

13205733, 1, 42-56

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

**FILED**

**UNITED STATES DISTRICT COURT** **UNITED STATES DISTRICT COURT**  
DENVER, COLORADO

for the  
*Colorado*

**MAR - 2 2026**

**JEFFREY P. COLWELL**  
CLERK

Brook Yitbark Kebede  
*Petitioner*


v.  
The Warden. Juan Baltazar  
The Director of ICE. Todd Lyons  
*Respondent*  
(name of warden or authorized person having custody of petitioner)

Case No. \_\_\_\_\_  
(Supplied by Clerk of Court)

) The Area Field Office Director of ICE  
Robert Hagan  
) The Attorney General. Pamela Bondi (Respondents)

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

**Personal Information**

1. (a) Your full name: Brook Yitbark Kebede  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: Aurora Detention Facility  
(b) Address: 3130 North Oakland street, Aurora CO80010
3. (c) Your identification number:   
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: Aurora Immigration Court. 3130 North Oakland street, Aurora CO 80010

(b) Docket number, case number, or opinion number: 

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

Unlawfully re-detained by ICE.

(d) Date of the decision or action: On June 29<sup>th</sup> 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: \_\_\_\_\_

(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 appeal: No appeal available

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: No appeal available

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: No appeal available

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: June 29<sup>th</sup> 2025
- (b) Date of the removal or reinstatement order: January 13<sup>th</sup> 2026
- (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: \_\_\_\_\_
- (2) Case number: \_\_\_\_\_
- (3) Result: \_\_\_\_\_
- (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:** My re-detention has violated my Due Process Clause and the Fifth Amendment.

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 Do not cite cases or law.):

On June 29<sup>th</sup> 2025 I was brutally and unlawfully arrested without any prior legal notification or Warrant for Arrest. ICE came to my apartment and forcefully arrested and brought me to the detention center. I requested custody determination by Immigration Judge after my custody but they never did that for me. Please kindly review attached "Memorandum of law"

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

Yes  No

**GROUND TWO:** My re-detention without a bond hearing has become unconstitutionally prolonged and violates the Fifth Amendment of the constitution.

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

Being held in custody for 8 months unlawfully without a bond hearing, being unable to communicate with my family who are residing geographically very distant from me, suffering from a severe medical condition has created so much depression and stress to me. I have attached a truthfull supporting letter to prove that I was never a flight risk nor danger to the community.

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

Yes  No

**GROUND THREE:** The Process of a Third-Country Removal violates my Due process, Fifth (5) Amendment and my constitutional rights.

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

Please kindly review the attached "Memorandum of law"

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

Yes  No

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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:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Request for Relief**

15. State exactly what you want the court to do: I respectfully ask the Court to grant the Writ of Habeas Corpus and order my immediate release from detention or in the alternative order a bond hearing at which government must prove by clear and convincing evidence that my continued detention is necessary. (2) I also respectfully request the court to use its authority under 28 U.S.C. § 2243 to order the Respondents to file a return within 3 (three) days unless they can show good cause for additional time. (3) In order to permit full judicial review of the claim here in and request relief I kindly request that the Court orders Respondents NOT to transfer me outside the jurisdiction of this Court pending considerations of this petition. (4) I also ask the Court enjoining Respondents from re-detaining me 1. unless they obtain a travel document for my removal, 2. without following the procedures set forth in 8 C.F.R. §§ 241.4 (1) 241.13(i), and 3. unless they provide written notice, a meaningful opportunity to raise a fear-based claim for Convention Against Torture ("CAT") protection, and reopening, or providing me an opportunity to seek to reopen my immigration proceedings.

