

25 CV 08602

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

)
Jhoan Maza Herrera,)
)
)
)
v.)
)
)
LaDeon Francis, In his official capacity)
As Acting Field Office Director of New York)
Immigration and Customs Enforcement,)
Kristi NOEM In her official capacity as)
Secretary of Homeland Security; Pam Bondi)
In her official capacity as Attorney general.)
)
Respondents.)

next of friend,

A No. 

RECEIVED
SDNY PRO SE OFFICE
2025 OCT 17 PM 12:52

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

This is a petition for a writ of habeas corpus filed pro se on behalf of Jhoan Maza Herrera, from here on after Petitioner, seeking relief to remedy his unlawful arrest and detention. This petition is being filed by as next of kin by his fiance **Kati Andrea Fuentes Deluque**. She is filling because her fiance has been detained at Federal plaza since 10/16/2025 without access to counsel or the ability to file his own habeas. The room where he is detained does not grant access to paper, or legal

information on his ability to challenge his unlawful detention before this court nor in English or Spanish.

The fiance **Kati Andrea Fuentes Deluque Has** “next friend” standing and has a joined asylum petition before Immigration Court’s and is acting in the best interest of her fiance and family. to bring this action under § 2241 because Petitioner is detained and without access to counsel or the ability to receive or send mail or sign documents at the place he is currently detained.

Due to the fact that the place where petitioner is detained has no law library were he can prepare this Habeas petition his fiance as next of kin is dedicated to act in the Petitioner’s best interests. See *Ross ex rel. Dunham v. Lantz*, 408 F.3d 121, 123 (2d Cir. 2005) (“First, a ‘next friend’ must provide an adequate explanation ... why the real party in interest cannot appear on his own behalf to prosecute the action. Second, the ‘next friend’ must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate[.]”).

Petitioner’s argues that his arrest violates his Fifth Amendment right to Procedural Due Process because ICE detained him without notice, an opportunity to respond, or an individualized determination that he posed a flight risk or danger to the community, at the conclusion of a master calendar hearing at the New York City

immigration court located at 26 Federal Plaza, New York. ICE also violated Petitioner's right to Due Process when it failed to allow him to contact counsel or provided an avenue so that he could reach out to counsel or request counsel to file a Habeas Corpus challenging his unlawful detention.

On or about December 29, 2023, Petitioner, entered the United States of America and was placed in proceedings pursuant to 236 under 1226 as can be seen by his NTA. Petitioner was released and on a later date filed his application for relief I-589 for Asylum, Withholding of Removal and protection under the Convention Against Torture.

Petitioner had a scheduled hearing for October 16, 2025 after which he was rescheduled by the Immigration Judge for May 7, 2026 and proceeded with his asylum proceedings. On October 16, 2025 petitioner while attending his court hearing was arrested by DHS/ICE without being given due process and without a proper procedure on which to challenge any allegations made by DHS/ICE as to his arrest.

This arrest follows a common practice now by DHS/ICE where upon exiting the courtroom, U.S. Immigration and Customs Enforcement ("ICE") detained the Petitioner without any individualized assessment of flight risk and dangerousness. Subsequently violating his Procedural Due Process Rights, he has been detained by

DHS/ICE without access to counsel in violation of his rights to Due Process guaranteed by the Constitution Fifth amendment.

CUSTODY

1. Petitioner is in the physical custody of Field Office Director for Detention and Removal, held by ICE, a component of the Department of Homeland Security (DHS). At the time of the filing of this petition, Petitioner is detained at 26 Federal plaza, New York. Jurisdiction and venue in this Court are proper because the events giving rise to the petition occurred in the District, and the immediate custodian detaining Petitioner is also in the District.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L.No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of

the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the Southern District of New York the judicial district in which the Due Process violations occurred and where he was unlawfully arrested and resided while the violation of his Procedural Due Process rights were occurring. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner is a national and citizen of Colombia who was forced to flee his native country due to threats on his life. Petitioner requested protection within the United States after his entry on or about December 29, 2023. Petitioner presented his case for I-589 application for Asylum, Withholding of Removal and CAT which remains pending before the EOIR. He is detained at 26 Federal Plaza, New York by the Respondents in violations of his Procedural Due Process rights.

5. Respondent LaDeon Francis is the Field Office Director for Detention and Removal, USICE, DHS. Respondent is a custodial official acting within the boundaries of the judicial district of the United States Court for the Southern

District of New York. Pursuant to Respondent orders, Petitioner remains detained.

