

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
COLUMBUS DIVISION**

A: 

Emmanuel Evariste
(Petitioner)

v.

Pam Bondi (US Attorney General)
Kristi Noem (Secretary of DHS)
Jason Streeval (Warden of detention facility)

Case no: 4:25-cv-00280-CDL-AGH

PETITIONER FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C SECTION 2241

Petitioner Evariste appearing hereby petitions this court for a writ of habeas corpus to remedy Petitioner's unlawful detention by respondents. In writ habeas corpus to remedy petitioner's unlawful detention by respondents. In support of this petition and complaint for injunctive relief, petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of respondents and U.S Immigration and Customs Enforcement (ICE). Petitioner Evariste is detained at the Stewart Detention Center in Lumpkin, GA pursuant to a contractual agreement with the Department of Homeland Security. Petitioner is under the direct control of respondents and their agents.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C.S Section 1101 *et seq.*, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 ("IIRIRA") Pub. L. No. 104-208, 110 Stat.1570, and the Administrative Procedure Act of ("APA"), 5 U.S.C section 701 *et seq.*
3. This court has jurisdiction under 28 U.S.C Section 2241: art. I Section 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. Section 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in the pursuant to 28 U.S.C. Section 2241, 5 U.S.C Section 702, and the All Writs Act, 28 U.S.C.
4. Petitioner has exhausted any and all administrative remedies tot he extent required by law.

VENUE

5. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 494, 493-500(1973), venue lies in the United States District Court for the Georgia, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Haiti. Petitioner has a final order from June 2019. Petitioner has been in ICE custody multiple times without being removed from the United States.
7. Petitioner was detained since July 19, 2025 and has remained in ICE custody continuously since that date.
8. Respondent Pam Bondi is US Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Naturalization Act (INA). As such Pam Bondi has ultimate custodial authority over petitioner.
9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Kristi Noem is the legal custodian of petitioner.
10. Jason Streeval Warden of Stewart Detention Center, where petitioner is currently detained under the authority of ICE, alternatively may be considered to be petitioner's immediate custodian.
11. To date, however, ICE has been unable to remove Petitioner to Haiti or any other country.
12. Petitioner has fully cooperated with all efforts ICE regarding his removal from the United States.
13. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that six-months is the preemptively reasonable period during which ICE may detain aliens in order to effectuate their removal. *Id.* at 702. In *Clark v. Martinez*, 543 U.S. 371 (2005), the Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible aliens. Department of Homeland Security Administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 U.F.R Section 241.13(b)(ii).

CLAIMS FOR RELIEF

16. Petitioner's re-alleges and incorporates by reference paragraphs 1 through 16 above.
17. Petitioner's continued detention by respondents is unlawful and contravenes 8 U.S.C Section 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. The six-month preemptively reasonable period for removal efforts has expired. Petitioner still has not been removed and petitioner continues to languish in detention. Petitioner's removal to India or any other country is not significant likely to occur in the reasonably foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.
18. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.
19. The Due Process Clause of the Fifth Amendment requires that the deprivation of petitioner's liberty be narrowly tailored to serve a compelling government interest. While respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of petitioner, who is not likely to be removed in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and petitioner's removal is not significant likely to occur in the reasonable foreseeable future.
20. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case had been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of respondents to provide a neutral decision-maker to review the continued custody of petitioner's right to procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief.

- 1) Assume jurisdiction over this matter
- 2) grant petitioner a writ of Habeas Corpus directing the respondents to immediately release petitioner from custody
- 3) Enter preliminary injunctive relief enjoining respondents from further unlawful detention of petitioner.

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

Declaration Under Penalty Of Perjury

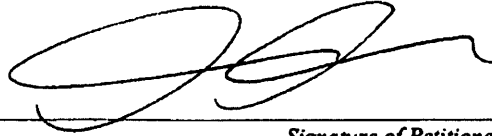
If you are incarcerated, on what date did you place this petition in the prison mail system:

12-22-25

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:

12-22-25



Signature of Petitioner

Signature of Attorney or other authorized person, if any