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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:

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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: 02/24/2026



\_\_\_\_\_  
*Signature of Petitioner*

\_\_\_\_\_  
*Signature of Attorney or other authorized person, if any*

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

**Instructions**

1. **Who Should Use This Form.** You should use this form if
  - you are a federal prisoner and you wish to challenge the way your sentence is being carried out (*for example, you claim that the Bureau of Prisons miscalculated your sentence or failed to properly award good time credits*);
  - you are in federal or state custody because of something other than a judgment of conviction (*for example, you are in pretrial detention or are awaiting extradition*); or
  - you are alleging that you are illegally detained in immigration custody.
2. **Who Should Not Use This Form.** You should not use this form if
  - you are challenging the validity of a federal judgment of conviction and sentence (*these challenges are generally raised in a motion under 28 U.S.C. § 2255*);
  - you are challenging the validity of a state judgment of conviction and sentence (*these challenges are generally raised in a petition under 28 U.S.C. § 2254*); or
  - you are challenging a final order of removal in an immigration case (*these challenges are generally raised in a petition for review directly with a United States Court of Appeals*).
3. **Preparing the Petition.** The petition must be typed or neatly written, and you must sign and date it under penalty of perjury. **A false statement may lead to prosecution.**
4. **Answer all the questions.** You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit any legal arguments, you must submit them in a separate memorandum. Be aware that any such memorandum may be subject to page limits set forth in the local rules of the court where you file this petition. If you attach additional pages, number the pages and identify which section of the petition is being continued. All filings must be submitted on paper sized 8½ by 11 inches. **Do not use the back of any page.**
5. **Supporting Documents.** In addition to your petition, you must send to the court a copy of the decisions you are challenging and a copy of any briefs or administrative remedy forms filed in your case.
6. **Required Filing Fee.** You must include the \$5 filing fee required by 28 U.S.C. § 1914(a). If you are unable to pay the filing fee, you must ask the court for permission to proceed in forma pauperis – that is, as a person who cannot pay the filing fee – by submitting the documents that the court requires.
7. **Submitting Documents to the Court.** Mail your petition and \_\_\_\_\_ copies to the clerk of the United States District Court for the district and division in which you are confined. For a list of districts and divisions, see 28 U.S.C. §§ 81-131. All copies must be identical to the original. Copies may be legibly handwritten.  
  
If you want a file-stamped copy of the petition, you must enclose an additional copy of the petition and ask the court to file-stamp it and return it to you.
8. **Change of Address.** You must immediately notify the court in writing of any change of address. If you do not, the court may dismiss your case.

Memorandum of law in support  
of petition of Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241

Name: Brook Yitbark Kebede

Alien Registration No. 

Pro Se Petitioner - Detained

Detention Center: Aurora Detention Facility

Address: 3130 North Oakland street, Aurora CO 80010

① I, petitioner, Brook Yitback Kebede was born on [REDACTED] in Debarq, Ethiopia. I'm ethnically Amhara. My native language is Amharic and I'm [REDACTED]. Please see Immigration Judge "Findings of Fact" on Page 4,5 on the written decision.

② I entered the United States on September 26, 2023. Following on my arrival at the border via Mexico, I was immediately taken to a hospital for an emergency medical treatment where I was treated for 9 hours. After I was discharged from the hospital, I respectfully went to the immigration office in San Diego. Transport was arranged for me by the hospital.

③ As soon as I arrived at the immigration office, I was informed that they were busy and I had to come back early in the morning on the next day. I went back on time as told. They again told me to come back on the afternoon. I waited around the area (outside the building) and went back on time. All this time I was respecting all the rules and regulations of the INA.

④ This time, they took my fingerprints, made me fill and sign on different papers without a presence of a legal representative. Then, shortly, they detained me in the building (basement) for hours.

⑤ After waiting for hours, transport was arranged and came to the building. They handcuffed, chained, shackled me and drove me to Otay Mesa Detention Center. I was detained from September 27, 2023 until November 14, 2023 (not sure about the released day).

⑥ I was then released on "Parole", I was "Paroled" into the United States. Since then or until ICE forcefully and brutally arrested me on June 29, 2025. I was fully cooperating with ICE under ISAP (ICE Supervision program).