6. Respondent is Kristi NOEM in her official capacity as Secretary of Homeland Security. She is Petitioner's immediate custodian and resides in the judicial district of the United States Court for the Southern District of New York.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

7. Petitioner has no administrative remedies available as he was not able to challenge the individualized assessment that he posed a flight risk or was a danger to the community as required by immigration law in cases involving 1226a detentions. Pursuant to currently operative policy, ICE has taken the position that individuals like Petitioner are subject to mandatory detention. Respondent Pam Bondi, who as Attorney General oversees the Executive Office of Immigration Review that employs immigration judges, has overseen the implementation of policies of categorically denying bond hearings to individuals such as Petitioner. There is no avenue for administrative review, and assuming *arguendo* any such review existed, it would be futile.

8. Petitioner's only remedy is by way of this judicial action in seeking protection from having his Procedural Due Process rights violated.

STATEMENT OF FACTS

9. Petitioner is a national and citizen of Colombia who turned himself in at the border on or about December 29, 2023. He was in immigration proceedings and released under 236 and 1226 authority.

10. On a later date petitioner filed his application for relief in the form of I-589 application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture.

11. On or about October 16, 2025, petitioner appeared at his scheduled hearing, and at the conclusion of the hearing, he was granted time to continue for May 7, 2026. Upon leaving the court room, he was arrested by DHS/ICE without warning, cause, or explanation.

12. Petitioner was whisked away and placed in a holding tank with others that had been similarly arrested as himself.

13. The officers for ICE or DHS began to detain numerous people exiting the courtroom that day without any individualized assessments as to whether petitioners posed a flight risk or a danger to the community.

14. Petitioner was then placed in the holding area and continues to be detained under respondents' custody. Petitioner was not provided and opportunity to call counsel or provided with information on relief available or challenges he could make to these Procedural Due Process Violations. He was not provided with access to a law library or any means that would allow him to prepare even a Pro se habeas corpus.

15. Petitioner was not notified by DHS/ICE of any availability to file bond or a habeas corpus petition and was denied the opportunity seek release. The Holding area at 26 Federal Plaza neither provides paper nor envelopes which he could have used to prepare his petition, constituting another violation of his Due Process rights.

16. Petitioner did not receive any notice or opportunity to be heard as to whether a change of custody was warranted or given a means to provide evidence that his arrest was not necessary as he had shown up to court repeatedly and had counsel.

17. Petitioners have not been allowed to call any nonprofit nor have any opportunity to seek representation given strict limitations on call time.

18. Respondents' violations of Petitioner's Procedural Due Process rights are very serious. First, they detained him without justification; second, they denied him access

to counsel which is guaranteed under Due Process; and third, they subjected him to conditions that violated the basic principles of Due Process.

19. Respondents' ongoing detention of petitioner with no due process at all, and much less a prior notice, no showing of changed circumstances, or an opportunity to respond is a clear violation of his Due process rights," Valdez v. Joyce, No. 25cv4627, 2025 WL 1707737, *4 (S.D.N.Y. June 18, 2025).

20. Respondents' decision to violate petitioners Due Process rights and subject him to these violations is a grave violation of the Fifth Amendment's right to Procedural Due Process. The failure of providing petitioner access to his counsel after his arrest is a further violation of his Due Process rights.

CLAIMS FOR RELIEF

COUNT ONE CONSTITUTIONAL CLAIM

21. Petitioners alleges and incorporates by reference paragraphs 1 through 21 above.

22. Petitioners' detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO STATUTORY CLAIM

23. Petitioners alleges and incorporates by reference paragraphs 1 through 22 above.

24. Petitioner's continued detention violates the Immigration and Nationality Act, The Administrative Procedure Act, and the U.S. Constitution's Fifth Amendment Procedural Due Process Clause.

COUNT THREE

25. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter.
2. Enjoin the Respondents from transferring Petitioner away from the jurisdiction of this district pending these proceedings.
3. Issue an order directing Respondents to show cause why the writ should not be granted within 15-30 days to safeguard his Procedural Due Process rights.

4. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond or reasonable conditions of supervision show.
5. Award Petitioner reasonable costs and attorney's fees; and,
6. Grant any other relief which this Court deems just and proper.

Respectfully submitted,

Date: 10-17-2025

ANDREA FUENTES
Fiance: Kati Andrea Fuentes Deluque
On Behalf of
Jhoan Maza Herrera

Exhibit A

1. Birth Certificate for Petitioner's children showing Next of Kin relationship with Fiance