

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the Southern District of California

M. F.

Petitioner

v.

WARDEN OF OTAY MESA DETENTION CENTER

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. '25CV3599 CAB BJW (Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

- 1. (a) Your full name: MIKHAIL FURTSEV (b) Other names you have used: N/A
2. Place of confinement: (a) Name of institution: OTAY MESA DETENTION CENTER (b) Address: 7488 CALZADA DE LA FUENTE SAN DIEGO, CA 92154
3. Are you currently being held on orders by: [X] Federal authorities [] State authorities [] Other - explain: SEE ATTACHED EXHIBIT "A"-ORDER ON April 8, 2025 GRANTING ASYLUM.
4. Are you currently: [] A pretrial detainee (waiting for trial on criminal charges) [] Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide: (a) Name and location of court that sentenced you: (b) Docket number of criminal case: (c) Date of sentencing:
[X] Being held on an immigration charge [] Other (explain):

Decision or Action You Are Challenging

- 5. What are you challenging in this petition: [] How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- Pretrial detention
- Immigration detention
- Detainer
- The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
- Disciplinary proceedings
- Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: OTAY MESA DETENTION CENTER

7488 CALZADA DE LA FUENTE, SAN DIEGO, CA 92154

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Detention without bond hearing, because Immigration Judge "has no jurisdiction" even if detention is prolonged.

SEE ATTACHED EXHIBIT "B"-ORDER ON DENYING BOND..

(d) Date of the decision or action: 12/02/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: _____

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

Yes No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

Yes No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

Yes No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

Yes No

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If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

Yes No

If "Yes," provide:

- (1) Name of court: _____
- (2) Case number: _____
- (3) Date of filing: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

Yes No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 11/03/2024
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?
 Yes No

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If "Yes," provide:

- (1) Date of filing: _____
 - (2) Case number: _____
 - (3) Result: _____
 - (4) Date of result: _____
 - (5) Issues raised: _____
- _____
- _____
- _____

(d) Did you appeal the decision to the United States Court of Appeals?

Yes No

If "Yes," provide:

- (1) Name of court: _____
 - (2) Date of filing: _____
 - (3) Case number: _____
 - (4) Result: _____
 - (5) Date of result: _____
 - (6) Issues raised: _____
- _____
- _____
- _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

Yes No

If "Yes," provide:

- (a) Kind of petition, motion, or application: _____
 - (b) Name of the authority, agency, or court: _____
- _____
- (c) Date of filing: _____
 - (d) Docket number, case number, or opinion number: _____
 - (e) Result: _____
 - (f) Date of result: _____
 - (g) Issues raised: _____
- _____
- _____
- _____

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Due process clause of the Fifth Amendment of the US Constitution.

ICE has violated Petitioner's due process rights by denying him an individualized custody review to which he is entitled under ICE policy. A s aremedy, this Court should conduct its own review of Petitioner's custody, or at least, order ICE to review Petitioner's custody under the standard articulated in ICE custody.

(a) Supporting facts (Be brief. Do not cite cases or law.):

On April 8, 2025, Immigration Judge Mark Sameit granted Petitioner's asylum under section 208 of INA
On May 9, 2025, DHS filed an appeal on October 10, 2025, the Board of Immigration Appeals (BIA) remanded Petitioner's case back to Judge Mark Sameit. Petitioner's asylum grant was not rescinded. Petitioner was granted asylum, there is no issue of 90 days waiting period. While DHS filed an appeal, Respondent was unreasonably detained since November 3, 2024, and there is no flight or security risk.

(b) Did you present Ground One in all appeals that were available to you?

Yes No

GROUND TWO: VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. SECTION 1231(a)(6)

8 U.S.C. SECTION 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the alien's removal from the United States." 533 U.S. at 689, 701. Petitioner's continued detention has become unreasonable because his removal is not foreseeable.

(a) Supporting facts (Be brief. Do not cite cases or law.):

On April 8, 2025, Immigration Judge Mark Sameit granted Petitioner's asylum under section 208 of INA
On May 9, 2025, DHS filed an appeal on October 10, 2025, the Board of Immigration Appeals (BIA) remanded granted asylum, there is no issue of 90 days waiting period. While DHS filed an appeal, Respondent was unreasonably detained since November 3, 2024, and there is no flight or security risk. Merits hearing is currently set on March 10, 2026, which is unreasonably delayed.

(b) Did you present Ground Two in all appeals that were available to you?

Yes No

GROUND THREE: ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER THE ADMINISTRATIVE

PROCEDURE ACT 5 U.S.C. SECTION 706(2)(A). Courts must "hold unlawful and set aside agency action" that is "arbitraty, caprisious, an abuse of discretion, or otherwise in accordance with law." 5 U.S.C. SECTION 706(2)(A). ICE derived from its own policy by detaining Petitioner after asylum was granted.

(a) Supporting facts (Be brief. Do not cite cases or law.):

On April 8, 2025, Immigration Judge Mark Sameit granted Petitioner's asylum under section 208 of INA
On May 9, 2025, DHS filed an appeal on October 10, 2025, the Board of Immigration Appeals (BIA) remanded granted asylum, there is no issue of 90 days waiting period. While DHS filed an appeal, Respondent was unreasonably detained since November 3, 2024, and there is no flight or security risk. Merits hearing is currently set on March 10, 2026, which is unreasonably delayed.

(b) Did you present Ground Three in all appeals that were available to you?

Yes No

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GROUND FOUR: _____

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

Yes No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Assume jurisdiction over this matter; issue an order to show why this petition should not be granted within (3) days; declare that Petitioner's detention/challenged action violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. section 1231 (a)(96) and violates Administrative Procedure Act; Issue a Writ of Habeas Corpus ordering Respondent to be released; award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; grant any further relief as Court deems just and proper.

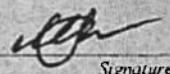
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Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system?

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 12/13/2025



Signature of Petitioner



Signature of Attorney or other authorized person, if any