⑦ As matter of fact, ICE failure to comply with it's regulations concerning the re-detention violates my Due Process rights and Administrative Procedures Act (APA). The revocation of my parole without consideration of my individualized circumstances violates fundamental Due Process principles.

⑦ Under the Interim Notice, my parole "may" terminated on (some date), however there is nothing in the record before the court indicating that DHS has contacted me prior to my unlawful re-detention at the end of the period and I ~~was~~ still appears to be remained on parole without incident until and before I was arrested. It's not very clear or it's unclear to me whether my parole was terminated or not since I was not given notification prior to the brutal unlawful re-detention, which firmly violates my Due Process and the Fifth Amendment.

⑧ On June 29, 2025 around 8 A.M. ISAP representative called me (on Sunday), and told me that my watch (GPS watch, which they gave me) wasn't connecting or charging (which was a lie because I could see it on my side that it was working perfectly), however respecting the law, I followed her orders which was to go out of my flat and meet the ICE officers so that they would fix it. But the case was way far from the truth meaning, they (ICE officers) was waiting for me outside at my apartment to unlawfully detain me without a prior warrant for Arrest.

⑨ I was re-detained before given any notice that I would be detained and more importantly, I've been detained since June 29, 2025 without an individualized bond hearing or custody re-determination.

⑩ Therefore I declare that my re-detention or arrest violates the Due Process Clause of the Fifth Amendment, both substantively (because ~~I was not~~ the government allegedly has no valid interest in detaining me) and procedurally (because I was not given a pre-re-detention custody determination hearing). see. eg. *Aviles Mena v. Kaiser*, 2025 U.S. Dist. Lexis 173976; *Murzi v. Noem*, 2026 U.S. Dist. Lexis 29561; *Valencia Zapata v. Kaiser*, 801 F. Supp. 3d 919, 935 n.4 (N.O. Cal 2005).

⑪ Under the Due Process Clause of the Fifth Amendment to the United States constitution, no person shall be "deprived of life, liberty, or property, without Due Process of law." "U.S. Const. amend. v." "Freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the heart of the liberty that

clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L. Ed. 2d 653 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80, 112 S.Ct. 1780, 118 L. Ed. 2d 437 (1992)). "Even individuals who face significant constraints on their liberty or over whose liberty the government wields significant discretion retain a protected interest in their liberty." *Pinchi v. Noem*, No. 25-cv-05632, PCP, 792 F. Supp. 3d 1025, 2025 U.S. Dist. Lexis 142213, 2025 WL 2084912, at \*3 (N.D. Cal., July 24, 2025) (citations omitted); *Castellon v. Kaiser*, No. 25-cv-00968, 2025 U.S. Dist. Lexis 157841, 2025 WL 2373425, at \*8-9 (E.D. Cal., Aug. 14, 2025) (finding a likelihood of success on the merits as to ICE "Parolees liberty interest", and explaining that "Parole allowed me to build a life outside detention, albeit under the terms of my parole."); *Ortega v. Bonner*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019). ("The fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest"); and explaining that "Parole allowed me to build a life outside detention." *Murd v. D.C. Govt*, 864 F.3d 671-683, 431 U.S. App. DC 83 (D.C. Cir. 2017) (holding that re-detention after pre-parole conditional supervision requires a pre-deprivation hearing);

⑫ There has been an injury to my Due process of protectable liberty interest. To analyze the three *Mathews* factors. First I have a substantial private interest in remaining out of custody once I've been granted parole and I've spent a significant time lawfully and freely residing in the United States. See *Morrissey v. Brewer*, 408 U.S. 471, 482, 92 S.Ct. 2593, 33 L. Ed. 2d 484 (1972); *Pinch v. Noem*, 2025 U.S. Dist. Lexis 142213, 2025 WL 2084912, at \*3.

