

1 Stacy Tolchin (CA SBN #217431)  
2 Megan Brewer (CA SBN #268248)  
3 *Email: Stacy@Tolchinimmigration.com*  
4 *Email: Megan@Tolchinimmigration.com*  
5 Law Offices of Stacy Tolchin  
6 776 E. Green St., Suite 210  
7 Pasadena, CA 91101  
8 Telephone: (213) 622-7450  
9 Facsimile: (213) 622-7233

10 Counsel for Petitioner

11 **UNITED STATES DISTRICT COURT FOR THE**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 Yemane Berhane Woldegabriel,  
14  
15 Petitioner,

16 v.

17 Kristi NOEM, Secretary, Department of  
18 Homeland Security; Todd LYONS, in his  
19 official capacity as Acting Director of U.S.  
20 Immigration and Customs Enforcement  
21 (ICE); Pam BONDI, Attorney General of the  
22 United States; Jaime RIOS, Director, Los  
23 Angeles ICE Field Office; and Fereti  
24 SEMAIA, Warden, Adelanto ICE Processing  
25 Center.

26 Respondents.

No.  
**Petition for Writ of Habeas  
Corpus**

Immigration Case

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**INTRODUCTION**

1. Petitioner Yemane Berhane WOLDEGABRIEL files this petition for writ of habeas corpus seeking his release from the custody of the Department of Homeland Security (DHS). Petitioner is detained at the Adelanto Detention Facility.

2. Petitioner was already the subject of a petition for writ of habeas corpus before this Court in Woldegabriel v. Marin, et. al, Nos. CV 14- 01070 ODW (JPR), CV 14- 01073 ODW (JPR) (C.D.Cal.)<sup>1</sup>. The previous habeas petition was based on prolonged detention, as Petitioner was in immigration custody for over 180 days pursuant to a final order of removal. Petitioner voluntarily dismissed the petition on May 30, 2014, after the Immigration Judge granted his release on bond.

3. Petitioner reported regularly to DHS on an order of supervision for over 10 years.

4. He was taken into immigration custody on December 1, 2025 when he appeared for his regular appointment on his Order of Supervision, and has been held since that time.

5. Petitioner has good reason to believe that he cannot be removed from the United States, shifting the burden to the government.

6. The government has not demonstrated that it now has a reasonable likelihood of removing Petitioner from the United States.

7. There are no changed circumstances warranting Petitioner's re-detention.

8. Petitioner's detention violates the Immigration and Nationality Act, its implementing detention regulations, and his right to Due Process.

**JURISDICTION AND VENUE**

9. This Court has jurisdiction over the present action based on 28 U.S.C. §

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<sup>1</sup> The case was inadvertently assigned two numbers.

1 2241 (habeas corpus); 28 U.S.C. § 1331 (Federal Question), and 28 U.S.C. §  
2 1346(b) (Federal Respondent).

3 10. Venue is properly with this Court pursuant to 28 U.S.C. § 1391(e)(1)  
4 because this is a civil action in which Respondents are employees or officers of the  
5 United States, acting in their official capacity; and a substantial part of the events or  
6 omissions giving rise to the claim occurred within the Central District of California,  
7 and there is no real property involved in this action.

8 11. Further, pursuant to Braden v. 30th Judicial Circuit Court of Kentucky,  
9 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the  
10 Central District of California, the judicial district in which Petitioner is currently  
11 detained.

## 12 PARTIES

13 12. Petitioner Yemane Berhane Woldegabriel was born in Ethiopia and is a  
14 citizen of Ethiopia. He is currently detained at the Adelanto ICE Processing Center  
15 and resides in Marina Del Rey, CA.

16 13. Respondent Kristi Noem is the Secretary of the Department of Homeland  
17 Security. She is responsible for the implementation and enforcement of the  
18 Immigration and Nationality Act and oversees ICE, which is responsible for  
19 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner.  
20 She is sued in her official capacity.

21 14. Respondent Todd Lyons is the Acting Director of ICE and has authority  
22 over the operations of ICE. In that capacity and through his agents, Respondent  
23 Lyons has broad authority over the operation and enforcement of the immigration  
24 laws. Respondent Lyons is sued in his official capacity.

25 15. Respondent Pam Bondi is the Attorney General of the United States. She  
26 is responsible for the Department of Justice and is sued in her official capacity.

27 16. Respondent Jaime Rios is the Director of the Los Angeles Field Office of  
28 ICE's Enforcement and Removal Operations division. As such, he is the custodian

1 of all persons held at the ICE facilities in the Los Angeles Field Office. He is  
2 Petitioner's immediate custodian and is responsible for his detention. He is sued in  
3 his official capacity.

4 17. Respondent Fereti Semaia is the Warden of the of the Adelanto ICE  
5 Processing Center, Adelanto, California, where Petitioner is detained. He has  
6 immediate physical custody of Petitioner and is sued in his official capacity.

