

Ricky A. Palladino
Palladino, Isbell, and Casazza LLC
1528 Walnut Street, Suite 1701
Philadelphia, PA 19102
ricky@piclaw.com
(215) 576-9000
Application for Pro Hac Vice Pending

Thomas Evans
Kuck Baxter LLC
P.O. Box 501359
Atlanta, Georgia 31150
Tel.: (404) 949-8176
tevans@immigration.net
Designated Local Counsel

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

Mohamed Kone

Petitioner,

v.

Jason STREEVAL, in his official capacity as Warden of the Stewart Detention Center; Sean ERVIN, in his official capacity as Atlanta Field Office Director for U.S. Immigration and Customs Enforcement; Todd M. LYONS, in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; Pamela BONDI, in his official capacity as Attorney General of the United States,

Respondents.

Case No.

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

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

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Mohamed Kone ("Mr. Kone") is a national and citizen of the Ivory Coast who is in the custody of the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), and is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

2. Mr. Kone entered the United States in 1999 and has lived here ever since. On July 18, 2008, Mr. Kone was placed in removal proceedings. On June 4, 2009, Mr. Kone was ordered removed by an Immigration Judge in Philadelphia, PA. On August 27, 2009, the BIA dismissed his appeal. Mr. Kone has since been on an Order of Supervision with ICE and has never missed a scheduled appointment. During his entire Order of Supervision, he has complied with ICE requests to get a travel document from Ivory Coast.

3. On October 1, 2020, Mr. Kone applied for an I-918, *Petition for U Nonimmigrant Status* that remains pending with USCIS. Exh. A, Receipt Notice for I-918, Petition.

4. On May 2, 2025, during his ICE check-in he was detained by ICE and sent to Stewart Detention Center.

5. Mr. Kone has been detained in immigration custody under 8 U.S.C. §1226(c) for over seven months without a hearing to determine whether his detention is necessary to prevent him from fleeing or endangering the community. When detention without a bond hearing under § 1226(c) becomes unreasonable, "the Due Process Clause demands a hearing." *See Oscar v. Ripe*, 751 F.Supp.3d 1324 (2024); *Rogers v. Ripa*, Not Reported in Fed. Supp. (2020). The mandatory

detention statute has now become unconstitutional as applied to Mr. Kone, because his detention has become unreasonably prolonged.

6. Mr. Kone has been detained for seven months, **and his detention is likely to continue for many more months since ICE has been unable to get a travel document to remove him to Ivory Coast since 2009 and there is no evidence that a travel document is forthcoming.** He has been detained at the Stewart Detention Center, where he is detained under conditions that are indistinguishable from criminal confinement. Therefore, Mr. Kone is entitled to a bond hearing at which the Government must either prove by clear and convincing evidence that his continued detention is necessary or release him. 965 F.3d at 214.

7. We respectfully request that Mr. Kone be released from custody. When Mr. Kone asked his Deportation Officer for a custody review once he was detained for more than 180 days, he was told “you need to sue us to get out.” Hence, this writ follows.

PARTIES

8. Petitioner Kone is a native and citizen of Ivory Coast who has been in ICE custody since May 2, 2025.

9. Respondent Jason Streeval is named in his official capacity as Warden of the Stewart Detention Center, a county-run detention facility under contract with ICE to house noncitizen detainees. In this capacity, he is responsible for the oversight and custody of detainees at the Stewart Detention Center. He is therefore the physical custodian of Petitioner, who is detained at Stewart Detention Center. Respondent Streeval’s office is located at 146 CCA Road Lumpkin, GA 31815.

10. Respondent Sean Ervin is named in his official capacity as the Atlanta Field Office Director for ICE. In this capacity, Respondent Ervin is responsible for administration and

management of ICE Enforcement and Removal Operations in Georgia and exercises control over Petitioner's custody at Stewart Detention Center. He is therefore a legal custodian of Petitioner. Respondent Ervin's office is located at 180 Ted Turner Dr. SW Suite 552 Atlanta, GA 30303.

