

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

DIANE EKEMBE,

Petitioner,

v.

ORLANDO PEREZ, in his official capacity as
Warden of the Laredo Processing Center,

MIGUEL VERGARA, in his official capacity as
Field Office Director of the Harlingen Field
Office, Immigration and Customs Enforcement,

KRISTI NOEM, in her official capacity as
Secretary of the United States Department of
Homeland Security, and

PAMELA BONDI, in her official capacity as
Attorney General of the United States Department
of Justice;

Respondents.

**EMERGENCY PETITION FOR A
WRIT OF
HABEAS CORPUS**

Case No.: 5:25-cv-00225

INTRODUCTION

1. Petitioner Diane Ekembe (“Ms. Ekembe”) petitions this Court on an emergency basis to issue a Writ of Habeas Corpus and release Ms. Ekembe from detention, or, at minimum, order Respondents (also collectively referred to as “the government”) to show cause for her continued detention within three days, or no later than 20 days, in accordance with 28 U.S.C. § 2243. Ms. Ekembe’s continued detention bears no reasonable relation to *any* legitimate government purpose and is therefore unconstitutional and contrary to the Immigration and Nationality Act for at least the following reasons.

2. First, Ms. Ekembe’s detention cannot continue when the government is barred from removing her to Cameroon and, after six months, has not effectuated her removal to any other country or identified any other country to which she can be removed. Second, the government cannot remove Ms. Ekembe to some other country without properly giving her notice and an opportunity to be heard regarding removal to that country. Because Respondents cannot justify Ms. Ekembe’s continued detention under the U.S. Constitution or federal statutes and regulations, she requests that this Court grant the writ and order Respondents to immediately release her from custody. 28 U.S.C. § 2241.

JURISDICTION AND VENUE

3. This action arises under the Constitution of the United States and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*

4. This Court has subject matter jurisdiction under Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause); Amend. V of the United States Constitution (Due Process Clause); 28 U.S.C. § 2241 (the general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 1651 (All Writs Act); and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

5. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by Immigration and Customs Enforcement (“ICE”). *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Oyelude v. Chertoff*, 125 F. App’x 543, 546 (5th Cir. 2005) (district courts retain jurisdiction to review detention “insofar as that detention presents constitutional issues, such as those raised in a habeas petition”); *Villanueva v. Tate*, No. H-25-3364, 2025 WL 2774610, at *6 (S.D. Tex. Sept. 26, 2025) (rejecting challenge to court’s

jurisdiction over claim that government lacks authority to hold immigrant in detention indefinitely while it tries to find a third country that will accept him).

6. Habeas is also an appropriate means to challenge a removal process that is constitutionally or statutorily improper. *See, e.g., Heikkila v. Barber*, 345 U.S. 229, 234–35 (1953) (habeas petition appropriate to challenge deportation on constitutional due process grounds); *Trump v. J. G. G.*, 604 U.S. 670, 672 (2025) (habeas petition appropriate to challenge removal under the Alien Enemies Act).

7. This Court is not barred by 8 U.S.C. § 1252(g) from considering Ms. Ekembe’s Petition because she challenges only the constitutional and statutory validity of the government’s actions taken toward her following the Immigration Judge’s decision and “do[es] not seek review of a decision that could invalidate [her] removal order[.]” *Duarte v. Mayorkas*, 27 F.4th 1044, 1055 (5th Cir. 2022); *Sagastizado Sanchez v. Noem*, No. 5:25-cv-00104, Dkt. No. 29, at 8 (S.D. Tex. Nov. 14, 2025) (finding § 1252(g) did not strip the court of jurisdiction to hear the petitioner’s challenge to his post-removal order detention); *see also Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) (§ 1252(g) “applies only to three discrete actions that the Attorney General may take: her ‘decision or action’ to ‘commence proceedings, adjudicate cases, or execute removal orders’”) (quoting 8 U.S.C. § 1252(g)).

8. Similarly, this Court is not barred by 8 U.S.C. §§ 1252(a)(5) or (b)(9) from considering Ms. Ekembe’s Petition because she is “not asking for review of an order of removal, the decision to seek removal, or the process by which removability will be determined.” *Texas v. United States*, 126 F.4th 392, 417 (5th Cir. 2025) (quoting *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020)); *see also Duarte*, 27 F.4th at 1056 (“[W]here review of an agency determination involves neither a determination as to the validity of the [petitioner’s] deportation order[.] or the review of any question of law or fact arising from [her] deportation

proceeding[], § 1252(a)(5) and (b)(9) should not operate as a bar to the district court’s review.”): *Sagastizado Sanchez*, No. 5:25-cv-00104, Dkt. No. 29, at 9 (holding court had jurisdiction to hear the petitioner’s statutory and constitutional claims challenging his post-removal order detention).

