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Attorney for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

ELHADJI ALIOUNE TOP,)
)
Petitioner,)

Case No.: 4:25-cv-6109

v.)

Agency No.: A 

BRET BRADFORD, Houston Field Office)
Director, Immigration and Customs Enforcement)
and Removal Operations (“ICE/ERO”); WARDEN)
OF THE HOUSTON CONTRACT DETENTION)
FACILITY; TODD LYONS, Acting Director of)
Immigration Customs Enforcement (“ICE”); U.S.)
IMMIGRATION AND CUSTOMS)
ENFORCEMENT; KRISTI NOEM, Secretary of)
the Department of Homeland Security (“DHS”);)
U.S. DEPARTMENT OF HOMELAND)
SECURITY; and PAMELA BONDI, Attorney)
General of the United States,)
)
Respondents.)

**PETITIONER’S MOTION FOR
IMMEDIATE RELEASE**

PETITIONER'S MOTION FOR IMMEDIATE RELEASE

I. INTRODUCTION

Petitioner respectfully moves for immediate release from immigration custody. Petitioner was summarily re-detained at a routine ICE check-in after having been released on his own recognizance pursuant to INA § 236(a), 8 U.S.C. § 1226(a). ICE provided no notice, no explanation, no individualized custody determination, and no opportunity to be heard. Continued detention under these circumstances violates the Fifth Amendment's guarantee of procedural due process.

II. FACTUAL BACKGROUND (BRIEF)

Petitioner is a citizen of Senegal who entered the United States to seek asylum. DHS initiated removal proceedings and released Petitioner on his own recognizance under § 236(a) after determining that he posed no danger and no flight risk. Petitioner complied with all conditions of release, appeared for ICE check-ins, has no criminal history, and received employment authorization.

On December 9, 2025, during a scheduled ICE check-in at the Houston ICE Field Office, ICE officers arrested and detained Petitioner without advance notice, without stating the basis for detention, without permitting access to counsel, and without any opportunity to be heard. ICE conducted no individualized custody determination and identified no changed circumstances justifying re-detention.

III. LEGAL STANDARD

Civil immigration detention constitutes a significant deprivation of liberty. Where detention is discretionary under § 236(a), due process requires an individualized custody

determination and basic procedural safeguards, including notice and an opportunity to be heard. Summary revocation of a prior grant of release without such safeguards violates the Fifth Amendment.

This Court has authority under 28 U.S.C. § 2241 to order release where detention is constitutionally defective.

IV. ARGUMENT

A. Petitioner Is Unlawfully Detained Without Procedural Due Process

ICE released Petitioner under § 236(a) after finding no danger or flight risk. That release created a protected liberty interest. ICE's subsequent re-detention—without notice, explanation, or individualized findings—constitutes an arbitrary deprivation of liberty.

ICE identified no new facts, no violation of release conditions, and no changed circumstances. The detention therefore lacks any procedural or substantive justification.

B. Immediate Release Is the Appropriate Remedy

Where detention is imposed without constitutionally required procedures, release—not remand for further process—is appropriate, particularly where the government has already determined that the individual is not a danger or flight risk.

V. RELIEF REQUESTED

1. Order Petitioner's immediate release under the previously imposed conditions or other reasonable alternatives to detention; or, in the alternative,

2. Grant such other and further relief as the Court deems just and proper.

Dated: December 17, 2025.

Respectfully submitted,

By:  _____

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