

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Modou Mboup,

)
) next of friend,
)
)

v.

)
) File No. 
)
)

Field Office Director of New Jersey)
Immigration and Customs Enforcement,)
Kristi NOEM In her official capacity as)
Secretary of Homeland Security; Pam Bondi)
In her official capacity as Attorney general.)

)
) Respondents.)

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

This is a petition for a writ of habeas corpus filed pro se on behalf of Modou Mboup, from here on after Petitioner, seeking relief to remedy his unlawful arrest and detention. This petition is being filed by as next of kin who is acting on his behalf to protect his rights and liberty interest. Next of kin is filling it because petitioner has been detained at Delaney Hall since October 22, 2025 without access to counsel or the ability to file his own habeas. The detention center where petitioner was taken to

has no instructions or information in petitioner language and also fails to provide a process for their own filling of this Habeas Corpus. The facility does not have the address of this court on any bulletin board or the information and availability that they may challenge their unlawful detention by habeas filing.

The person filling this habeas on behalf of petitioner Has “next friend” standing and is acting in the best interest of petitioner to bring this action under § 2241 because petitioner is detained and without access to counsel or the ability to prepare a habeas corpus that he could sign and mail to this court.

Due to the fact that the place where petitioner is detained and has no law library access in his native language where he can prepare this Habeas petition as next of kin is dedicated to act in the Petitioner’s best interests. See *Ross ex rel. Dunham v. Lantz*, 408 F.3d 121, 123 (2d Cir. 2005) (“First, a ‘next friend’ must provide an adequate explanation ... why the real party in interest cannot appear on his own behalf to prosecute the action. Second, the ‘next friend’ must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate[.]”). Even do nonbinding the Second Circuit precedent shares a clear basis for the filling of Habeas such as the one being filed before the court. Here petitioner is detained and has been neither informed or allowed to prepare his own Habeas filling to challenge detention.

Petitioner’s argues that his arrest violates his Fourth Amendment and his

Fifth Amendment right to Procedural Due Process because ICE detained him without notice, an opportunity to respond, or an individualized determination that he posed a flight risk or danger to the community. ICE/DHS and other federal agencies arrived at Canal Street in New York and began profiling men of color and to detain them as a way to attain whether they were lawfully in the United States. Within these detention American Citizen were also detained solely based on their color of skin. The government agencies therefore detained these men and then sought to corroborate their legal status in violation of the Fourth Amendment. The petitioner arrived in the US seeking refuge in 2023 and has his case pending before the EOIR courts of New York currently scheduled for an Individual hearing on February 25, 2026 before the honorable Fayaz Habib. Therefore ice had no legal reason for seizing this petitioner without and individualized reason or probable cause is a violation of the Fourth Amendment. ICE also violated Petitioner's right to Procedural Due Process when it failed to allow him and opportunity to challenge the immigration arrest, the notice, or be allowed to and individualized hearing before a judge. Upon His detention petitioner explained to the officer's that he was pending for a final hearing before the IJ they simple took him to Delaney Hall and placed in detention but ICE had no reason for this arrest petitioner has not criminal record in the United States and his situation has not changed since his release. In the contrary he filed his asylum April 6, 2024 and the IJ found sufficient merits to schedule and individual hearing therefore the arrest violates procedural due process.

When petitioner entered the United States of America he was placed in proceedings pursuant to 236 under 1226 as can be seen by his NTA. Petitioner was released into the United States under the 236 authority.

This arrest follows a common practice now by DHS/ICE where they enter a town or state and detain all those who fit the image of an illegal alien. Prior to the arrest or detention DHS/ICE has no knowledge of the person status, name or legal proceedings before the court. The respondent then uses the information obtained in the detention as a means to place in immigration custody. This is clearly a violation of the Fourth Amendment. The fact that Petitioner is detained without any individualized assessment of flight risk and dangerousness even do his immigration proceedings are pending for a final hearing and nothing has changed since his release is clearly a violation of his Procedural Due Process Rights.

CUSTODY

1. Petitioner is in the physical custody of Field Office Director for Detention and Removal, held by ICE, a component of the Department of Homeland Security (DHS). At the time of the filing of this petition, Petitioner is detained at Delaney Hall in Newark NJ. Jurisdiction and venue in this Court are proper because the events

giving rise to the petition occurred in the District, and the immediate custodian detaining Petitioner is also in the District.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L.No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the New Jersey the judicial district in which the Due Process violations occurred and where he is unlawfully detained while the violations of his Fourth Amendment and Fifth Amendment Procedural Due Process rights continue to occur. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner is a national and citizen of Senegal who was forced to flee his native country due to threats on his life. Since then petitioner has requested protection within the United States by filling and I-589 application for Asylum, Withholding of Removal and CAT on or about April 6, 2024. The I-589 application remains pending for an Individual hearing on February 2026. The arrest of petitioner even after attaining that his case is pending and nothing has changed in his case without proper access to challenge the arrest violates his procedural due process.

