

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

Middle District of Pennsylvania



JEAN BUTEAU REMARQUE

Petitioner

v.

CRAIG A. LOWE

Respondent

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

Case No.

(Supplied by Clerk of Court)

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

Personal Information

1. (a) Your full name: JEAN BUTEAU REMARQUE  
 (b) Other names you have used: N/A
2. Place of confinement:  
 (a) Name of institution: PIKE COUNTY CORRECTIONAL FACILITY  
 (b) Address: 175 Pike County Blvd.  
Lords Valley, PA 18428  
 (c) Your identification number:
3. Are you currently being held on orders by:  
 Federal authorities     State authorities     Other - explain:  
ICE DETENTION
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): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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**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)
- 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: DEPARTMENT OF HOMELAND SECURITY (DHS) / IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)

(b) Docket number, case number, or opinion number: NONE

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

PETITIONER A CITIZEN OF HAITI WAS CONVICTED OF VIOLATING 18 U.S.C. § 2252A(a)(2)(A) FOR RECEIVING CHILD PORNOGRAPHY. HE WAS REMOVED FOR BEING CONVICTED OF A CIMT AND A CRIME OF CHILD ABUSE. HIS ORDER OF REMOVAL IS FACIALLY VOID AND HIS DETENTION IS UNLAWFUL.

(d) Date of the decision or action: \_\_\_\_\_

**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: \_\_\_\_\_

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(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

(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: See section 7(b)  
\_\_\_\_\_  
\_\_\_\_\_

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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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(b) If you answered "No," explain why you did not file a third appeal: See section 7(b)

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

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: \_\_\_\_\_

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(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: 11/20/2025

(b) Date of the removal or reinstatement order: 05/04/2025

(c) Did you file an appeal with the Board of Immigration Appeals?

Yes  No

If "Yes," provide:

(1) Date of filing: 11/20/2025

(2) Case number: [REDACTED]

(3) Result: Appeal Dismissed by the BIA

(4) Date of result: 05/04/2025

(5) Issues raised: Violation of Due Process in the initiation of the removal proceedings with two conflicting Notices to Appear establishing different jurisdictions and venues. Use of inadmissible evidence to establish removability in violation of the INA and the agency's own regulations. Failure to Apply the categorical approach and misapplication of the realistic probability test in determining a crime of involving moral turpitude. Arbitrary and capricious refusal to adjudicate Petitioner's Form I-751 (petition to remove conditions on legal permanent residence) which was the only form of relief against removal available to the Petitioner and would have restored his legal status.

(d) Did you appeal the decision to the United States Court of Appeals?

Yes  No

If "Yes," provide:

(1) Name of court: U.S Court of Appeals for the Third Circuit

(2) Date of filing: 05/25/2025

(3) Case number: No. 25-2019 / No. 25-3021

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(4) Result: Petition for Review still pending.

(5) Date of result: \_\_\_\_\_

(6) Issues raised: Same issues raised before the BIA, see section 11(c)(5)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**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.

**GROUND ONE:** STATUTORY VIOLATION: The BIA's Order of Removal is Facially Void and the Detention of  
Petitioner is Unlawful

\_\_\_\_\_

\_\_\_\_\_

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

Petitioner challenges the validity of the order of removal for his detention by DHS/ICE for reasons which appear on the face of the record as distinguished from review of administrative procedures and findings. The BIA in defiance of Congressional intent and its own precedential case law simply refused to apply the categorical or "modified categorical" approach to determine whether a conviction under 18 U.S.C. § 2252A(a)(2) related to crime involving moral turpitude (CIMT) or a crime of child abuse. Petitioner was not convicted of a CIMT or crime of child abuse within the meaning of the INA. If the order of removal is unlawful, so is the detention.

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

Yes  No Question (b) is not applicable

**GROUND TWO: PROCEDURAL DUE PROCESS VIOLATION: There is a Gap in the Immigration Statutory Framework Giving Rise to a Due Process Violation to Those Affected**

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

Petitioner has been denied a timely and meaningful opportunity to demonstrate that he is unlawfully detained because his conviction was not related to a CIMT or crime of child abuse within federal statute's meaning, thus, the order of removal is facially void and deprived him of his right to liberty in violation of the due process. There is no administrative mechanism in place for noncitizens like Petitioner who seek to challenge their detention where the judgment under which they are held is wholly void and do not receive a stay of removal. They not only will remain unlawfully detain during the pendency of the judicial review process of their order of removal by the court of appeals, but they could also face imminent wrongful removal without judicial review of the order of removal.

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

Yes  No Question (b) is not applicable

**GROUND THREE: SUBSTANTIVE DUE PROCESS VIOLATION: Petitioner's Substantive Due Process is Violate Because the Judgment Under Which He is Held is Wholly Void**

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

Petitioner's unlawful detention and the likelihood of his imminent wrongful removal prior a judicial review of his wholly void order of removal constitute a violation of substantive due process by depriving him of his core liberty interest to be free from bodily restraint. There is no question that Petitioner is not removable under the INA and well-established precedent. Upon his custody, ICE misclassified Petitioner as a "post-removal detainee," although a stay of removal was in place, to prevent him from securing a bond hearing or securing a Joseph hearing to show that he was not subject to mandatory detention, which forced him to remain in custody. After the lifting of his stay of removal, ICE is actively trying to remove him to prevent him from completing his judicial review process.

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

Yes  No Question (b) is not applicable

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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: N/A

**Request for Relief**

15. State exactly what you want the court to do: Grant the Petition for a Writ of Habeas Corpus; and order the Petitioner to be discharged by Respondent from custody pursuant to the order of removal herein the Court should adjudge void.

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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:

01/15/2026

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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: 01/15/2026

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Signature of Petitioner

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N/A

Signature of Attorney or other authorized person, if any

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Jean Remarque /   
Pike County Correctional Facility  
175 Pike County Blvd.  
Lords Valley, PA 18428

January 15, 2026

**Office of the Clerk  
United States District Court for the  
Middle District of Pennsylvania  
Nealon Fed. Bldg. & U.S. Courthouse  
235 N. Washington Ave.  
P.O. Box 1148  
Scranton, PA 18501**

**RE: *Petition for a Writ of Habeas Corpus Under 28 U.S.C.S. 2241*  
*Remarque v. Lowe, Case No* \_\_\_\_\_**

Dear Honorable Clerk:

I am submitting this pro se petition for a Writ of Habeas Corpus. In support of this petition, please consider the following attached documents:

- ✓ Petition for a Writ of Habeas Corpus Under 28 U.S.C.S. 2241;
- ✓ Memorandum of Law in Support of the Petition for a Writ of Habeas Corpus and Exhibits
- ✓ Motion to Proceed Without Prepaying the Filing Fee
- ✓ Motion for Appointment of Pro Bono Counsel
- ✓ Form to Give my Consent to Proceed with a Magistrate Judge
- ✓ Motion for a Temporary Restraining Order and Preliminary Injunction and Brief

I would appreciate if you could stamp a copy of that cover letter with the assigned case number and mail it to me at the above address which shall serve as an acknowledgement of receipt of my petition.

Thank you for your kind consideration of my application.

Sincerely yours,

/s/ Jean Remarque