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9 **FACTUAL ALLEGATIONS**

10 18. Petitioner was born in Ethiopia on  and is 50 years old.

11 19. Petitioner came to the United States on August 15, 1985 as a refugee, and  
12 became a lawful permanent resident on October 7, 1986. He has resided  
13 continuously in the United States since 1985, for 40 years.

14 20. Petitioner married his United States citizen wife on November 26, 2009 in  
15 Norwalk, California. They have two children together, ages 13 and 15.

16 21. On October 12, 2001, Petitioner was convicted of felony Grand Theft in  
17 violation of California Penal Code section 487(a) and was sentenced to 36 months  
18 probation and 270 days in jail. On March 17, 2003, his conviction was reduced to a  
19 misdemeanor pursuant to California Penal Code section 17(b). Petitioner was not  
20 informed that traveling after the conviction was entered would trigger removal.

21 22. In late August of 2007, Petitioner traveled to Rosarito, Mexico for a few  
22 days. When he returned to the United States through San Ysidro on September 2,  
23 2007, he was stopped by Customs and Border Patrol and was taken into secondary  
24 inspection. He was also issued a Notice to Appear, placed into removal  
25 proceedings, and ordered to appear before the Immigration Judge. Petitioner was  
26 then paroled into the United States.

27 23. Petitioner believed that the Notice to Appear was a "release document"  
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1 and he did not understand that he was required to appear before the Immigration  
2 Judge. Petitioner and his wife moved to a new address, and he failed to inform the  
3 immigration court of the address change.

4 24. Hearing notices were sent to Petitioner's old residence, which he did not  
5 receive, and as a result he failed to appear at his removal hearing on August 19,  
6 2009. Petitioner was ordered removed in absentia by the immigration judge based  
7 on the misdemeanor theft conviction. He was ordered removed to Ethiopia.

8 25. On November 15, 2013, Petitioner was detained by DHS and held at the  
9 Adelanto Detention Facility.

10 26. On December 9, 2013, DHS confirmed with Petitioner's counsel that DHS  
11 would seek to remove Petitioner to Ethiopia.

12 27. On February 21, 2014, DHS notified Petitioner's counsel that it would be  
13 seeking travel documents to remove Petitioner to Eritrea because it had not been  
14 successful in obtaining travel documents to Ethiopia.

15 28. On March 17, 2014, Petitioner filed a motion to reopen with the  
16 immigration court, seeking asylum, withholding of removal, and protection under  
17 the Convention Against Torture based on DHS' attempt to remove him to Eritrea.

18 29. On April 3, 2014, DHS confirmed with Petitioner's counsel that it was  
19 still seeking his removal to Ethiopia and Eritrea.

20 30. On May 13, 2014, DHS informed Petitioner's counsel that it no longer  
21 was seeking his removal to Eritrea.

22 31. On May 21, 2014, the San Diego immigration court denied the motion to  
23 reopen, noting that if DHS were able to obtain travel documents to Eritrea then  
24 reopening would be appropriate.

25 32. On May 28, 2014, Petitioner filed a petition for writ of habeas corpus in  
26 this Court. Woldegabriel v. Marin, et. al, Nos. CV 14- 01070 ODW (JPR), CV 14-  
27 01073 ODW (JPR) (C.D. Cal.). At the time of filing, he had been detained in  
28 immigration custody for 194 days.

1 33. On May 29, 2014, the Immigration Judge ordered Petitioner's release on  
2 bond<sup>2</sup>.

3 34. On May 30, 2014, Petitioner voluntarily dismissed the petition for writ of  
4 habeas corpus before this court.

5 35. Petitioner was released from immigration custody on May 29, 2014 after  
6 posting bond. He was ordered to report to immigration authorities once a year, and  
7 did so for over 10 years.

8 36. December 1, 2025, Petitioner was detained by immigration authorities  
9 when he appeared for his regular reporting.

10 37. He was not informed of the reasons for the revocation of release or that  
11 the government had obtained travel documents to remove him from the United  
12 States.

13 **CAUSES OF ACTION**

14 **COUNT ONE**

15 **(VIOLATION OF 8 U.S.C. § 1231(a)(6) AND DUE PROCESS)**

16 **(RE-DETENTION AFTER MORE THAN 180 DAYS IN CUSTODY )**

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18 38. Petitioner incorporates the allegations in the paragraphs above as though  
19 fully set forth here.

20 39. The Immigration and Nationality Act authorizes a post-removal-period  
21 detention of six months to allow the United States to effectuate removal. 8 U.S.C. §  
22 1231(a)(6). Zadvydas v. Davis, 533 U.S. 678 (2001); Clark v. Martinez, 543 U.S.  
23 371 (2005).

