cases or law.): *PETITIONER WAS PREJUDICE BY THE ACTION OF DHS BECAUSE THEY HAD WITHHELD EVIDENCE OF HIS "CREDIBLE FEAR WORKSHEET" TO EVALUATE HIS CREDIBILITY-- SUCH HAD MYSTERIOUSLY DISAPPEARED, AFTER NOTED WITHIN THE CERTIFICATE OF SERVICE THAT SUCH WAS SERVED UPON THE PETITIONER. SEE ATTACHMENT 1, EXHIBIT 1*

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

☒ Yes

☐ No

GROUND THREE:

DHS CONDUCT WAS ARBITRARY AND CAPRICIOUS UNDER THE ADMINISTRATIVE PROCEDURE ACT (APA) LARGELY BECAUSE DHS FAILED TO FOLLOW ITS OWN REGULATION

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

PETITIONER WAS NOT GIVEN ADEQUATE NOTIFICATION OF CHARGES AGAINST HIM, THE NOTICE TO APPEAR ASSESSED TWO CHARGES AND PETITIONER WAS FOUND DEPORTABLE UNDER FOUR CHARGES-- THERE WAS NO AMENDMENT TO THE NTA THROUGHOUT THE ENTIRE PROCEEDING. THE ESSENCE OF DUE PROCESS IS NOTICE AND AN OPPORTUNITY TO RESPOND. SEE ATTACHMENT 1, EXHIBIT 1

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

☒ Yes

☐ No

GROUND FOUR:*Failure to address ineffective assistance of counsel*

(a) Supporting facts (Be brief. Do not cite cases or law.): *Petitioner's motion to reopen had raised substantial claims of ineffective of counsel. Such included his former attorney's failure to provided documents available to counsel, to call witnesses and/or obtained support letters and evidence amongst other things, to raise vital procedural defenses and challenge to the NTA. The BIA's refusal to address these claims -- has left Petitioner with no forum in which to seek relief. Petitioner now forced to seek a judicial remedy for constitutional violations that has never been reviewed on its merits and/or opine provided by the BIA. See Attachment 2 Exhibit 2*

(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:

NONE - only for Petitioner's temporary restraining order now seeks such continue on next page.

Request for Relief

15. State exactly what you want the court to do: *Petitioner requests that the court 1) Order an evidentiary hearing on the above grounds (Id); 2) Order dismissal of the NTA declaring the Respondent's action arbitrary and capricious; 3) Declare that Respondents failed to adhere to binding regulations and precedent; 4) Declare that Petitioner's detention violates due process of the Fifth Amendment; 5) Issue an preliminary order restraining Respondents from attempting to move Petitioner from prison to prison during the pendency of this petition; 6) Order a stay of deportation during the pendency of these petition (Id) and 7) Grant all further relief this court deems just and proper.*

Ground Five:

Petition for a Temporary Restraining Order and/or Request for Stay of Deportation...

The function of habeas relief is to obtain release from the duration or fact of present custody, which this court has such power-- Petitioner has a Petition for Review of BIA dismissal pending; 2) his request for a hearing on a decision in naturalization proceeding ^{and}; 3) ongoing litigation within the Second Circuit Court of Appeals of his criminal conviction been used within his deportation-- mind you, the Government had placed Petitioner on diesel therapy since the 29th of August 2025, the day of BIA dismissal, upon receipt of court's copy of its decision (9-17-2025), the Petitioner was transferred again to Cimarron Com. Fac located in Cushing, OK, where there was no access to the law library and copy machine. Petitioner had to hand write a four page motion four times and served upon the Government, and asked the clerk of the court to make judicial notice for the record. On the 1st of October 2025 @ approx 8:50am ICE agent Hilbin, approached Petitioner's cell requesting travel document and his signature "I know your appeal is pending and its going to take 18 months, we still can deport you while your appeal still going". Petitioner had inquiries as to why would the BIA suggested that he had 30 days to file his Petition for Review only to be deported before such was heard. CCTV footage will confirm ICE agent visit on ED unit cell



Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

Oct. 1st, 2025

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: *10-1-2025*

Signature of Petitioner



Signature of Attorney or other authorized person, if any