9. Though the government may assert that the pending class-action litigation certified in *D.V.D. v. U.S. Department of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. 2025), *stay granted*, 145 S. Ct. 2153 (2025), prevents this Court from awarding Ms. Ekembe the relief she individually seeks, this argument is without merit. Assuming without asserting that Ms. Ekembe is a member of the *D.V.D.* class, class membership does not preclude review of her individual claims because a decision in *D.V.D.* would not grant her adequate relief, and compelling circumstances urge consideration of her claims. Ms. Ekembe seeks relief from unlawful prolonged detention, which is not contemplated in the *D.V.D.* litigation. *See, e.g., Medina v. Noem*, No. 25-cv-1768-ABA, 2025 WL 2306274, at *12 (D. Md. Aug. 11, 2025) (stay or dismissal in individual case based on *D.V.D.* inappropriate where petitioner challenged his continued detention and *D.V.D.* instead addresses certain issues with respect to removal); *cf. Sagastizado Sanchez*, No. 5:25-cv-00104, Dkt. No. 26, at 16 (S.D. Tex. Oct. 2, 2025) (petitioner’s membership in the *D.V.D.* class does not preclude the Court from enjoining petitioner’s removal to a third country without sufficient process). Additionally, it is “counterintuitive that non-opt-out class membership, for the purposes of granting a preliminary injunction to prevent removal without due process, could prevent individuals from making their own claims for due process while that injunction is stayed on a class-wide basis.” *Sagastizado Sanchez*, No. 5:25-cv-00104, Dkt. No. 26, at 16; *see also Baatz v. Col. Gas Transmission, LLC*, 814 F.3d 785, 793–94 (6th Cir. 2016) (“[A] district court can abuse its discretion by dismissing a case under the first-to-file rule when doing so could adversely affect a party’s interests.”); *Vaskanyan v. Janecka*, No. 25-cv-01475, 2025 WL 2014208, at *7 (C.D. Cal. June 25, 2025) (“[N]ow that the [*D.V.D.*] preliminary injunction has

been stayed, the Court is persuaded by Petitioner’s argument that Respondents may try to remove him to a third country without affording him adequate notice and opportunity to be heard.”).

10. Venue is proper under 28 U.S.C. § 2241(d) and 28 U.S.C. §§ 1391(b)(2) and (e)(1) because Ms. Ekembe is presently detained at the Laredo Processing Center in Laredo, Texas, within the jurisdiction of the Southern District of Texas.

REQUIREMENTS OF HABEAS 28 U.S.C. § 2243


11. This Court should grant this application for a writ of habeas corpus “forthwith” or, at minimum, issue an order directing Respondents to show cause why the writ should not be granted. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents shall have no more than three days to file a return, unless for good cause this Court grants additional time not to exceed 20 days. *Id.*

12. Upon return, a hearing shall be set for no more than five days following the return, unless for good cause this Court permits additional time. *Id.* “The court shall summarily hear and determine the facts, and dispose of the matter as law and justice require.” *Id.*

13. The importance of habeas as a means of protecting individuals, including noncitizens, from unlawful detention is well-established. *See Rasul v. Bush*, 542 U.S. 466, 474 (2004) (“At its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” (cleaned up)); *Ramirez v. Watkins*, No. B:10-126, 2010 WL 6269226, at *20 (S.D. Tex. Nov. 3, 2010) (“Supervision of the reasonableness of detention through the habeas process . . . provides justified protection of the [noncitizen’s] liberty interest and conserves judicial resources.”).

PARTIES

14. Ms. Ekembe is a Cameroonian national who is detained at the Laredo Processing Center in Texas. Ex. 1, Declaration of Diane Ekembe, at ¶¶ 2, 11, 14. She fled Cameroon after

 *Id.* ¶ 6. On May 15, 2025, an Immigration Judge (“IJ”) sitting in Laredo, Texas ordered that Ms. Ekembe be removed to Cameroon but also withheld that removal pursuant to a grant of withholding of removal under § 241(b)(3). Ex. 2 (IJ Order). Ms. Ekembe was first detained in December 2024, and has remained in detention since the IJ’s May 15, 2025 order (almost a year total in detention). Ex. 1 at ¶ 5.

