

UNITED STATES DISTRICT COURT  
FOR MIDDLE DISTRICT OF LOUISIANA

**Alban LUKAJ,**

Petitioner

vs.

Case No.

**Kristi NOEM**, *Secretary of the  
Department of Homeland Security;*

**BRIAN ACUNA**, Acting Field Office Director, New Orleans,  
U.S. Immigration and Customs Enforcement,  
Department Of Homeland Security; and

**KEVIN JORDAN**, *Warden at LaSalle Corrections,*

Respondents

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**PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner, Alban Lukaj, by and through his undersigned counsel, files this Petition for a Writ of Habeas Corpus to remedy his unlawful immigration detention by the Respondents, and alleges as follows:

**JURISDICTION AND VENUE**

1. This action arises under the Constitution of the United States, and the Immigration and Nationality Act (INA) §§ 101 *et seq.*, 8 U.S.C. §§ 1101 *et seq.* This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), Art. I § 9, Clause 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. §§ 1331 (federal question). Petitioner is seeking determination of the lawfulness of his detention by Respondents only and does not seek review of

any part of the underlying administrative proceedings which were conducted before the Executive Office for Immigration Review (EOIR).

2. While the courts of appeal have jurisdiction to review removal orders directly through petitions for review, the federal district courts have jurisdiction under 28 U.S.C. 2241 to hear habeas petitions by non-citizens challenging the lawfulness of their detention by immigration officials. Immigration and Nationality Act (INA) § 242(a)(1), (b), 8 U.S.C. 1252(a)(1), (b). *Pierre v. U.S.*, 525 F.2d 933, 935-36 (5th Cir. 1976) (habeas petitions under 28 U.S.C. § 2241 serve the "sole function" of challenging the legal basis for ICE detention).

3. Federal courts also have federal question jurisdiction through the Administrative Procedures Act to "hold unlawful and set aside agency action" that is "arbitrary capricious or an abuse of discretion or otherwise not in accordance with the law." 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas, 5 U.S.C. § 703, providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action".

4. Venue is proper in the United States District Court for the Middle District of Louisiana pursuant to 28 U.S.C. §§ 1391(b) and 1391(e) because it is the district court whose territorial jurisdiction includes the place where the immediate custodian is located and where Petitioner is detained.

#### **PARTIES**

5. Alban Lukaj, Petitioner, is a native and citizen of Albania. He has been unlawfully detained by Immigration and Customs Enforcement ("ICE") since November 19, 2024, currently at the Louisiana ICE Processing Center, also known as "Angola", "Louisiana Lockup" or "Camp 57", 18198 Tunica Trace, Bldg. E, Angola, LA 70712 ("Angola").

6. Respondent Kristi Noem, Secretary of the U.S. Department of Homeland Security (“DHS”), is charged by law with the implementation and enforcement of the immigration laws of the United States. She is the executive officer who has been given authority to manage and control U.S. Immigration and Customs Enforcement (ICE), the DHS sub-agency which is detaining petitioner. As such, she is the ultimate legal custodian of the Petitioner. She is sued here in her official capacity only.

7. Respondent Brian Acuna is the Acting New Orleans ICE ERO Field Office Director. He is charged with exercising authority over the removal operations carried out by ICE in the New Orleans geographic region, which includes Angola. Mr. Acuna is the ICE officer who has direct and proximate authority to detain Petitioner and has legal custody of him. He is named in his official capacity only.

8. Respondent Kevin Jordan is the Warden of Angola. He has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens. He is named in his official capacity only.

#### **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

Mr. Lukaj’s immigration cases have a long and complex history; only recent relevant matters will be alleged here. Mr. Lukaj, fleeing extreme persecution in Albania, illegally reentered the United States on or about February 2022 after he was removed. On or about November 19, 2024, he was apprehended by ICE and his removal order reinstated. He has been detained for over one year and 9 months as of the date of this petition. He has not been properly considered for any type of release into the community by ICE since his detention, in violation of law.

Mr. Lukaj has honorably and successfully served and completed all of his criminal sentences and is reformed and rehabilitated. He is not a danger to the community nor a flight risk. He has extended family in the United States and would reside peacefully and productively in the community if released, complying with all conditions imposed. If he is removed to Albania, he will be tortured.

