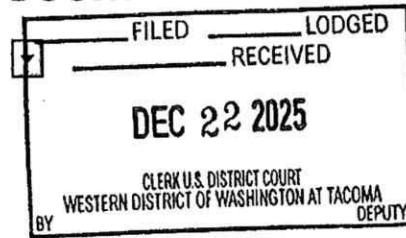


AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

# UNITED STATES DISTRICT COURT

for the  
Western District of Washington



Wekeslei Junio da Silva

*Petitioner*

v.

John Due, Warden - Tacoma Northwest DC  
Kristen Noem - DHS

*Respondent*


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

Case No. A246-996-719  
*(Supplied by Clerk of Court)*

**2:25-cv-2651 RSM**

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

### Personal Information

1. (a) Your full name: Wekeslei Junio da Silva  
 (b) Other names you have used: n/a
2. Place of confinement:  
 (a) Name of institution: Tacoma Northwest Detention Center  
 (b) Address: 1623 E J Street, Tacoma, WA - 98421
3. (c) Your identification number:   
 Are you currently being held on orders by:  
 Federal authorities     State authorities     Other - explain:  
ICE
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: ICE - Tacoma Northwest Detention Center

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

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

(d) Date of the decision or action: December 8, 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: 12/09/2025
- (b) Date of the removal or reinstatement order: N/A
- (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:** Violation of Fifth Amendment Right to Substantive Due Process

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 Do not cite cases or law.):*

The remainder of the Petitioner's rights to Substantive Due Process in his removal defense proceedings are violated and subject to continuing injury, where ICE has implemented a regime where their non-compliance with the release order ensures that the Petition will be detained for the remainder of his removal defense case, causing severe injury to his ability to mount a defense to his removal. Petitioner has filed for asylum and he is currently waiting for EOIR to schedule his court hearing so he can present evidence in support of his application

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

Yes  No

**GROUND TWO:** Violation of Fourteenth/Fifth Amendment Right to Deliberate Indifference to a serious Medical Needs.

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

The Petitioner suffer from a serious medical condition [ankylosing spondylitis] requiring ongoing prescription medication. Without this treatment, Petitioner faces a substantial risk of severe pain and medical deterioration. Failure to provide medical necessary treatment, combine with failure to provide language access so that Petitioner can request and understand care, constitute Deliberate Indifference to his serious medical needs. Such deliberate indifference results in unnecessary pain, violating the protection against cruel and unusual punishment.

(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

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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: Grant the writ and order immediate release under reasonable condition of supervision.

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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:

12/19/2025

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: 12/16/2025

Wellston Junio da Silva - by Saqueline  
*Signature of Petitioner* Banda

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*

**Print**

**Save As...**

**Reset**

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

**Instructions**

1. **Who Should Use This Form.** You should use this form if
  - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
  - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
  - you are alleging that you are illegally detained in immigration custody.
  
2. **Who Should Not Use This Form.** You should not use this form if
  - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
  - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
  - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
  
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
  
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
  
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
  
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
  
7. **Submitting Documents to the Court.** Mail your petition to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131.  
  
If you want a file-stamped copy of the petition, you must enclose a copy of the petition and ask the court to file-stamp it and return it to you.
  
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
Tacoma, Washington

In the Matter of: )  
)  
)  
**Wekeslei Junio da Silva** )  
Petitioner )  
V. )  
**John Due, Warden - Tacoma Northwest DC** )  
\_\_\_\_\_ )

In Removal Proceedings.

File No.: 

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# EXHIBIT A

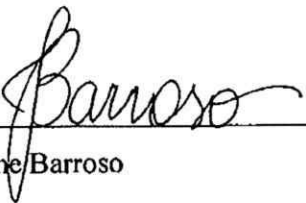
**AFFIDAVIT OF JAQUELINE BARROSO**

I, Jaqueline Barroso, swear under the penalties of perjury that the following statements are true to the best of my knowledge.

1. My name is Jaqueline Barroso, I am a U.S. Citizen and a tax-payer. I am also Wekeslei Junio da Silva ( [REDACTED] ) fiancée.
2. Wekeslei Junio da Silva and I have been together for over a year. We have been living together at [REDACTED] for more than 7 months.
3. Wekeslei Junio da Silva has filed his asylum petition (Form I-589), along with evidence to support his application on or about
4. However, due to immigration court backlog, Wekeslei Junio da Silva did not have the chance to have his case heard and decided by an Immigration Court.
5. I believe that, if Wekeslei Junio da Silva's case had been heard by an Immigration judge, he would most likely have been approved and his status here in the United States would be legal rather than pending.
6. I believe his detention is unconstitutional because it is not his fault for not having had the opportunity to present his case, rather it is the EOIR fault for not having scheduled his hearing so he could present his case and evidences in support of his asylum petition.
7. Wekeslei Juni da Silva has a serious medical condition known as "Ankylosing Spondylitis" which requires daily medication. Without his medication he faces risk of severe pain and medical deterioration.

8. Wekeslei Junio da Silva is not a fly risk because he has filed for his asylum application. He has a fixed address and he owns his own company (J & J Towing and Transport Co.). He is hard working and a good person.
  
9. Without his financial support, my son Matheus and I would be in serious financial hardship. Without his emotional support, I would be in emotional hardship and depression.

Signed under the penalties of perjury on this 15 day of December of 2025.

  
\_\_\_\_\_  
Jaqueline Barroso

# EXHIBIT B

AFFIDAVIT OF JULIO MORAIS

I, Julio Morais, and resident at [REDACTED] state that the following statements are true to the best of my knowledge.

I am a U.S. Citizens, a tax-payee, and a small business owner. Wekeslei Junio da Silva and I are partners at J & J Towing and Transport Co. We do car towing and cargo transportation. Mr. da Silva and I started our business on or about August 12, 2025.

Our business has been growing since the day we founded. This is because of Wekeslei Junio da Silva's knowledge and experience in the field. I confess that Wekeslei Junio da Silva is the main brain and vertebral column of our business. He knows the work, how to operate, prices and he is the one that brings most of our clients because of his past experience working in this field.

Wekeslei Junio da Silva's detention is a big concern for the business. Without his knowledge and help I honestly believe our business will cease operation which will create a catastrophic financial loss. This is because our business has financial liabilities such as auto loans, insurances and leases. I can't operate the business by myself because Wekeslei Junio da Silva is the one that knows the job.

Wekeslei Junio da Silva's detention is unfair. This is because he had sought an opportunity to present his case and change his status here in the United States. Wekeslei Junio da Silva has applied for asylum but, because the immigration courts are backlogged, he has not had the chance to present his case and evidence.

I am requesting your consideration and allow Wekeslei Junio da Silva to be released and fight for his right to change his immigration status. Wekeslei Junio da Silva is a good man, a hardworking individual and he abides by the law of the United States.

Thank you

# EXHIBIT F

# Information

Name:

DA SILVA, WEKESLEI JUNIO

| A-Number:



| Docket Date: 6/15/2023

## Next Hearing Information

Your upcoming **MASTER** hearing  
is on **March 9, 2027** at **9:00 AM**.

**JUDGE**

Smith, Natalie

**COURT ADDRESS**

150 ADOLFO RODRIGUES SUITE 100