15. Respondent Orlando Perez is the Warden of the Laredo Processing Center, which detains individuals suspected of immigration violations pursuant to a contract with ICE. Respondent Perez is an immediate physical custodian responsible for Petitioner’s detention. He is sued in his official capacity.

16. Respondent Miguel Vergara is the Field Office Director of the Harlingen field office of ICE, which is responsible for ICE activities in the Harlingen Area of Responsibility, which encompasses the Laredo Processing Center. Respondent Vergara is an immediate legal custodian responsible for the arrest and detention of Ms. Ekembe. He is sued in his official capacity.


17. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security, which is a cabinet-level department of the United States government. She is sued in her official capacity. In that capacity, Respondent Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is ultimately responsible for ICE operations.

18. Respondent Pamela Bondi is the Attorney General of the United States Department of Justice. Respondent Bondi is sued in her official capacity. In this capacity, she is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g) and directs agencies within the United States Department of Justice, including the Executive Office for Immigration Review (EOIR), which houses the immigration courts and Board of Immigration Appeals.

STATEMENT OF FACTS

Ms. Ekembe's Grant of Withholding of Removal

19. Ms. Ekembe is a 37-year-old Cameroonian citizen. Ex. 1 at ¶¶ 2–3. She is not a citizen or resident of any other country and has not lived in any country other than Cameroon and the United States. *Id.* ¶¶ 3–4.

20. Ms. Ekembe last entered the United States in December 2024 after fleeing  *Id.* ¶¶ 5–6. She was detained shortly after entry into the United States, and, after being placed into removal proceedings under 8 U.S.C. § 1229a, Ms. Ekembe filed an application for asylum, withholding of removal, and relief under CAT. She remained detained at the Laredo Processing Center for the duration of her removal proceedings. *Id.*

21. On May 15, 2025, an IJ sitting in Laredo, Texas held a hearing on Ms. Ekembe's application. During the hearing, the IJ stated that Ms. Ekembe had met the criteria to be granted asylum but could not receive asylum based on an asylum border ban. *Id.* ¶ 7. The IJ found Ms. Ekembe to be removable but granted her withholding of removal under INA § 241(b)(3). Ex. 2 (IJ Order). The IJ's order provides that Ms. Ekembe's removal be withheld and does not designate any other country for removal.¹ *Id.* at 1, 3.

22. All parties waived appeal. As such, the IJ's decision ordering removal but granting withholding of removal became final on the date it was issued, May 15, 2025. *Id.* at 4.

23. As of this filing, more than 180 days of post-removal detention have passed and, despite obtaining relief, Ms. Ekembe remains detained.

¹ The IJ Order itself does not designate any country of removal. Ex. 2 at 3. The Notice to Appear issued to Ms. Ekembe lists Cameroon as her country of citizenship. Ex. 7 (Notice to Appear).

24. Shortly after the IJ granted Ms. Ekembe withholding of removal, a deportation officer informed Ms. Ekembe that she would be removed to a third country, but she was later informed that it would be difficult to find a third country for removal. Ex. 1 at ¶ 8.

25. While in the Laredo Processing Center, Ms. Ekembe has repeatedly requested information about her prolonged detention. *Id.* ¶¶ 11–12. In response, deportation officers have told her that she will either remain detained or be removed to a third country, but have never identified a specific third country to which she would be removed. *Id.* ¶¶ 8–10. A deportation officer also informed Ms. Ekembe that the 90-day custody review (which, like the 180-day custody review, ICE must conduct pursuant to 8 C.F.R. § 241.4) would not result in her release from detention. *Id.* ¶ 11. Ms. Ekembe never received any additional information about her mandatory 90-day or 180-day custody review. *Id.* ¶ 12.

26. Pursuant to the IJ’s May 15, 2025 order, Ms. Ekembe cannot be removed to Cameroon. Ex. 2 at 1, 3. ICE has not identified any third country that will accept Ms. Ekembe or otherwise indicated that her removal is reasonably foreseeable. *Id.* at 3; Ex. 1 at ¶¶ 9–10.

