

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

UNITED STATES DISTRICT COURT

for the

2026 FEB 24 A 10:39

KOM
CL. DIST. OF GA.

Petitioner

v.

Case No.

5:26 CV 259
(Supplied by Clerk of Court)

Respondent

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

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

Personal Information

1. (a) Your full name: FILMON TELIE YOMANES
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: FOLKSTON ICE PROCESSING CENTER
(b) Address: P.O. BOX 248
FOLKSTON, GEORGIA 31537-3026 HIGHWAY 252 EAST
(c) Your identification number: A [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
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: STEWART IMMIGRATION COURT

(b) Docket number, case number, or opinion number: A [REDACTED]

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

ORDER OF REMOVAL

(d) Date of the decision or action: 08/08/2025

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: BIA

(2) Date of filing: 09/05/2025

(3) Docket number, case number, or opinion number: _____

(4) Result: PENDING

(5) Date of result: _____

(6) Issues raised: Immigration Judge Order of Removal

(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: _____

(b) Date of the removal or reinstatement order: _____

(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:

09/05/2025

(2) Case number:

A

(3) Result:

Pending

(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: STATUTORY VIOLATIONS

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 Do not cite cases or law.):

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

☐ Yes

☐ No

GROUND TWO: SUBSTANTIVE DUE PROCESS VIOLATIONS

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 Do not cite cases or law.):

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

☐ Yes

☐ No

GROUND THREE: PROCEDURAL DUE PROCESS VIOLATIONS

(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:

FIFTH AMENDMENT VIOLATIONS

(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:

I am asking the Honorable Court
to Order ICE for immediate release from Custody.

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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:

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: 02-20-2026



Signature of Petitioner

Signature of Attorney or other authorized person, if any

COUNT ONE

PROCEDURAL DUE PROCESS VIOLATION

Under the Due process clause of the Fifth Amendments, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make any decision concerning aliens' custody status in a neutral and impartial manner. The failure of respondent to provide a neutral decision- maker to review the continued custody of petitioner violates petitioner's right to procedural due process. Respondent have failed to acknowledge or act upon petitioner's administration request for release in a timely manner.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

The petitioner continued detention violates petitioner right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

See Tom v. INS, 14F. Supp2d 1184 (E.D. Cal 1998)(aliens retain substantive due process right).

Under the Due process clause of the Fifth Amendment requires that the deprivation of petitioner's liberty be narrowly tailed to serve a compelling government interest. While respondent 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 significantly likely to be removed in the reasonably foreseeable future. The U.S Supreme court in Zadvydas thus interpreted 8 U.S.C Ss 1231 (a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's interest- to effect the alien's removal. See Kay v. Reno, 94 F. supp. 546,551 (M.D. Pa2000) (granting writ of habeas corpus because petitioner's

substantive due process right were violated, and nothing that “if deportation can never occur, the government primary legitimate purpose in detention-executing removal-is nonsensical.”)

COUNT THREE

5th AMENDMENT VIOLATIONS

Immigration Judge abuse discretion to grant petitioner's Asylum application disregarding the threat of his life when he is deported to Eritrea. The immigration Judge did not give the petitioner opportunity violate his 5th Amendments protective right he is entitled to. Petitioner is facing multiple life threatening consequences if he is deported back to Eritrea.

COUNT FOUR

STATUTORY VIOLATIONS

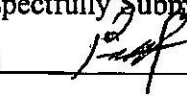
Petitioner's continued detention by Department of Homeland Security (DHS) Immigration and Custom Enforcement (ICE) is unlawful and contravenes 8 U.S.C Ss 1231(a)(b) as interpreted by the U.S supreme court in *Zsdvyads*. Six month presumptively reasonable period for continued removal effort has expired. Petitioner still has not been removed, and for the reason outline above in the previous paragraphs. Petitioner removal is not reasonably foreseeable. The Supreme Court held in *Zadvyads* and ICE continue detention of someone after six months without deportation is not reasonable foreseeable unreasonably and in violations of U.S.C Ss 1231(a)533 U.S. At 701

PRAYER FOR RELIEF

WHEREFORE: Petitioner prays that this Honorable Court to grant the following relief

1. Declaring that petitioner continue detention is not authorized by the D.H.S and /or violates the Fifth Amendments.
2. Enter preliminary and permanent injunctive relief enjoining from further unlawful detention of petitioner.
3. Grant any other and further relief that this Court deems just and proper.

Respectfully Submitted

By:  _____

Filmon Yohanes

Folkston Processing Center

P.O Box 248

Folkston, GA 31537