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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Mbah MANKAH MELVIS,

Petitioner,

v.

Chris HOWARD, Acting Warden, Eloy Detention
Center;

John CANTU, Field Office Director of Phoenix
Office of Detention and Removal, U.S. Immigrations
and Customs Enforcement; U.S. Department of
Homeland Security;

Todd M. LYONS, Acting Director, Immigration and
Customs Enforcement, U.S. Department of Homeland
Security;

Kristi NOEM, in her Official Capacity, Secretary;
U.S. Department of Homeland Security;

Pamela BONDI, in her Official Capacity, Attorney
General of the United States;

OFFICE OF THE PRINCIPAL LEGAL ADVISOR
(OPLA);

DEPARTMENT OF HOMELAND SECURITY; and

Michele PETERS, in her Official Capacity, Assistant
Chief Counsel, Office of the Principal Legal Advisor,
U.S. Department of Homeland Security.

Respondents.

Case No.

A 

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
MANDAMUS,
DECLARATORY, AND
INJUNCTIVE RELIEF**

I. INTRODUCTION

1. Petitioner, Mbah Mankah Melvis is detained by U.S. Immigration and Customs Enforcement (“ICE”) pursuant to an administratively final order of removal. Relief in removal proceedings was denied solely on the basis of a terrorist-related inadmissibility ground (“TRIG”). Congress vested exclusive authority to adjudicate exemptions to TRIG inadmissibility in U.S. Citizenship and Immigration Services (“USCIS”), not ICE or its counsel. This case concerns the federal government’s refusal to perform a mandatory procedural act that is a prerequisite to lawful removal.

2. Despite Petitioner’s eligibility for exemption consideration and despite DHS policy requiring referral in administratively final cases denied solely on TRIG grounds—particularly where the noncitizen is detained—Respondents have refused to issue the required Notice of Referral or transmit Petitioner’s case to USCIS. As a result, Petitioner remains detained and faces imminent removal without access to the only process authorized by law to adjudicate the remaining issue in her case.

3. Petitioner does not ask this Court to decide the merits of any TRIG exemption. She asks only that Respondents be ordered to perform the nondiscretionary act of referral so that USCIS may exercise its exclusive statutory authority. Absent judicial intervention, Respondents’ inaction will result in Petitioner’s removal before lawful adjudication can occur.

JURISDICTION & VENUE

4. This Court has jurisdiction over Petitioner’s habeas claim pursuant to 28 U.S.C. § 2241 because Petitioner is in federal immigration custody within the District of

Arizona.

5. This Court has jurisdiction over Petitioner's mandamus claim pursuant to 28 U.S.C. § 1361, which authorizes federal courts to compel officers or employees of the United States to perform nondiscretionary duties owed to the plaintiff.

6. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States.

7. This Court has jurisdiction under the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706(1), to compel agency action unlawfully withheld or unreasonably delayed.

8. This Court has authority under the All Writs Act, 28 U.S.C. § 1651(a), to issue all writs necessary or appropriate in aid of its jurisdiction, including a temporary stay of removal to preserve the Court's ability to grant effective relief.

9. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(d) and 28 U.S.C. § 1391(e) because Petitioner is detained within this district at Eloy Detention Center. Furthermore, a substantial part of the events or omissions giving rise to this action occurred and continue to occur at the Office of Principal Legal Advisor - Phoenix, within this division.

PARTIES

10. Petitioner Mbah Mankah Melvis is a native and citizen of Cameroon. She is currently detained at the Eloy Detention Center. On December 10, 2025, an Immigration Judge issued a "but for" decision finding Petitioner eligible for asylum but for the material

support bar (a TRIG related ground of inadmissibility). See **Exhibit A**, *Order of the Immigration Judge*.

HABEAS RESPONDENTS:

11. Respondent Chris Howard is, upon information and belief, the Acting Warden of the Eloy Detention Center, where Petitioner is being detained. He is Petitioner's immediate legal custodian and thus a proper respondent in this matter. See *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).

12. Respondent John Cantu was the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Phoenix Field Office and was the federal agent charged with overseeing all ICE detention centers in Arizona, including the Eloy Detention Center. He was dismissed from this role on October 24, 2025. No replacement for Mr. Cantu has been publicly identified. Mr. Cantu or his successor is responsible for Petitioner's detention, and thus a legal custodian of Petitioner.

13. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is the federal agent charged with overseeing all ICE operations. He is sued in his official capacity.

14. Respondents Pamela Jo Bondi and Kristi Noem are, respectively, the Attorney General of the United States and the Secretary of Homeland Security. As such, they are responsible for maintaining the immigration detention system. They are thus the ultimate legal custodians of Petitioner.

MANDAMUS RESPONDENTS:

15. Respondent the Department of Homeland Security is the U.S. federal executive department responsible for maintaining the immigration legal system.

16. Respondent the Office of the Principal Legal Advisory (OPLA) is a legal division within U.S. Immigration and Customs Enforcement (ICE) and the Department of

Homeland Security (DHS). OPLA provides legal representation for DHS in immigration removal proceedings, consults with ICE on law enforcement and removal, and handles various legal matters for the DHS.