DHS and ICE Directives and Practices Regarding Third-Country Removal

27. Upon information and belief, on February 18, 2025, ICE issued a directive encouraging the use of third country removal for individuals granted withholding of removal and CAT protection. Ex. 3.²

28. On March 30, 2025, DHS issued a memorandum concerning “Guidance Regarding Third Country Removal.” Ex. 4. This memorandum sets forth a procedure for deportation to a third country for noncitizens like Ms. Ekembe, who were granted withholding of removal or CAT protection. *Id.* at 1. The memorandum provides that, if the Department of State has received a

² This document was filed as an exhibit in *D.V.D. v. U.S. Department of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. 2025), *stay granted*, 145 S. Ct. 2153 (2025) as Dkt. No. 1, Attachment C.

credible diplomatic assurance that, broadly speaking, a third country will not persecute or torture individuals deported to that country, then noncitizens like Ms. Ekembe who were granted withholding of removal or CAT protection may be removed to that third country without due process. Ex. 4 at 1–2.

29. On July 9, 2025, ICE issued a directive affirming that ICE employees should adhere to the March 30, 2025 memorandum. Ex. 5.³

30. Upon information and belief, Respondents have removed noncitizens to third countries, including El Salvador, Panama, Costa Rica, Honduras, Ghana, South Sudan, Eswatini, Uzbekistan, and Mexico. *See* Ex. 6 at 1–22.

31. Upon information and belief, the diplomatic assurances that the Department of State has obtained from third countries have not prevented those third countries from subsequently deporting noncitizens to the same countries where they fear persecution or torture and for which their removal by the United States had been withheld or deferred due to a grant of withholding of removal or CAT protection. *See* Ex. 6 at 3–4.

32. Ms. Ekembe fears that removal to any third country will result in refolement to Cameroon. Ex. 1 at ¶ 13.

33. Ms. Ekembe fears for her life and freedom if she is removed to a third country. *Id.*

³ This document was filed as an exhibit in *D.V.D. v. U.S. Department of Homeland Security*, 778 F. Supp. 3d 355 (D. Mass. 2025), *stay granted*, 145 S. Ct. 2153 (2025) as Dkt. No. 150.

LEGAL FRAMEWORK

A. The Immigration and Nationality Act (“INA”) and the Due Process Clause of the Constitution Prohibit the Government from Indefinitely Detaining Noncitizens Granted Withholding of Removal under the INA § 241(b)(3).

34. The Supreme Court established in *Zadvydas* and *Clark* that both the INA and the Due Process Clause of the Constitution limit the government’s detention of a noncitizen. *See Clark v. Suarez Martinez*, 543 U.S. 371 (2005); *Zadvydas*, 533 U.S. 678.

35. The INA, 8 U.S.C. § 1231(a), authorizes the detention of a noncitizen with a final removal order during the “removal period”—the 90-day period after an Immigration Court enters an administratively final order of removal.

36. Under § 1231(a)(6), a noncitizen ordered removed and deemed inadmissible by an immigration judge “may be detained beyond the removal period,” “but only for so long as is reasonably necessary to achieve removal.” *Clark*, 543 U.S. at 371.

37. Detention beyond the 90-day period is reasonable “only for a period consistent with the purpose of effectuating removal.” *Clark*, 543 U.S. at 384.

38. Further, while detention for up to six months is presumptively reasonable, “once [a noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing” to establish that detention beyond six months is reasonably necessary. *Zadvydas*, 533 U.S. at 699-701.

39. Detention is unreasonable where the government fails to demonstrate a “substantial likelihood of removal.” *Clark*, 543 U.S. at 378, 386.

40. The facts show there is not a significant likelihood of removal for Ms. Ekembe in the reasonably foreseeable future, and the government cannot show continued detention is reasonably necessary.

41. Neither the Immigration Court nor the government designated an alternate country for Ms. Ekembe's removal, nor does Ms. Ekembe have legal residence (or any other immigration status) in an alternate country. *See* Ex. 2; Ex. 1 at ¶ 3. The government also has not identified a third country for potential removal nor sought to reopen Ms. Ekembe's removal proceedings to seek her removal to an alternate country. Ex. 1 at ¶¶ 9–12. Under *Clark*, no “substantial likelihood of removal subsists despite the passage of six months” where the government is “no longer even involved in” negotiations with a potential country of removal. 543 U.S. at 386.

42. As such, Ms. Ekembe's continued detention is no longer reasonably necessary for removal and violates the INA. *Sagastizado Sanchez*, No. 5:25-cv-00104, Dkt. No. 29, at 16–20 (finding the petitioner's detention of more than 180 cumulative days to be presumptively unreasonable and ordering his release absent evidence of a significant likelihood of removal in the reasonably foreseeable future).