11. Respondent Enforcement Todd M. Lyons is named in his official capacity as Senior Official Performing the Duties of Director of ICE. In this capacity, Respondent Lyons is responsible for the administration of federal immigration law and the execution of detention and removal determinations, and, as such, he is a legal custodian of Petitioner. Respondent Lyons's office is located at 500 12th Street, S.W., Washington, D.C. 20536.

12. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, she is responsible for the administration of federal immigration law pursuant to 8 U.S.C. § 1103(a); she routinely transacts business in the Middle District of Georgia; and she is legally responsible for pursuing Petitioner's detention and removal. As such, she is a legal custodian of Petitioner. Respondent Noem's office is located at U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Ave SE, Washington, D.C. 20528.

13. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of federal immigration law, directly and by delegation to the Executive Office for Immigration Review, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Middle District of Georgia and is legally responsible for adjudicating Petitioner's removal and custody-redetermination proceedings and for determining the standards and jurisdictional limitations in those proceedings. As such, she is a legal custodian of Petitioner. Respondent Bondi's office is located at the U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001.

JURISDICTION AND VENUE

14. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

15. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. 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.

16. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against its agencies' officers, who are sued in their official capacities. *See* 5 U.S.C. § 702.

17. Venue is proper in this District under 28 U.S.C. § 1391 because the Petitioner is detained in this District.

STATEMENT OF FACTS

I. Petitioner's Removal Proceedings

18. Petitioner Kone is a native and citizen of the Ivory Coast. He entered the United States in 1999.

19. On July 18, 2008, Mr. Kone was placed in removal proceedings. On June 4, 2009, Mr. Kone was ordered removed by an Immigration Judge in Philadelphia, PA. On August 27, 2009, the BIA dismissed his appeal. Mr. Kone has since been on an Order of Supervision. During his entire Order of Supervision, he has complied with ICE requests to get a travel document from Ivory Coast.


20.

21. On November 23, 2016, Mr. Kone was the victim of a qualifying crime or qualifying criminal activity pursuant to 8 C.F.R. 214.14(a)(9). Mr. Kone thereafter reported the crime and cooperated in the investigation of the crime. As a result of being the victim of crime, Mr. Kone suffered significant physical and mental trauma/abuse.

22. On October 1, 2020, Mr. Kone filed a I-918 petition, together with a signed certification from the relevant investigative authority, which certified that the petitioner was the victim of certain qualifying criminal activity and was, is, or is likely to be helpful in the investigation or prosecution of that activity (I-918, Supplement B). *See* Tab B in Exhibits, attached.

23. Mr. Kone's I-918 petition remains pending with USCIS. *Id.*

24. On November 20, 2018, Mr. Kone married his U.S. citizen wife Janee S. Tucker in the Bronx, New York.

25. Prior to being detained by ICE he lived at  Louisville, KY 40291

26. On May 2, 2025, ICE officers arrested Mr. Kone during his ICE check-in. He was transported to Stewart Detention Center, where he currently remains. Since that time, Petitioner has been continuously detained by ICE for over seven months.

27. ICE has not identified any exceptional circumstances warranting Mr. Kone's continued detention under ICE policy.

28. If released, Mr. Kone would return to live and work in Louisville, Kentucky as he continues to pursue his viable, I-918 Petition.

LEGAL FRAMEWORK

29. The Fifth Amendment's Due Process Clause forbids the federal government from depriving any "person . . . of . . . liberty . . . without due process of law." U.S. CONST. amend. V.

“The Due Process Clause applies to all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Id.* at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

30. Under the substantive due process doctrine, a restraint on liberty like revocation of a noncitizen’s OSUP is only permissible if it serves a “legitimate nonpunitive objective.” *See Calderon v. Kaiser*, No. 25-cv-06695-AMO, 2025 WL 2430609, at *2 (N.D. Cal. Aug. 22, 2025) (quoting *Morrissey*, 408 U.S. at 482). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (discussing constitutional limitations on civil detention).

31. Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty,” like the decision to revoke a non-citizen’s order of supervision. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). “The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at 333.

32. The Immigration & Nationality Act provides that a noncitizen who is “ordered removed” “shall” be removed “from the United States within a period of 90-days. 8 U.S.C. § 1231 (a)(1)(A).

33. Though the statute, as interpreted by *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that when “read in light of the Constitution’s demands” the statute “limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that

alien's removal from the United States." 533 U.S. at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699. If the individual's removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute." *Id.* at 699-700.32.

34. In determining the length of a reasonable removal period, the Court adopted a "presumptively reasonable period of detention" of six months. *Id.* After six months the government bears the burden of disproving an alien's "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Id.* Moreover, "for detention to remain reasonable, as the period of post removal confinement grows, what counts as the 'reasonably foreseeable future conversely would have to shrink." *Zadvydas*, 533 U.S. at 701. An alien who has been detained beyond the presumptive six months should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. *Id.*

35. Upon release from custody, a noncitizen subject to a final order of removal must comply with certain conditions of release. USC. § 1231(a)(3). (6). The revocation of that release is governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for purposes of removal. Specifically, "ICE's decision to re-detain a noncitizen like [Mr. Kone] who has been granted supervised release is governed by ICE's own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future." *Id.*; *see also Kong v. United States*, 62 F 4th 608, 619-20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(4)(2)).

36. Upon such a determination by ICE to re-detain, "the alien will be notified of the reason for revocation of his or her release. [ICE] will conduct an initial informal interview

promptly after his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The [noncitizen] may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” *Id.* at § 241.13(i)(3).

FIRST CLAIM FOR RELIEF
Violation of Fifth and Fourteenth Amendment Right to Procedural Due Process:
Unreasonably Long Detention Without a Bond Hearing

1. Petitioner re-alleges and incorporates by reference the paragraphs above.
2. Petitioner’s continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the U.S. Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for continued removal efforts has expired. Petitioner still has not been removed, and for the reasons outlined in the above paragraphs, Petitioner’s removal to Ivory Coast is not reasonably foreseeable.
3. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Petitioner’s continued detention violates Petitioner’s right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. *See e.g., Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).
4. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens’ custody

status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Declare Petitioner's ongoing prolonged detention without a bond hearing by Respondents to be unconstitutional;
- 3) Issue a Writ of Habeas Corpus and order Petitioner's release within 10 days unless Defendants schedule a hearing before an immigration judge where: (1) to continue detention, the Government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the Government cannot meet its burden, the immigration judge order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond.
- 4) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant such further relief as the Court deems just and proper.

Dated: 12/3/2025

/s/ Ricky A. Palladino
Ricky A. Palladino
Application for Pro Hac Vice Pending

Dated: 12/3/2025

/s/ Thomas Evans
Thomas Evans
Designated Local Counsel

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

Mohamed Kone

Petitioner,

v.

Jason STREEVAL, in his official capacity as Warden of the Stewart Detention Center; Sean ERVIN, in his official capacity as Atlanta Field Office Director for U.S. Immigration and Customs Enforcement; Todd M. LYONS, in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; Pamela BONDI, in his official capacity as Attorney General of the United States,

Respondents.

Case No.

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

EXHIBIT LIST

EXHIBIT

PAGE

- A. Mohamed Kone I-918 Receipt Notice
- B. Mohamed Kone I-918 Supplement B

1-2
3-7

VERIFICATION

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition are true and correct to the best of my knowledge.

Dated: 12/3/2025

/s/ Ricky A. Palladino
Ricky A. Palladino
Attorney for Respondent
Application for Pro Hac Vice Pending

Dated: 12/3/2025

/s/ Thomas Evans
Thomas Evans
Kuck Baxter LLC
P.O. Box 501359
Atlanta, Georgia 31150
Tel.: (404) 949-8176
tevans@immigration.net
Designated Local Counsel