⑬ In my case the availability of parole as an alternative to mandatory detention is not hypothetical. ICE made the determination that I was eligible to be released on parole, and because of that decision I spent three (3) years openly living in the United States, with work authorization and subject to regular ICE check-ins. There is also no records of any change in circumstance that would lead ICE to reach a different determination if they reassessed my eligibility for parole today. Therefore, my private interests

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in my continued freedom from detention are weighty. See, eg. *Castellon*, 2025 U.S. Dist. Lexis 154841, 2025 WL 2373425, at \*8-9.

(14) There is also a significant risk of erroneous deprivation that the additional procedural safeguard of a pre-detention custody determination hearing would help protect against. Civil immigration detention must be "non punitive in purpose" and bear a "reasonable relation" to the authorized statutory purposes of preventing flight and danger to the community. *Zadvydas*, 533 U.S. at 690.

(15) As such, ICE's original decision to release me on parole in 2023 was required by regulation to be premised on the determination that I was "neither a security risk nor a risk of absconding." See 8 C.F.R. § 212.5(b). Therefore, while it may be the case that the government was entitled to presume that I was a flight risk when I was re-detained pursuant to section 1225(b)(1), it is no longer entitled to that presumption three(3) years later, after I have been openly living in the United States for three(3) years, and nothing in the record indicates that I'm a flight-risk and danger to the community. Absent Due Process, there is a high risk that my re-detention will not pursuant to a valid safe interest.

(16) In sum, ICE hasn't identified any basis under its statutory purposes for unlawfully re-arresting me after it had made the determination to grant me parole, other than its incorrect assumption that I was subject to expedited removal. In these circumstances, the risk of erroneous deprivation is high.

(17) Finally, the government's interest in re-detaining me for 8 months without a bond hearing is low, because ICE previously made the determination to release me, and there is no evidence in the record of any changed. See *Jorge M.F. v. Wilkinson*, No. 21-cv-01434-JST, 2021 U.S. Dist. Lexis 40823 WL 783561, at \*3 (N.D. Cal. Mar. 1-2021); *Ortega*, 415 F. supp. 3d at 970. Other courts considering habeas petitions against substantially similar backgrounds have concluded that paroled petitioners who go on to live in the United States have been released on their own

recognizance, and therefore that §1226, rather than §1225 applies. See. eg. Sidqui v. Almodovar et al. No. 25-cv-9349 (VSB), 2026 U.S. Dist. Lexis 19371. 2026 WL 251929. at \*10 (S.D.N.Y. Jan 30, 2026), petitioners, on parole not the humanitarian parole in §1182(d)(5)(A).

⑱ When an individual's re-detention violates the Fifth Amendment, courts are permitted to order individual released from detention to restore their status quo of liberty prior to the unlawful re-detention. see Phetsadaleone v. Scott No. C25-1678 JNW, 2025 U.S. Dist. Lexis 173785, 2025 WL 2549569, \*5 (W.D. Wash sept. 5, 2025). See also 28 U.S.C. §2241(c)(3) (providing that federal courts have the authority to grant Writs of Habeas Corpus to an individual in custody if such custody is a violation of the Constitution or law or treaties of the United States.

⑲ The supreme courts has held that the Fifth Amendment guarantee of procedural protections unambiguously extends to noncitizen "in the context of removal proceedings." Trump v. J.G.G., 604 U.S. 670, 145 S. Ct. 1003 221 L. Ed 529 (2025) (citation omitted); see also Zadvydas v. Davis, 533 U.S. 678, 693, 121 S. Ct. 2491. 150 L. Ed. 2d 653 (2001). "(T)he Due Process Clause applies to all "persons" within the United States" whether their presence here is lawful, unlawful, temporary or permanent." Zadvydas, 533 U.S. at 693.

⑳ Thus, under the plain meaning of section 1225(b)(1), I no longer qualife for Removal Proceeding's because I was paroled into the United States and have been living and working legally, respectfully in the United States for three(3) years.

