

**U.S. DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

(1) Habib Abdul Ganiyu,)	
)	
Petitioner,)	
-vs.-)	Case No.
)	
(1) Kristi Noem, Secretary, U.S.)	
Department of Homeland Security,)	
in her official capacity;)	
(2) Pamela Bondi, U.S. Attorney)	
General, in her official capacity;)	
(3) Todd Lyons, Acting Director,)	
Immigration and Customs)	
Enforcement, in his official capacity;)	
(4) Sam Olsen, Field Office Director of)	
Enforcement and Removal)	
Operations, Chicago Field Office,)	
Immigration and Customs)	
Enforcement, in his official capacity;)	
(5) Daren Margolin, Director of the)	
Executive Office of Immigration)	
Review, in his official capacity;)	
(6) Steve Kelley, Warden of Kay County)	
Detention Facility, in his official)	
capacity)	
)	
Respondents.)	
)	

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Habib Abdul Ganiyu is in the physical custody of Respondents at the Kay County Detention Facility. He now faces unlawful detention because the

Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with having entered the United States without admission or inspection. *See* 8 U.S.C. §1182(a)(6)(A)(i).

3. The Department of Homeland Security ("DHS") issued a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under §1182(a)(6)(A)(i)-i.e., those who entered the United States without admission or inspection-to be subject to detention under 8 U.S.C. §1225(b)(2)(A) and therefore ineligible to be released on bond. According to one court, DHS "revisited its legal position on detention and release authorities" and "determined that [section 1225]..., rather than [section 1226], is the applicable immigration detention authority for all applicants for admission," meaning all non-citizens who were "present in the United States [without having] been admitted," 8 U.S.C. § 1225(a)(1). *See Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 217–18 & n.10 (D. Mass. 2025) (quoting the same internal ICE memorandum issued by Acting Director Todd M. Lyons).

4. Thereafter, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. §1225(b)(2)(A) and are therefore ineligible to be released on bond.

5. Respondents' new legal interpretation is plainly contrary to the statutory framework, contrary to decades of agency practice and violates the Due Process Clause.

6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released or in the alternative require Respondents to provide a bond hearing within five days.

JURISDICTION

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

8. This Court has jurisdiction under 28 U.S.C. §2241(c)(1), (3) (habeas corpus), 28 U.S.C. §1331 (federal question), Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause), and U.S. Const. amend. V (the Due Process Clause).

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

1. 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. Respondent Steve Kelley, Warden of the Kay County Detention Facility, the immediate custodian of Petitioner, is in the Western District of Oklahoma.

2. 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

3. 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.*

4. 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 comers of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

5. Petitioner Habib Abdul Ganiyu is a citizen of Ghana who has been in immigration detention since October 27, 2025. He was taken into custody in Chicago, Illinois, at the ICE Field Office. After taking custody of Petitioner, ICE did not set bond. Petitioner did not apply for a bond with the Immigration Court due to the Lyons memo and the binding decision of the BIA in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

6. 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.

7. 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.

8. Respondent Todd Lyons is the Acting Director for Immigration and Customs Enforcement. As such, he is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

9. Respondent Sam Olsen is the Field Office Director of Enforcement and Removal Operations of the Chicago ICE Field Office. As such, Olsen is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

10. Respondent Daren Margolin is the Director of EOIR with the Department of Justice. EOIR (the Executive Office for Immigration Review) includes the immigration court system. He is sued in his official capacity.

11. Respondent Steve Kelley is employed by the Kay County Detention Facility as warden of the facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

FACTS

12. Petitioner entered the United States on June 19, 2024.

13. He was taken into custody and issued a Notice to Appear, dated June 19, 2024.

14. ICE charged Petitioner in Immigration Court as being inadmissible under

8 U.S.C. §1182(a)(6)(A)(i) as someone who entered the United States without inspection.

15. On June 19, 2024, Petitioner was released on an Order of Release on Recognizance, which stated, “You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act..., you are being released on your own recognizance...”

16. He has resided in Chicago, Illinois, since that time.

17. Petitioner subsequently filed an asylum application claiming religious persecution in his home country.

18. In the United States, Respondent has U.S. citizen stepmother, a U.S. citizen sister, three U.S. citizen stepsisters, two U.S. citizen uncles, a U.S. citizen aunt, and a U.S. citizen fiancée.

19. Petitioner managed a Domino’s Pizza in Chicago.

20. Petitioner also worked as a teacher for the Zongo Community Association in Chicago, teaching Arabic.

21. ICE has charged Petitioner in Immigration Court as being inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) as someone who entered the United States without inspection.

22. Petitioner has resided in the United States continuously for over one year. He has no criminal convictions. In summary, Petitioner is not a flight risk nor a danger to society.

23. Following Petitioner's arrest and transfer to the Kay County Detention Facility, ICE issued a custody determination to continue Petitioner's detention without an

opportunity to post bond or be released on other conditions.

24. Petitioner could not request an immigration bond given that all immigration judges are subject to the binding precedent that those who entered the country without admission or parole are ineligible for a bond hearing. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

25. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

27. The mandatory detention provision at 8 U.S.C. §1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those released under 8 U.S.C. §1226 on an Order of Release on Recognizance. Section 1226 governs a separate (non-mandatory) detention scheme applicable when an individual is “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

28. The application of §1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of Due Process

29. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs as if fully set forth herein.

30. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment-from government custody, detention, or other forms of physical restraint-lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

31. Petitioner has a fundamental interest in liberty and being free from official restraint.

32. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

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. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §1226(a) within five days;
- e. Declare that Petitioner's detention is unlawful;

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 1st day of December 2025.

s/Steven F. Langer

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ATTORNEY FOR PETITIONER

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

I represent Petitioner, Habib Abdul Ganiyu, 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 1st day of December 2025.

s/Steven F. Langer
STEVEN F. LANGER