43. Separately from the INA, the Due Process Clause of the Constitution prohibits detention of a noncitizen absent a legitimate government purpose for detention. *See Zadvydas*, 533 U.S. at 689–90; *see also Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 338 (S.D. Tex. 2020).

44. Further, under the Due Process Clause, civil detention, such as detention of an immigrant post-removal proceedings, must be non-punitive. *See Cadena v. El Paso Cnty.*, 946 F.3d 717, 727 (5th Cir. 2020). Detention conditions that amount to punishment violate the immigrant's substantive due process rights. *Id.*

45. Although the “basic purpose [of] effectuating [a noncitizen's] removal” is a legitimate government purpose, *Zadvydas*, 533 U.S. at 697, detention for this purpose may only be for a “very limited time.” *Demore*, 538 U.S. at 529 n.12; *Lawal v. Lynch*, 156 F. Supp. 3d 846, 853 (S.D. Tex. 2016).

46. Additionally, the Supreme Court has repeatedly affirmed that detention must be constitutional as-applied to noncitizens regardless of what is authorized, or even mandated, by a detention statute. *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (explicitly declining to reach “constitutional arguments on their merits” after finding no statutory limit on the length of mandatory immigration detention under 8 U.S.C. § 1226(c)); *see also Nielsen v. Preap*, 586 U.S. 392, 420 (2019) (“Our decision today on the meaning of [§ 1226(c)] does not foreclose as-applied challenges—that is, constitutional challenges to applications of the statute as we have now read it.”).

47. Accordingly, even if the government is purporting to detain a noncitizen within the period authorized by the INA, it must still show a legitimate, non-punitive government purpose; namely, that it is seeking to effectuate the noncitizen’s removal and that the noncitizen’s removal is practical and attainable. The government has done neither as applied to Ms. Ekembe. Ex. 1 ¶¶ 8–13.

B. Due Process Requires DHS to Provide Notice and Opportunity to Present a Fear-Based Claim Before Deportation to a Third Country.

48. Ms. Ekembe cannot be removed to Cameroon pursuant to the IJ’s order granting her withholding of removal. Ex. 2 at 1, 3–4. Moreover, no alternative countries of removal have been designated for Ms. Ekembe. *Id.* at 3.

49. To date, the government has not identified a third country willing to accept Ms. Ekembe nor notified Ms. Ekembe of its intention to remove her to a specific third country. Ex. 1 ¶¶ 9–10.

50. Although there is no evidence establishing Ms. Ekembe’s removal is substantially likely, recent events have raised concerns that, in response to this Petition, the government may now act with haste to effectuate Ms. Ekembe’s removal to a third country and that such removal

would occur without adequate notice and opportunity to apply for protection. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) (“[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.” (internal quotation marks omitted) (citations omitted)); Mem. Op. and Order at 5, *D.A. v. Noem*, No. 1:25-cv-03135, ECF No. 41 (D.D.C. Sep 15, 2025) (“Here, Defendants transported Plaintiffs to Ghana with no notice or opportunity to challenge that removal, under what appears to be a hasty and unwritten agreement with Ghana, which has indicated its intention to return Plaintiffs to their home countries where Defendants agree they will almost certainly be persecuted.”).⁴

51. Under the Due Process Clause and the INA, Ms. Ekembe is entitled to receive adequate notice and an opportunity to be heard on a fear-based claim before being removed to an unidentified third country. *See* U.S. Const., Amend. V; *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Mathews v. Eldridge*, 424 U.S. 319, 332-33 (1976); *see also* 8 U.S.C. 1231; 8 C.F.R. § 1208.16; *Mahdejian v. Bradford*, No. 9:25-CV-00191, 2025 WL 2269796, at *4 (E.D. Tex. July 3, 2025) (stating that the noncitizen must be provided with notice of the proposed country of removal in order to exercise his due process right to be heard); *Kuhai v. INS*, 199 F.3d 909, 913 (7th Cir. 1999) (holding that the noncitizen must be given the opportunity to brief removal to a third country when there was no indication during removal proceedings that she could be removed there); *Su Hwa She v. Holder*, 629 F.3d 958, 965 (9th Cir. 2010) (“It follows that a failure to provide notice and, upon request, stay removal or reopen the case for adjudication of [the noncitizen’s] applications as to Burma would constitute a due process violation if Burma becomes