17. Respondent Michele Peters is an assistant chief counsel in the OPLA Phoenix Office. She is sued in her official capacity.

LEGAL FRAMEWORK

I. TERRORISM-RELATED INADMISSIBILITY GROUNDS (TRIG) - SITUATIONAL EXEMPTIONS

18. The secretaries of the departments of state and homeland security, in consultation with the attorney general, may authorize exemptions from the terrorism-related inadmissibility grounds (TRIG). *See* INA 212(d)(3)(B)(i).

19. Various exemptions exist including, but not limited to: material support under duress and voluntary provision of medical care.

20. An exemption may be granted to an applicant who provided material support under duress to designated or undesignated terrorist organizations, which at minimum requires that the material support was provided in response to a reasonably-perceived threat of serious harm. *See Exhibit B, February 26, 2007 Exercise of Authority (Material Support Under Duress-Undesignated Groups); Exhibit C, April 27, 2007 Exercise of Authority (Material Support Under Duress-Designated Groups)*. Authority to determine whether an individual meets the duress exemption is expressly given to the U.S. Citizenship and Immigration Services (“USCIS”).

21. An exemption may also be granted to an applicant who provided medical

care to individuals that the applicant knew, or reasonably should have known, committed or planned to commit a terrorist activity, or to members of a terrorist organization as described in INA Section 212(a)(3)(B)(vi). For example, providing services in their capacity as a medical professional. See **Exhibit D**, *October 13, 2011 Exercise of Authority (Voluntary Provision of Medical Care)*. Again, authority to determine whether an individual meets the provisional medical care exemption is expressly given to the U.S. Citizenship and Immigration Services (“USCIS”).

22. In the event that an individual is in removal proceedings, they may only be considered for an exemption ground after their order of removal is administratively final. See **Exhibit E**, *Fact Sheet on Cases with Administratively Final Orders of Removal*.

23. “For individuals who are not in U.S. Immigration and Customs Enforcement (ICE) custody (non-detained) and for whom their administratively final order of removal was issued on or after Sept. 8, 2008, the ICE Office of the Chief Counsel handling the case *will* forward the case to U.S. Citizenship and Immigration Services (USCIS) for exemption consideration if relief or protection was denied solely on the basis of one of the grounds of inadmissibility for which exemption authority has been exercised by the Secretary. These individuals and their last attorneys of record will receive in the mail a Notice of Referral indicating that their case has been referred to USCIS for consideration of an available exemption to the terrorist related inadmissibility provisions of the INA. An individual who receives such a notice does not need to take additional steps or contact ICE to initiate the process. However, it is imperative that the individual keep his/her address up to date with USCIS by filing the Form AR-11, Change of Address. Also,

individuals are reminded that they must continue to comply with ongoing security check requirements. Thus, they may receive notices to update their fingerprints and biometrics during this process at their address on record with USCIS.” *Id.* (emphasis added).

24. “If an eligible individual is in ICE custody (detained) upon the issuance of an administratively final order of removal, the ICE Office of the Chief Counsel handling the case *will* serve the Notice of Referral on the individual in coordination with the ICE Office of Detention and Removal Operations (DRO). The individual will also be provided with a Form I-246, Application for Stay of Deportation or Removal. The Notice of Referral will explain to detained individuals that they must file the attached Form I-246 if they wish to have USCIS consider their eligibility for the 212(d)(3)(B)(i) exemption. In order to be considered for an exemption, the individual who is otherwise eligible for consideration must file the stay of removal request with DRO within seven (7) days of service of the letter. If that individual requests a stay of removal, his or her case will be forwarded to USCIS for consideration of the exemption authority.” *Id.* (emphasis added).

25. USCIS will give priority to cases where an applicant is detained. *Id.*

26. “If USCIS finds that the case merits an exemption, the ICE Office of the Chief Counsel will then forward to the individual a request to join in a Joint Motion to Reopen before EOIR. This request will include a template of the Joint Motion to Reopen. The individual or, if represented, his/her counsel should sign the motion and return it to the ICE Office of the Chief Counsel. The appropriate Form EOIR-33 (IC or BIA) (Change of Address) with the individual’s address information should be forwarded with the motion. If the individual is represented, a Form EOIR-28 (Entry of Appearance – Immigration

Court) or Form EOIR-27 (Entry of Appearance – BIA) should be forwarded as well. Upon receipt, ICE will file the Joint Motion to Reopen with EOIR, attaching USCIS' grant of the exemption. For pro se individuals, if ICE has not received anything from the individual after two weeks, ICE will file an independent Motion to Reopen with a Summary of the Alien's Claim." *Id.*

STATEMENT OF FACTS

27. Petitioner is a healthcare worker (nurse) from Cameroon.

28. On December 10, 2025, the merits of Petitioner's asylum claim were heard by the Eloy Immigration Court. The Immigration Judge ("IJ") denied relief issuing a but for decision for purposes of a TRIG waiver. **Exh. A.**

"Respondent's applications for asylum, withholding, and protection under the Convention against Torture are hereby denied. *However, the Court does find that asylum would have been granted but for the material support bar. If the duress waiver is subsequently granted by USCIS, asylum would be granted.*" *Id.*
(emphasis added).