24 40. Once removal is no longer foreseeable, it is a violation of 8 U.S.C. §  
25 1231(a)(6) and Due Process to hold a noncitizen in immigration detention.

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27 <sup>2</sup> The Immigration Judge relied on Diouf v. Mukasey, 542 F.3d 1222, 1227 (9th Cir.  
28 2008), which was overruled in Jennings v. Rodriguez, 138 S. Ct. 830, 846 (2018).

1       41. Zadvydas places the burden on the alien to show, after a detention period  
2 of six months, that there is “good reason to believe that there is no significant  
3 likelihood of removal in the reasonably foreseeable future. Pelich v. I.N.S., 329  
4 F.3d 1057, 1059 (9th Cir. 2003).

5       42. Clark follows Zadvydas, finding that the same statutory scheme applies to  
6 “arriving aliens” who have been ordered removed. 543 U.S. at 382.

7       43. Petitioner is an arriving alien because he was inadmissible based on his  
8 2001 conviction at the time he last entered the United States. See 8 U.S.C. §  
9 1101(a)(13)(C), and he was therefore paroled into the United States rather than  
10 admitted. Clark controls the assessment of whether his detention is lawful. Clark  
11 confirms that 8 U.S.C. § 1231 applies the same to noncitizens who have been  
12 admitted and those who are inadmissible (“arriving aliens”). 543 U.S. at 382.

13       44. Petitioner has good reason to believe that he cannot be removed from the  
14 United States. He was already detained for more than 180 days over 10 years ago,  
15 and he could not be removed. DHS admitted it was unable to remove him to  
16 Ethiopia and also failed to obtain any documents to remove him to Eritrea.

17       45. The burden therefore shifts to the government provide evidence sufficient  
18 to demonstrate that removal is reasonably foreseeable<sup>3</sup>. 533 U.S. at 701.

19       46. The government is unable to establish that Petitioner’s removal is  
20 reasonably foreseeable.

21       47. Petitioner’s continued detention is a violation of 8 U.S.C. § 1231(a)(6)  
22 and Due Process.

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26 <sup>3</sup> “And for detention to remain reasonable, as the period of prior postremoval  
27 confinement grows, what counts as the ‘reasonably foreseeable future’ conversely  
28 would have to shrink.” 533 U.S. at 701.

**COUNT TWO**

**(Violation of Revocation Regulation, 8 C.F.R. § 241.4(l)  
and Due Process)**

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4 48. Petitioner incorporates the allegations in the paragraphs above as though  
5 fully set forth here.

6 49. The APA provides that a court shall hold unlawful and set aside an agency  
7 action that is “without observance of procedure required by law.” 5 U.S.C. §  
8 706(2)(D).

9 50. An agency’s failure to follow its regulations that are meant to protect  
10 fundamental rights is a violation of due process. Accardi v. Shaughnessy, 347 U.S.  
11 260, 267, 74 S.Ct. 499, 98 L.Ed. 681 (1954); Sameena Inc. v. U.S. Air Force, 147  
12 F.3d 1148, 1153 (9th Cir. 1998).

13 51. The regulation at 8 C.F.R. § 241.4(l) authorizes the revocation of release  
14 only where there has been a violation of the conditions of release or there has been  
15 a determination by the Executive Associate Commissioner that “i) The purposes of  
16 release have been served; (ii) The alien violates any condition of release; (iii) It is  
17 appropriate to enforce a removal order or to commence removal proceedings  
18 against an alien; or (iv) The conduct of the alien, or any other circumstance,  
19 indicates that release would no longer be appropriate.”

20 52. The regulation at 8 C.F.R. § 241.4(l) is designed to protect the  
21 fundamental interest of liberty, and the failure to follow the regulation is a violation  
22 of due process.

23 53. None of the circumstances under 8 C.F.R. § 241.4(l) have been met, in  
24 violation of Due Process.

25 54. If such determinations have been met, Petitioner has not been notified of  
26 such determinations in violation of due process.  
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1 **PRAYER FOR RELIEF**

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

- 3 (1) Assume jurisdiction over this matter;
- 4 (2) Declare that Petitioner's detention is unlawful;
- 5 (3) Order that Petitioner be released immediately from detention
- 6 and returned to the terms of his original order of supervision;
- 7 (4) Award reasonable costs and attorneys' fees; and
- 8 (5) Grant such further relief as the Court deems just and proper.

9 Dated: December 12, 2025 Respectfully submitted,

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11 By: /s/ Megan Brewer  
12 Megan Brewer (CA SBN #268248)  
13 Law Offices of Stacy Tolchin  
14 776 E. Green St. Suite 210  
15 Pasadena, CA 91101  
16 Telephone: (213) 622-7450  
17 Facsimile: (213) 622-7233  
18 Email: Megan@Tolchinimmigration.com  
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