⁴ Several news outlets report that after the U.S. government recently removed noncitizens to third countries, those third countries then deported them to their home countries, despite the U.S. having granted withholding of removal to their home countries. *See, e.g.,* Nicholas Riccardi, Chinedu Asadu and Edward Acquah, *Ghana says all immigrants deported by the US have been sent home, contradicting lawyers*, ASSOCIATED PRESS (Sept. 16, 2025), <https://apnews.com/article/us-ghana-deportations-trump-third-countries-africa-efbec16e3725e3065b2578ccc7a175a2>; *West Africans sent by US to Ghana have been deported, lawyer says*, REUTERS (Sept. 23, 2025), <https://www.reuters.com/world/africa/west-africans-sent-by-us-ghana-have-been-deported-lawyer-says-2025-09-23/>.

the proposed country of removal.”); *Romero v. Evans*, 280 F. Supp. 3d 835, 847 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims.”), *aff’d sub nom. Guzman Chavez v. Hott*, 940 F.3d 867 (4th Cir. 2019), *reversed sub nom. on other grounds Johnson v. Guzman Chavez*, 594 U.S. 523 (2021).

52. Removal to an unknown third country without an adequate opportunity to present a fear-based claim would violate Ms. Ekembe’s procedural due process rights.

53. Ms. Ekembe fears that she will be harmed if she is removed to any third country and that she could be returned from that third country to Cameroon. Ex. 1 at ¶ 13.

54. To ensure the protection of Ms. Ekembe’s due process rights, Respondents should provide Ms. Ekembe, her counsel, and the Court with written notice of the name of the proposed country of removal and confirmation that the proposed country has agreed to accept Ms. Ekembe at least 10 days before any removal to a third country is initiated.

CLAIMS FOR RELIEF

COUNT I

Ms. Ekembe’s Indefinite Detention Violates the Immigration and Nationality Act

55. Ms. Ekembe realleges and incorporates by reference all paragraphs above as if fully set forth herein.

56. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for “a period reasonably necessary to bring about the [noncitizen’s] removal from the United States,” and a post-removal order detention exceeding six months is presumptively unreasonable. 533 U.S. at 689, 701.

57. Ms. Ekembe’s detention has already lasted for more than six months, exceeding both the 90-day removal period and the presumptively reasonable six-month period.

58. The government cannot show that her continued detention is reasonably necessary.

59. Consequently, Ms. Ekembe's detention is not for a legitimate, non-punitive government purpose and is therefore unconstitutional.

60. Ms. Ekembe's continued detention violates 8 U.S.C. §1231(a)(6), and she should be immediately released. *See Sagastizado Sanchez*, No. 5: 25-cv-00104, Dkt. No. 29, at 16–20.

COUNT II

Ms. Ekembe's Indefinite Detention Violates the Due Process Clause of the U.S. Constitution

61. Ms. Ekembe realleges and incorporates by reference all paragraphs above as if fully set forth herein.

62. Ms. Ekembe's detention is unreasonable and for no legitimate purpose.

63. The Due Process Clause of the U.S. Constitution authorizes civil detention only for a legitimate, non-punitive government purpose.

64. Ms. Ekembe's post-order detention of more than six months has no legitimate, non-punitive government purpose. Therefore, her continued detention violates the Due Process clause, and she should be immediately released.

COUNT III

Removal to an Undisclosed Third Country Would Violate the Due Process Clause of the U.S. Constitution

65. Ms. Ekembe restates and realleges and incorporates by reference all paragraphs above as if fully set forth herein.

66. “[T]he Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings.” *Trump v. J. G. G.*, 604 U.S. at 673 (internal quotation marks omitted). “Procedural due process rules are meant to protect” against “the mistaken or unjustified deprivation of life, liberty, or property.” *Carey v. Piphus*, 435 U. S. 247, 259 (1978). The Supreme Court has long held that “no person shall be” removed from the United States “without opportunity,

at some time, to be heard.” *Yamataya v. Fisher*, 189 U.S. 86, 101 (1903). Due process requires notice that is “reasonably calculated, under all the circumstances, to apprise interested parties” and that “afford[s] a reasonable time . . . to make [an] appearance.” *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 314 (1950).

67. The IJ Order granted Ms. Ekembe withholding of removal to Cameroon. The government has neither identified a third country for potential removal nor sought to reopen Ms. Ekembe’s removal proceedings to seek her removal to an alternate country.

