

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1. William Muthee MUIRURI,

Petitioner,

v.

1. Don JONES, Warden of Kay County Detention Center;
 2. Russell HOLT, Field Office Director of Enforcement and Removal Operations, Chicago Field Office, Immigration and Customs Enforcement;
 3. Todd LYONS, Acting Director, Immigration and Customs Enforcement;
 4. Kristi NOEM, Secretary, U.S. Department of Homeland Security;
 5. Pamela BONDI, U.S. Attorney General;
- In their official capacities,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner William Muthee Muiruri is in the physical custody of Respondents at the Kay County Detention Center in Newkirk, Oklahoma. He now faces immediate removal from the United States without being allowed to seek a stay of such removal.
2. After making application to U.S. Citizenship and Immigration Services (USCIS) for T nonimmigrant status as a victim of human trafficking, Petitioner was detained by Department of Homeland Security (DHS) officials.
3. Immigration and Customs Enforcement (ICE) has advised Petitioner of their plans to remove him from the United States expeditiously.
4. Although Petitioner's immigration counsel has repeatedly attempted to apply for an administrative stay of removal with DHS-ICE, those officials have made it manifestly impossible to file the application.
5. Further, Petitioner's counsel has been unable to reach any ICE officials to discuss Petitioner's fear of returning to his country of removal and thus his eligibility for an interview with an asylum officer.
6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that Respondents provide Petitioner with an opportunity to seek a stay of removal as well as an interview with an asylum officer prior to removing him from the United States.

JURISDICTION

7. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Kay County Detention Center in Newkirk, Oklahoma.

8. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). *See Budiono v. Barr*, No. 4:19-CV-01635, 2019 U.S. Dist. LEXIS 186991, at *6 (M.D. Pa. Oct. 29, 2019) (finding jurisdiction in an immigration habeas case seeking, inter alia, a stay of removal, holding that “discharge from custody is not the only form of relief that a habeas petitioner may seek; rather, a petitioner may seek any relief that may alter the fact or execution of his detention”).

9. This Court may grant relief pursuant to 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

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Oklahoma, the judicial district in which Petitioner currently is detained.

11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Oklahoma.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

13. Habeas corpus is “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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

14. Petitioner William Muthee Muiruri is a citizen of Kenya with an order of removal who has been in immigration detention since October 23, 2025. He faces the imminent threat of removal from the United States.

15. Respondent Don Jones is employed by Kay County Detention Center as Warden of the facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

16. Respondent Russell Holt is the Director of the Chicago Field Office of ICE’s Enforcement and Removal Operations division. As such, Holt is Petitioner’s immediate

custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

17. Respondent Todd Lyons is the Acting Director of the Dallas Field Office of ICE's Enforcement and Removal Operations division. As such, Lyons is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

18. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

19. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

LEGAL FRAMEWORK

Detention and Removal

Administrative Stay of Removal

20. The Department of Homeland Security is expected to detain and remove noncitizens within ninety days of a final order of removal. 8 U.S.C. § 1231(a)(1)(A), (a)(2)(A).

21. Nevertheless, noncitizens subject to a final order of removal have the right to apply for an administrative stay of removal from the Department of Homeland Security. 8 C.F.R. § 241.6(a) provides that the noncitizen’s stay request “shall be filed on Form I-246, Stay of Removal” with the DHS officer with jurisdiction over the noncitizen’s location. While the regulation provides that “[n]either the request [for stay] nor failure to receive notice of disposition of the request shall *delay* removal” (emphasis added), this regulation by DHS still provides a noncitizen the *right* to seek a stay of removal with DHS. 8 C.F.R. § 241.6(a).

