

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

Mamadou Kaly Bah,

Petitioner,

v.

John TSOUKARIS, in his official capacity as Deputy Field Office Director of New Jersey, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of Homeland Security; and Pamela BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS
PURSUANT TO 28 U.S.C. §
2241**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

Petitioner Mamadou Kaly Bah is a 38-year-old man from Guinea, who was, upon information and belief, released on recognizance into the United States on or around January 29, 2024. On October 23, 2025, Petitioner was forcibly arrested by the Department of Homeland Security (DHS) after attending an ICE check-in. Notwithstanding the fact that Petitioner had filed a timely application for asylum and the fact that the Honorable Theodora Kouris had scheduled a subsequent master calendar hearing for Petitioner for January 7, 2026, DHS agents detained Petitioner without explanation at a routine ICE check-in.

There have not been—nor have Respondents alleged any—changes since Petitioner was initially released on his own recognizance from detention into the United States. He remains

procedurally in *exactly* the same posture as when he was initially released: in removal proceedings before an immigration judge pursuant to Section 240 of the Immigration and Nationality Act. Moreover, there have been no changed circumstances as to whether Petitioner is a flight risk or danger to the community. On the contrary, Petitioner has established stronger ties to the community and complied with his legal obligations by attending a scheduled ICE check-in. Upon information and belief, he has never been arrested or charged by any law enforcement entity in the United States.

Petitioner's unlawful and continued detention pursuant to DHS's indiscriminate ICE check-in arrest policy—without any individualized determination as to why detention is appropriate—has caused immense and ongoing harm to Petitioner, his family, and his community. Mamadou Kaly Bah brings this petition to seek immediate release.

This pro se petition for a writ of habeas corpus is being filed by Mamadou Alpha Barry, hereinafter referred to as Next Friend, who is acting on his behalf to protect his rights and liberty. Next Friend is filing because Petitioner has been detained at Delaney Hall Correctional Facility since October 24, 2025, without access to counsel or the ability to file his own habeas. The detention center where Petitioner was taken has no instructions of information in Petitioner's native language and fails to provide a process for his own filing of this habeas corpus. The facility does not have the address of this court on any bulletin board or the information that they may challenge their unlawful detention by filing a habeas corpus available.

The person filing 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 the Petitioner is detained and without access to counsel of the ability to prepare a habeas corpus that he could sign and mail to this court. Because the place where Petitioner is detained and has no law library

access in his native language where he can prepare this habeas petition, Next Friend 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 [.]"). The Second Circuit precedent establishes a clear basis for the filing of a habeas corpus such as the one being filed before the court. The Petitioner is detained and has been neither informed nor allowed to prepare his own habeas filing to challenge detention.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. § 1252(e)(2), this Court has habeas authority to determine whether Petitioner was ordered removed under 8 U.S.C. § 1225(b)(1).
3. This Court may grant relief under the habeas corpus statutes, 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

4. Venue is proper because at the time of filing, Petitioner was detained at Delaney Hall Detention Facility, 451 Doremus Avenue, Newark, New Jersey, which is within the

jurisdiction of this District. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441 (2004) (citing *Ex Parte Endo*, 323 U.S. 283 (1944)).¹

5. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to her claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

6. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
7. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

8. Petitioner is lawfully present as an applicant for asylum, withholding of removal, and protection under the Convention Against Torture. Petitioner was detained by ICE at 26 Federal Plaza, New York, New York 10278 and is currently held at Delaney Hall Detention

¹ As of 10pm on October 25, 2025, the ICE detainee locator showed Petitioner as detained in New Jersey, and the Current ICE Facility as “Delaney Hall Detention Facility.”

Facility, 451 Doremus Avenue, Newark, New Jersey. He is in the custody, and under the direct control, of Respondents and their agents.

9. Respondent John Tsoukaris is named in his official capacity as the Deputy Field Office Director of the New Jersey ICE Field Office within DHS. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is a custodian of Petitioner. Respondent Joyce's address is Newark ICE Field Office, 970 Broad Street, 11th Floor, Newark, NJ 07102.
10. Respondent Kristi Noem is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in the District of New Jersey; is legally responsible for pursuing any effort to detain and remove Petitioner; and as such is a custodian of Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-04855.
11. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review ("EOIR"), pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the District of New Jersey and is legally responsible for administering Petitioner's removal and custody proceedings and for the standards used in those proceedings. As such, she is the custodian of Petitioner. Respondent Bondi's office is located at the United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530.

STATEMENT OF FACTS

12. Petitioner is a 38-year-old man citizen of Guinea. He timely sought asylum in the United States based on race, political opinion, and membership of a particular social group.
13. Upon information and belief, Petitioner was released from detention on his own recognizance into the United States on or about January 29, 2024. His case was docketed with the New York City Immigration Court.
14. On May 15, 2024, Petitioner filed timely a *pro se* application for asylum with the immigration court, detailing his fear of removal to Guinea
15. At the time of filing, Petitioner is scheduled for a master calendar immigration court hearing at 26 Federal Plaza on January 7, 2026.
16. Petitioner attended a required ICE check-in on October 23, 2025.
17. Petitioner was apprehended by ICE officers during his check-in. He was not informed why he was being arrested. Upon information and belief, aside from the January 29, 2024 apprehension by ICE, and initial detention at the border, Petitioner has not had any contact with law enforcement since entering the United States.
18. Petitioner was held at 26 Federal Plaza after his ICE check-in, appearing on the U.S. Immigration and Customs Enforcement's Online Detainee Locator System, as "in ICE Custody" at 26 Federal Plaza.
19. Petitioner was then transferred to Delaney Hall Detention Facility on October 24, 2025.

