

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

UNITED STATES DISTRICT COURT
for the

DEC 15 2025

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____
DEPUTY CLERK

Case No. 1:25-cv-1868-DJC-AC
(Supplied by Clerk of Court)
HC

DIOP Mohamed
Petitioner

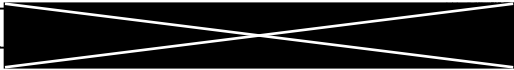
v.

Tonya Andrews
Respondent

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

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

Personal Information

1. (a) Your full name: DIOP Mohamed
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: GOLDEN STATE ANNEX FACILITY
(b) Address: 611 FRONTAGE RD MCFARLAND, CA 93250
3. (c) Your identification number: A# 
Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
I.C.E.
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: _____
☒ 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: GOLDEN state annex facility
detention center
(b) Docket number, case number, or opinion number: _____
(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): _____

(d) Date of the decision or action: _____

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: _____

(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: _____

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

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 Do not cite cases or law.):

When I.C.E decided to mandatory arrest me outside of my court hearing in NEW YORK CITY, It violated my due process right that are covered in the FIFTH amendment of the United States constitution.

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

☐ Yes

☒ No

GROUND TWO:

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 Do not cite cases or law.):

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

☐ Yes

☐ No

GROUND THREE:

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 Do not cite cases or law.):

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

☐ Yes

☐ No

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:

I Would like the court to move for a preliminary injunction, and order the Respondent to release me, as my detention violates the due process clause of the FIFTH amendment.

To whom it may concern,

My name is Mohamed Diop. I was born on [REDACTED] 2002, I am a native and citizen of Senegal. I entered the United States on November 11th 2023. I was not paroled in as I entered the country by CBP officers but after crossing the border from my port of entry (Lukeville, Arizona) I subsequently detained and then released by them on November 12th 2023. Upon my release, I was served with a notice to appear (NTA) that required me to stand in a court of law in front of an immigration Judge, in order to justify why I deserved to stay in the country and being Granted Asylum.

On September 5th 2025, briefly after leaving my court hearing in New York city, I was arrested by ICE agents who had been waiting outside the courtroom to arrest and detain me. Without being given a reason for my arrest, I was transported to an ICE office located at 26 Federal plaza in New York, where as agents told me that I had the right to contact my country's consulate. I was then transferred to California more exactly to Golden state annex detention center located in McFarland California where I have been detained ever since for 3 months.

While I was living in New York City for the past 2 years after entering the country, I formed strong bonds in the community; I worked as a licensed security agent for A.G security, and enrolled myself in a local community college in Harlem (adult learning center). I have never been convicted of a crime during those 2 years and tried to become a valued member of Society involving myself with our local Mosque and participating in religious activities.

On July 8th 2025, ICE released a memo entitled "Interim guidance regarding detention authority for applicant for admission", where the agency deem that person who entered the country without inspection should be considered as an applicant for admission under article 1225(a) and therefore should be subject to mandatory detention under article 1225(b)(2)(a). But a plain reading of article 1226(a) and a proper analysis of statutory construction support the argument that article 1226(a) applies to me rather 1225(b)(2). Indeed, I am not subject to mandatory detention under 8 U.S.C article 1225(b)(2). I am only subject to detention, if at all under discretionary provisions of 8 U.S.C article 1226(a)(1).

Taking this in consideration, and looking at the outcome of previous cases similar to mine where plaintiffs had been arrested by ICE in the southern district of New York where I come from (Benitez vs Francis 2025 U.S Dist, Lexis 157214, Samb vs Joyce 2025 U.S Dist, Lexis 161109) and violated the due process Clause of the 5th amendment. I demand the court with all due respect, to move for a primary injunction and order the Respondent to release me from their custody. In order to give me a chance to FREELY exercise my 5th amendment rights in front of an Immigration Judge and pursue my American Dream.

Respectfully,
Mohamed Diop.

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: 12/08/2025

Mohamed

Signature of Petitioner

Mohamed

Signature of Attorney or other authorized person, if any