He was placed in "Withholding Only Proceedings" before the Executive Office for Immigration Review (EOIR) at the Lasalle Immigration Court, Jena. LA. At the hearing before the Immigration Judge on April 9, 2025, Petitioner produced overwhelming clear and convincing evidence corroborated by the credible testimony of witnesses supporting his request for relief under the Convention Against Torture. DHS did not effectively object to any of the plaintiff's evidence, did not impeach his witnesses and produced no effective evidence challenging or contradicting Petitioner's proofs. On April 30, 2025, Honorable Immigration Judge Kandra Robbins entered a decision ordering Mr. Lukaj deported to Albania and further ordered that his removal be deferred under the United Nations Convention Against Torture (CAT) because he would likely be tortured if deported. The immigration judge's decision was entered according to law and did not contain any error.

Notwithstanding the manifestly legal and error-free order of the immigration judge, which was not adequately challenged at the individual hearing, DHS filed an appeal to the Board of Immigration Appeals (BIA) which it is wont to do in virtually all cases whether there is error in the record or not. On December 12, 2025, the BIA remanded the case to the immigration judge in a decision that nitpicked the IJ's consideration of certain evidence in determining facts, ignoring the statement by the Immigration Judge in her decision that she considered all of the evidence in

the record. The BIA's decision transgressed its limited authority to set aside factual conclusions: only if they are clearly erroneous. The BIA did not take up any other issue, which is now the law of the case. The BIA allowed the immigration judge broad discretion to take any action deemed necessary to prepare a new decision in accordance with the its decision; the immigration judge rewrote and published her decision on January 13, 2026, meticulously discussing all of the evidence considered to establish facts and again granting Petitioner relief under the CAT. This order will become administratively final on or about February 12, 2026, unless the Government again appeals, which would be without merit, causing additional delay in obtaining finality in this matter.

In the meantime, DHS cannot deport Petitioner under the law because his removal order by the IJ is not administratively final. If DHS appeals administrative finality will be unreasonably delayed because the immigration judge's order is error-free. And there is no reasonable possibility of a different outcome on appeal. The last BIA appeal in this case lasted 247 days notwithstanding Petitioner's two meritorious motions to expedite. If the order becomes administratively final in the near-term Petitioner cannot be deported because he was granted deferral of removal under the CAT, 8 C.F.R. § 1208.17(b)(2). Under these circumstances there is no likelihood of Petitioner's removal in the foreseeable future.

Plaintiff is fearful that the immigration authorities directed by Respondents will continue to seek his deportation for the United States, even using unlawful processes, and detain him endlessly. Under the circumstances the Petitioner's detention has become indefinite, prolonged and excessive and he will never be released by ICE. And, unless Petitioner is unlawfully removed there is no chance of his removal in the reasonably foreseeable future.

During Petitioner's detention his attorneys have repeatedly contacted responsible ICE officials requesting consideration of his release according to law informing them of his precarious health conditions, hardship to his U.S. family and other relevant circumstances. ICE officers have not responded to these requests and have not reconsidered their custodial determination, ignoring and violating applicable law. Mr. Lukaj surmises and believes that he will never be considered for release under any conditions or circumstances, notwithstanding the requirements of the law. Any further requests of ICE that it release the Petitioner would be futile.

Mr. Lukaj asserts that his detention is in violation of the INA and agency regulations requiring that he be meaningfully periodically considered for release and thus arbitrary, capricious and contrary to law in violation of the APA. And, he asserts and alleges that his prolonged and indefinite detention, with no chance of removal in a reasonable period of time, is a violation of INA § 241(a)(6) and the Due Process Clause of the Fifth Amendment of the U.S. Constitution as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Summarily hear and determine this Petition;
- 3) Issue a writ of habeas corpus, directed to Respondents declaring that their continued detention of Petitioner violates the INA and APA and / or the Due Process Clause of the Fifth Amendment to the U.S. Constitution and ordering Petitioner's immediate release;
- 4) Grant such further relief as the Court deems just and proper.

Dated: January \_\_\_, 2026

/s/David J Rozas

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28  
U.S.C. SECTION 2242

I am submitting this verification on behalf of the Petitioner because I am the primary attorney for the Petitioner. I have represented the Petitioner in his immigration cases for some years and have discussed events described in this petition with him. Based on my knowledge I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated:

Respectfully Submitted,

/s/ David J Rozas

David J Rozas