22. Federal courts considering noncitizens’ options to stay their removal have held that the noncitizen *must* follow the prescribed application process in 8 C.F.R. § 241.6(a). While discussing applicants for a very similar form of relief to the T visa, multiple courts have found that “noncitizens with pending U-visa applications who are subject to a final order of removal must separately ask ICE to issue a stay of removal, which the agency has the discretion to grant or deny.” *Harbans Singh v. United States Immigr. & Customs Enft Field Office Dir.*, No. 2:24-cv-00705-RSL-TLF, 2025 U.S. Dist. LEXIS 43080, at *28 (W.D. Wash. Feb. 14, 2025) (quoting *Balogun v. Sessions*, 330 F. Supp. 3d 1211, 1213 (C.D. Cal. 2018)). Accordingly, not only do noncitizens have the right to request this stay of removal from DHS – federal courts require noncitizens to use this method of requesting a stay.

Reasonable Fear Interview

23. Additionally, even noncitizens subject to a final order of removal are entitled to a “reasonable fear interview” with an asylum officer *prior to removal* if they express fear of return to their country of removal. *See* 8 C.F.R. 208.31(a)-(b).

Department of Justice Motions to Reopen

24. Noncitizens may also file one motion to reopen their immigration court proceedings as of right, and may request a stay of removal from the Department of Justice through the Immigration Judge or Board of Immigration Appeals. 8 CFR § 1003.23(b); 8 CFR § 1003.3(c)(2).¹

25. Nevertheless, federal courts across the nation have, in habeas corpus cases, stayed the removal of noncitizens specifically to allow for a decision on a motion to reopen with the Board of Immigration Appeals when removal was imminent and the Petitioner had a fear of returning to their country of removal, based on the Suspension Clause of the U.S. Constitution. *See Compere v. Nielsen*, 358 F. Supp. 3d 170 (D.N.H. 2019); *Sean B. v. McAleenan*, 412 F. Supp. 3d 472 (D.N.J. 2019) (“It does not seem to be too much to ask that [Petitioner] be permitted to pursue the constitutionally required process of review from the relative safety of a U.S. jail cell. To remove him to [country of removal] now, I have

¹ See also Immigration Court Practice Manual, 8.3, <https://www.justice.gov/eoir/reference-materials/ic/chapter-8/3>.

found, will drain the review procedure of efficacy and violate the Suspension Clause.”); *Devitri v. Cronen*, 289 F. Supp. 3d 287 (D. Mass. 2018).

26. Accordingly, for the Respondents to prevent the Petitioner from requesting an administrative stay of removal or reasonable fear interview is to violate the federal regulations set in place for removal and detention of noncitizens, as fully explained above.

27. Further, this Court has the ability and responsibility to stay removal of the Petitioner until such time as he can obtain a decision on his motion to reopen from the Department of Justice.

T Nonimmigrant Status for Victims of Human Trafficking

28. Congress has created a form of lawful status for certain victims of human trafficking, colloquially known as the T visa or T nonimmigrant status. *See* Trafficking and Violence Protection Act (TVPA) of 2000, Pub. L. 114 Stat. 1464, 1470 (Oct. 28, 2000), codified at 22 U.S.C. § 7101 et seq.; 8 U.S.C. § 1101(a)(15)(T). Even noncitizens with removal orders can apply for T status. 8 C.F.R. 214.204(b)(2).

29. However, among the statutory requirements to be granted T nonimmigrant status is the condition that the applicant be “physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking.” 8 U.S.C. § 1101(a)(15)(T)(i)(II). Thus, applicants who are outside the U.S. and its territories cannot, by law, be granted such status.

30. Simply put, to leave the U.S. in any way (including by removal or deportation) is effectively to abandon one's application for T nonimmigrant status.

31. The regulations also specifically state that T status applicants can apply for the administrative stay of removal provided for in 8 C.F.R. § 241.6 and discussed above. *See* 8 C.F.R. 214.204(b)(2)(i).

32. Acknowledging the heightened concerns for victims of trafficking seeking T nonimmigrant status, DHS has stated, during administrative rulemaking of regulations related to T nonimmigrant status, "As a matter of policy, DHS generally will not remove applicants with pending T nonimmigrant status applications." Classification for Victims of Sever Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status. 89 Fed. Reg. 34889 (Apr. 39, 2024).