68. Removing Ms. Ekembe without affording her notice of the country of intended removal or any opportunity to be heard on a fear-based claim related to that country would violate the Due Process Clause.

PRAYER FOR RELIEF

WHEREFORE, Ms. Ekembe respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- c. Declare that Ms. Ekembe’s continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
- d. Order Respondents and individuals acting in concert with them to immediately release Ms. Ekembe;
- e. Enjoin Respondents and individuals acting in concert with them from transferring Ms. Ekembe out of this judicial district;
- f. Order Respondents and individuals acting in concert with them that, if Respondents intend to remove Ms. Ekembe to a third country, they provide Ms. Ekembe, her counsel, and the Court with written notice of the third country

to which Respondents intend to remove her, and confirmation from that third country that it has agreed to accept Ms. Ekembe, at least 10 days before any removal is initiated;

- g. Enjoin Respondents and individuals acting in concert with them from re-detaining Ms. Ekembe unless such re-detention is authorized by law, including 8 C.F.R. § 241.13; and
- h. Grant such further relief as the Court deems just and proper.

Dated: November 18, 2025

/s/ Micah Doak

Micah Doak (Attorney in Charge)
Bar No. 24097607
SDTX Fed. No. 2799047
Daniel Bleiberg Bar No. 24097392
SDTX Fed. No. 3939965
JONES DAY
717 Texas, Suite 3300
Houston, Texas 77002
Office: +1.832.239.3939
Facsimile: +1.832.239.3600

Evan P. Singer
Bar No. 24037501
SDTX Fed. No. 893387
JONES DAY
2727 North Harwood Street
Dallas, TX 75201.1515
Office: +1.214.220.3939
Facsimile: +1.214.969.5100
Email: epsinger@jonesday.com

Alex McDonald (pro hac vice application
forthcoming)
Georgia Bar No. 877484
JONES DAY
1221 Peachtree St NE Suite 400
Atlanta, GA 30361
Office: +1.404.581.8369
Email: alexmcdonald@jonesday.com

Pro Bono Counsel for Petitioner

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

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: November 18, 2025

/s/ Micah Doak

Micah Doak (Attorney in Charge)
Bar No. 24097607
SDTX Fed. No. 2799047
Daniel Bleiberg Bar No. 24097392
SDTX Fed. No. 3939965
JONES DAY
717 Texas, Suite 3300
Houston, Texas 77002
Office: +1.832.239.3939
Facsimile: +1.832.239.3600

Evan P. Singer
Bar No. 24037501
SDTX Fed. No. 893387
JONES DAY
2727 North Harwood Street
Dallas, TX 75201.1515
Office: +1.214.220.3939
Facsimile: +1.214.969.5100
Email: epsinger@jonesday.com

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Office: +1.404.581.8369
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Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on the 18th day of November, 2025, I electronically filed the foregoing Petition for Writ of Habeas Corpus with the Clerk of the Court using the CM/ECF system, and served a copy of such filing via mail and/or electronic mail upon:

Attorney General of the United States (via mail)
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Civil Process Clerk (via mail and electronic mail)
United States Attorney's Office, S.D. Texas
1000 Louisiana St., Suite 2300,
Houston, Texas 77002
USATXS.CivilNotice@usdoj.gov

U.S. Department of Homeland Security (via mail)
Office of the General Counsel
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

Laredo Processing Center (via mail)
Warden of the Laredo Processing Center
4702 E Saunders St
Laredo, TX 78041

/s/ Micah Doak

Micah Doak (Attorney in Charge)
Bar No. 24097607
SDTX Fed. No. 2799047
Daniel Bleiberg Bar No. 24097392
SDTX Fed. No. 3939965
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Atlanta, GA 30361
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Email: alexmcdonald@jonesday.com

Pro Bono Counsel for Petitioner

EXHIBITS

1. Declaration of Diane Ekembe
2. Order from IJ granting withholding of removal (May 15, 2025)
3. ICE Directive (Feb. 18, 2025)
4. DHS Memo titled “Guidance Regarding Third Country Removal” (March 30, 2025)
5. ICE Directive (July 9, 2025)
6. Letter from Senator Elizabeth Warren to Secretary Noem, Secretary Rubio and Secretary Hegseth (Sept. 24, 2025)
7. Petitioner’s Notice to Appear, dated February 1, 2025