5. Respondent is the Field Office Director for Detention and Removal, ICE, DHS. Respondent is a custodial official acting within the boundaries of the judicial district of the United States Court for the District of New Jersey. Pursuant to Respondent orders, Petitioner remains detained.

6. Respondent is Kristi NOEM in her official capacity as Secretary of Homeland Security. She is Petitioner's immediate custodian and resides in the judicial district of the United States Court for the District of New Jersey.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. Petitioner has no administrative remedies available as he was not able to challenge the individualized assessment that he posed a flight risk or was a danger to the community as required by immigration law in cases involving 1226a detentions. Pursuant to currently operative policy, ICE has taken the position that individuals like Petitioner are subject to mandatory detention. Respondent Pam Bondi, who as Attorney General oversees the Executive Office of Immigration Review that employs immigration judges, has overseen the implementation of policies of categorically denying bond hearings to individuals such as Petitioner. There is no avenue for administrative review, and assuming arguendo any such review existed, it would be futile.

8. Petitioner's only remedy is by way of this judicial action in seeking protection from having his Fourth Amendment and his Fifth Amendment Procedural Due Process rights violated.

STATEMENT OF FACTS

9. Petitioner is a national and citizen of Senegal who turned himself in at the border on or about 2023. He was in immigration proceedings and released under 236 and 1226 authority.

10. On or about April 6, 2024 petitioner filed his application for relief in the form of I-589 application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture.
11. On or about October 22, 2025, petitioner was in the canal street area when DHS/ICE began to round up all people of color and who looked of foreign descent. They detained so many people that even US Citizen's were detained and the procedure was to detain and then find out the legal status of the petitioner and others. ICE/DHS had no probable cause for the arrest they had no list of names or cases but used the information gathered after the unlawful seizure as means to continue petitioner's detention.
12. Petitioner was whisked away and placed in a holding tank with others that had been similarly arrested as himself.
13. The officers for ICE or DHS began to detain numerous people without any individualized assessments as to whether petitioners posed a flight risk or a danger to the community or had legal status.
14. Petitioner was then placed in the holding area and then taken to Delaney Hall in New Jersey where they are being detained with no legal information in their

native language and no information on challenging the arrest determination or given access on preparing a Habeas Corpus to file with this Court.

15. Petitioner was not notified by DHS/ICE of any availability to file bond or a habeas corpus petition and was denied the opportunity seek release. The Holding area at Delaney Hall, New Jersey neither provides paper nor envelopes which he could have used to prepare his petition, constituting another violation of his Due Process rights.
16. Petitioner did not receive any notice or opportunity to be heard as to whether a change of custody was warranted or given a means to provide evidence that his arrest was not necessary.
17. Petitioners have not been allowed to call any nonprofit nor have any opportunity to seek representation given strict limitations on call time and the fact that the facility does not have instructions in their language.
18. Respondents' violations of Petitioner's Fourth Amendment right to be protected from Unlawful Seizure and his Fifth Amendment right to Procedural Due Process rights are very serious. First, they detained him without justification; second, they denied him access to counsel which is guaranteed

under Due Process; and third, they subjected him to conditions that violated the basic principles of Due Process.

19. Respondents' ongoing detention of petitioner with no due process at all, and much less a prior notice, no showing of changed circumstances, or an opportunity to respond is a clear violation of his Due process rights. The fact that respondent was also Unlawfully Seized shows that his Fourth Amendment was also violated.

20. Respondents' decision to violate petitioners Fourth Amendment and his Procedural Due Process rights and subject him to these violations is a grave violation of the Fifth Amendment's. The failure of providing petitioner who is pro se availability to petition this court or any other after the detention is a continued violation of these rights.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

21. Petitioners alleges and incorporates by reference paragraphs 1 through 21 above.

22. Petitioners' detention violates his right to protection from Unlawful Seizure and his procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO STATUTORY CLAIM

23. Petitioners alleges and incorporates by reference paragraphs 1 through 22 above.

24. Petitioner's continued detention violates the Immigration and Nationality Act, The Administrative Procedure Act, and the U.S. Constitution's Fifth Amendment Procedural Due Process Clause, and his Fourth Amendment.

COUNT THREE

25. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter.
2. Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this district pending these proceedings.

3. Issue an order directing Respondents to show cause why the writ should not - be granted within 7-21 days to safeguard his Procedural Due Process rights.

4. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond or reasonable conditions of supervision show.

5. Award Petitioner reasonable costs and attorney's fees; and,

6. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

Date: 10/23/2025

N Diaye
Next of Kin
On Behalf of
Modou Mboup
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