LEGAL FRAMEWORK

20. Since mid-May 2025, the DHS has been indiscriminately arresting noncitizens who attend ICE check-ins at immigration court buildings. ICE officers waiting in lobbies, hallways, and elevator wells in immigration court buildings arrest individuals leaving their hearings.
21. The ongoing civil arrests at immigration courts by Respondents stem from a significant change in policy and practice. On April 27, 2021, Respondents issued a memorandum titled “Civil Immigration Enforcement Actions in or near Courthouses.” That memo strictly limited civil immigration enforcement in or near courthouses to four specific circumstances: (1) national security threats; (2) imminent risk of death, violence, or physical harm; (3) hot pursuit of public safety threats; or (4) imminent risk of evidence destruction in criminal cases. Moreover, absent hot pursuit, ICE could only make civil arrests of public safety threats where no safe alternative location existed or with senior-level pre-approval. The memo explicitly covered immigration courts, and one of the core rationales underlying this policy was that “[e]xecuting civil immigration enforcement actions in or near a courthouse may chill individuals’ access to courthouses, and as a result, impair the fair administration of justice.”
22. This framework underwent a fundamental transformation on January 20, 2025, when Respondents rescinded the April 2021 Memo and issued new interim guidance. The guidance was finalized on May 27, 2025. In or around May 21, Respondents built upon this memo by initiating a policy of indiscriminate detentions at immigration courts around the country. No individualized custody review—considering, *inter alia*, pending applications for relief or other equitable factors such as age, health, or caretaking responsibilities—occurs.

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION
SUBSTANTIVE DUE PROCESS

23. The allegations in the above paragraphs are re-alleged and incorporated herein.
24. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
25. The government's ongoing detention of Petitioner is unjustified and unlawful.
26. While civil immigration detention is authorized by statute, that authorization does not free immigration detention from the constricts of the Constitution. See *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024). Courts have identified only two legitimate purposes for immigration detention: to "ensur[e] [the noncitizen's] appearance ... at future immigration proceedings," and to "[p]revent[] danger to the community." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Neither goal is served by Petitioner's detention.
27. Petitioner was detained by ICE at an ICE check-in, demonstrating that there was no need for detention to ensure his presence at those proceedings. His very presence at the ICE check-in at the time of his detention demonstrated that he was willing and able to attend his immigration proceedings.
28. Moreover, his detention jeopardizes Petitioner's ability to gather the evidence needed to equitably pursue his immigration relief.
29. The Due Process Clause guarantees detained immigrants the right to be detained in a safe situation, free from punitive conditions of confinement. See U.S. Const. amend. V.
30. Respondents' failure to adequately protect Petitioner from these punitive conditions, or release him from detention altogether, violates his due process rights.

31. Petitioner has no adequate remedy at law, as he seeks immediate release and may be ineligible for bond pursuant to *Matter of Yahure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
32. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION
PROCEDURAL DUE PROCESS

33. The allegations in the above paragraphs are realleged and incorporated herein.
34. Petitioner is being detained without cause and in violation of his Constitutional right to Due Process under the Fifth Amendment.
35. The Procedural Due Process Clause of the Fifth Amendment prohibits the government from depriving an individual of a protected interest without notice and an opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).
36. Respondents provided Petitioner with no notice or opportunity to be heard prior to arresting and detaining him.
37. Respondents have offered Petitioner no meaningful opportunity to be heard or challenge his detention since detaining him.
38. Petitioner has no adequate remedy at law, as he seeks immediate release and may be ineligible for bond pursuant to *Matter of Yahure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
39. Petitioner's detention thereby deprives him of his rights to Due Process under the Fifth Amendment of the United States Constitution.

COUNT THREE
VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

40. The allegations in the above paragraphs are realleged and incorporated herein.
41. The Administrative Procedure Act prohibits agency action that is arbitrary and capricious. 5 U.S.C. § 706(2)(A). An action is arbitrary and capricious if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).
42. Petitioner’s detention—where there was no change of circumstances supporting his detention—is arbitrary and capricious. Respondents had no reason to believe Petitioner had become a flight risk or danger to the community, and thus his detention was and is arbitrary and capricious.
43. Respondents’ courthouse ICE check-in arrest policy, whereby they indiscriminately detain individuals present in the U.S. for under two years irrespective of the individual circumstances in their case, is arbitrary and capricious in violation of the Administrative Procedure Act as applied to Petitioner. Petitioner’s arrest pursuant to this policy involved no individualized determination that justifies his detention.
44. Petitioner has no other adequate remedy at law. Even if he is released, so long as Respondents maintain this ongoing detention campaign, he may be subjected to it at any of her future hearings.

PRAYER FOR RELIEF


Wherefore, Petitioner respectfully requests this Court grant the following:

- 1) Assume jurisdiction over this matter;

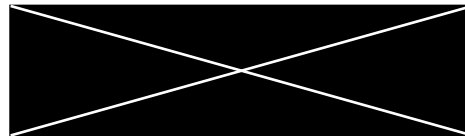
- 2) Order Respondents to show cause why the writ should not be granted within three days and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;
- 3) Enjoin Respondents from transferring Petitioner from the jurisdiction of this District pending these proceedings;
- 4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
- 5) Declare that Respondents' actions violate the Administrative Procedure Act;
- 6) Issue a Writ of Habeas Corpus ordering Respondents to release Mamadou Kaly Bah immediately;
- 7) Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- 8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

Date: October 25, 2025



Mamadou Alpha Barry, Next Friend



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

I am submitting this verification on behalf of Mamadou Kaly Bah because I have been close friends with him since 1998. We grew up together and have remained close throughout our entire lives. I know much of this information from my own personal interactions with Mr. Bah. On information and belief, I hereby verify the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: October 25, 2025



Mamadou Alpha Barry, Next Friend