33. Thus, as stated previously, the right to request an administrative stay of removal with DHS is one that *must* be afforded the Petitioner, particularly given that he is a T visa applicant and a victim of human trafficking. Additionally, as a trafficking victim who fears return to his country of removal, Petitioner is entitled to a reasonable fear interview and must be afforded that opportunity. Finally, this Court should stay Petitioner's removal to receive a decision on his motion to reopen proceedings with the Department of Justice.

FACTS

34. Petitioner is a citizen of Kenya who has resided in the United States since 2007.

35. Previously, Petitioner was placed in removal proceedings before the Kansas City Immigration Court. On May 29, 2013, The Immigration Judge ordered Petitioner removed from the United States. Petitioner appealed to the Board of Immigration Appeals, although that appeal was ultimately dismissed.

36. During his time residing in the United States, Petitioner was unfortunately subjected to labor trafficking in the U.S.

37. In May of 2025, Petitioner applied to the U.S. Citizenship and Immigration Service (USCIS) for T nonimmigrant status as a victim of human trafficking. That application remains pending with USCIS.

38. As part of the processing of his application for T nonimmigrant status, Petitioner was requested to appear for a biometrics appointment at the Kansas City USCIS office on October 23, 2025. ICE agents were awaiting Petitioner at that appointment in order to detain him.

39. Upon being detained, Petitioner called his immigration attorney to inform her of ICE's stated plan to remove the Petitioner from the United States.

40. Promptly on October 23, 2025, Petitioner's immigration attorney attempted to file an application for administrative stay of removal in person at the Kay County Detention Center, where Petitioner is detained. The facility was closed.

41. The morning of October 24, 2025, Petitioner's immigration attorney again attempted to file the stay of removal at Kay County Detention Center. Staff at the facility stated that the application must be filed in person at the Kansas City ICE Office.

42. Immediately, Petitioner's immigration attorney drove to the Kansas City ICE Office to file the application for stay of removal. Although the attorney arrived at 3:30pm on a Friday, during regular business hours the office was closed.

43. Petitioner's attorney has been unable to gain contact with ICE to discuss Petitioner's case and the fear Petitioner has to return to his home country.

44. Petitioner's attorney submitted a motion to reopen proceedings and to stay removal to the Kansas City Immigration Court on October 25, 2025.

45. Petitioner remains in detention, facing imminent removal. Without relief from this Court, he faces the prospect being removed without the opportunity to seek even temporary relief from such removal to a country where he fears harm, as well as losing any opportunity to obtain immigration relief as the victim of human trafficking.

CLAIMS FOR RELIEF

COUNT I

Violation of the Right to Administrative Remedies

47. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

48. Respondents may not suspend the right to apply for administrative stay of removal by effectively refusing to accept Petitioner's application. Respondents must allow Petitioner the right afforded to him under 8 C.F.R. § 241.6.

49. Respondents may not remove Petitioner without affording him a reasonable fear interview with an asylum officer, given his fear of returning to his country of removal, pursuant to 8 C.F.R. 208.31.

COUNT II

Violation of the Suspension Clause of the U.S. Constitution

50. This Court must stay Petitioner's removal to allow the Department of Justice to review his motion to reopen proceedings. The Suspension Clause requires that habeas corpus be granted to allow for an answer to Petitioner's motion to reopen, given his fear of return to his country, and particularly since Petitioner is a victim of human trafficking.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Western District of Oklahoma while this habeas petition is pending;
- c. Order that the Petitioner shall not be removed from the United States while this habeas petition is pending;

- d. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- e. Issue a Writ of Habeas Corpus requiring that Respondents provide Petitioner with an opportunity to apply for a stay of removal and to have a reasonable fear interview;
- f. Issue a Writ of Habeas Corpus staying removal until fourteen days after the Department of Justice had issued a decision on Petitioner's motion to reopen;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 25th day of October, 2025.

/S/ Elissa R Stiles
Elissa Stiles
Rivas & Associates
PO Box 470348, Tulsa OK 74147
918-419-0166
estiles@rivasassociates.com
Attorney for Petitioner

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

I represent Petitioner, William Muthee Muiruri, 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 25th day of October, 2025.

/S/ Elissa R Stiles
Elissa Stiles