29. Petitioner is otherwise eligible for relief and qualifies for consideration of a discretionary exemption under INA § 212(d)(3)(B)(i), including under recognized duress and healthcare-related exemptions.

30. USCIS has exclusive jurisdiction to adjudicate TRIG exemption requests. ICE and OPLA have no authority to adjudicate or deny such exemptions.

31. DHS policy requires that, where a case is administratively final and relief was denied solely due to TRIG, the ICE Office of the Chief Counsel must refer the case to USCIS for exemption consideration and issue a Notice of Referral, particularly where the noncitizen is detained.

32. Despite repeated requests, Respondents have failed and refused to issue the required Notice of Referral or transmit Petitioner's case to USCIS. *See Exhibit F, Emails with ACC Peters and OPLA.*

33. Respondent ACC Michele Peters continues to incorrectly allege she has authority to review the record to determine whether to refer Petitioner's case to USCIS despite repeated discussions that she does not have such authority. *Id.*

34. Petitioner is prepared to file the requisite stay of removal with ERO and has communicated this to both ERO and OPLA. Petitioner is simply waiting on OPLA action in issuing the notice of referral for inclusion in the stay request. *Id.*

35. Because Petitioner is detained and subject to imminent removal, Respondents' refusal to refer the case prevents Petitioner from accessing the only process authorized by Congress to cure TRIG inadmissibility; renders Petitioner's detention arbitrary and unlawful; and risks irreparable harm through removal before lawful adjudication can occur.

ARGUMENT AND GROUNDS FOR RELIEF

I. FIRST CAUSE OF ACTION: HABEAS CORPUS (28 U.S.C. § 2241 – Unlawful Detention and Imminent Removal)

36. Petitioner incorporates and realleges each of the foregoing paragraphs.

37. Petitioner's continued detention is unlawful because removal cannot lawfully proceed while Respondents unlawfully withhold the mandatory referral required for USCIS adjudication.

38. Detention is no longer reasonably related to a lawful purpose where Respondents themselves prevent adjudication of the only remaining legal issue in the case.

39. Absent immediate relief, Petitioner faces imminent removal and irreparable harm.

40. Therefore, Petitioner prays this Court issue:

- a) A stay of removal;
- b) An order declaring Petitioner's continued detention unlawful absent referral; and
- c) Conditional release or supervision is Respondents fail to comply promptly.

**II. SECOND CAUSE OF ACTION: WRIT OF MANDAMUS
(28 U.S.C. § 1361 – Failure to Perform Nondiscretionary Duty)**

41. Petitioner incorporates and realleges each of the foregoing paragraphs.

42. Respondents have a clear, ministerial, and nondiscretionary duty to issue a Notice of Referral and forward Petitioner's case to USCIS once the statutory prerequisites are met.

43. Petitioner has a clear right to referral, and Respondents' refusal constitutes

agency action unlawfully withheld.

44. No other adequate remedy exists.

45. Therefore, Petitioner prays this Court issue:

- a) An order compelling Respondents to immediately issue the Notice of Referral and transmit Petitioner's case to USCIS upon receipt of filing of the Stay of Removal (if Petitioner remains detained).

III. THIRD CAUSE OF ACTION: ADMINISTRATIVE PROCEDURE ACT (5 U.S.C. § 706(2)(A) – Agency Action that is Arbitrary and Capricious and an Abuse of Discretion)

46. Petitioner incorporates and realleges each of the foregoing paragraphs.

47. Respondents' failure to act constitutes agency action unlawfully withheld or unreasonably delayed.

48. Respondent ACC Michele Peters actions to delay Petitioner's case are arbitrary, capricious, an abuse of discretion, and in direct violation of law.

49. Therefore, Petitioner prays this Court issue:

- a) An order compelling Respondents to immediately issue the Notice of Referral and transmit Petitioner's case to USCIS upon receipt of filing of the Stay of Removal (if Petitioner remains detained).

PRAYER FOR RELIEF

50. WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue an immediate stay of removal;
2. Grant the writ of habeas corpus or conditional release if necessary;
3. Issue a writ of mandamus compelling referral to USCIS;
4. Declare Respondents' conduct unlawful;
5. Grant attorneys' fees under EAJA; and
6. Grant any other relief the Court deems just and proper.

Dated: December 19, 2025

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Mbah Mankah Melvis

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this December 19, 2025, in Phoenix, AZ.

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Mbah Mankah Melvis

CERTIFICATE OF SERVICE

This is to certify that on December 19, 2025, the foregoing PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF was served by certified mail, on:

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Field Office Director of Phoenix Office of Detention and Removal, U.S. Immigrations and
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