㉑ As, I'm currently in custody since June 29, 2025 Under the color of the authority of the United States and my custody is in violation of the constitution, laws, or, treaties of the United States, The Court has a Jurisdiction under 28 U.S.C. §2241, The suspension clause Art 1. §9, C12; and 28. U.S.C. §1331. see eg. Zadvydas, 566 U.S. 678. The Court may grant relief under 28 U.S.C. §2241 (Habeas Corpus), 5, U.S.C §702, (establishing the right

of review for a person suffering a legal wrong due to agency action) and 28 U.S.C. §1651 (All Writs Act).

②② In the immigration context, the supreme court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community.

②③ I have proven to the IJ and ICE that I'm either a flight risk nor danger to the community. I was working in two different hospitals in Denver, Colorado to show that I, from my heart was serving the community. (Rose Medical center and National Jews hospital) let alone becoming a flight risk nor a danger to the community.

②④ I also have a firm relationship with my Ethiopian community. In fact, I'm a member of the "Amhara Association of Colorado", "Seattle Amhara Association" and "Amhara Association of America". (I have attached supporting letters from the association) for the court put into consideration that I am not, will not be a flight risk nor poses danger to the community.

see IJ written decision (findings of fact). I've also attached a psychological evaluation evaluated by "Deana Gallo LCSW, License #22017".

②⑥ After I have been detained by ICE on June 29, 2025 till to this very present day my health situation has become unstable. I've been severely getting extremely ill. I'm in a deterioration condition. My pain has increased from day to another day, pain and bleeding. Since I'm being held in the facility I am experiencing severe pain, constipation, dryness severe hurt burn, significant bleeding. Which has caused me to have a painful hemorrhoids and a possible anal fissure. I had to have three different surgeries and I'm currently writing my medical conditions statement right

after my surgical day with a severe pain. I have to be given the right to treat my critical health situation privately (outside detention) to prevent further injuries. see eg. *padilla v. Bowen*, 2025 U.S. Dist. Lexis 114358. *Komalpreetkaar v. United States Dep't Homeland Sec.*, 2025 U.S. Dist. Lexis 264352; *Liu v. Noem*, 2026 U.S. Dist. Lexis 21480.

27) I have all my medical record attached below. please kindly review all of them to have a full understanding consideration.

28) My removal in the reasonably foreseeable future is not likely. It's absolutely impossible to be return to Ethiopia. Due to my past persecution and future persecution because of [REDACTED] [REDACTED] (IJ granted me "withholding of removal to Ethiopia. see IJ written Decision page 9, 10).

29) I also cannot be removed to U.K. as the IJ decision for the reasons mentioned below, my residence permit has expired while I am detained by ICE. I do not have a permanent residence permit. I do not have a passport or a travel document.

30) My continued detention, having in mind of my critical health condition, is unlawful and I'm not likely to be removed in the reasonably foreseeable future. Therefore, my prolonged detention violates the statute and I am entitled to immediate release.

31) Due process requires to receive notice and an opportunity to be heard before my deportation to a third country, and ICE's current policies, reflected in a July 9, 2025 memo (see the attached policy), do not adhere to these requirements. Specific, under the current policy, ICE need not give noncitizens notice or opportunity to be heard prior to removing them to a country that has provided the State Department "credible assurances against persecution and torture". Even if it has received no such assurances, ICE can remove the person with six to twenty-four hours notice. Due Process requires to have an adequate opportunity to identify and raise threats to my health and life prior to removal to a third country.

32) Several courts within the Ninth Circuit have held the policies

provided in the ICE memo are violate due process. *Lapshin v. Bondi*, No. C25-2245-KKE.; *Elshourbagy v. Bondi*, No. 2:25-cv-02432-TL.; *Escobar v. Chestnut*, No. 1:25-cv-01801-DJC-EFB.; *Azzo v. Noem*, No. 3:25-cv-03122-RBM-BJW.; *Kumar v. Wamsley*, No. C25-2055-KKE.; *Vu v. Noem*, No. 1:25-cv-01366-KES-SKOHK.; *Esmail v. Noem*, No. 2:25-cv-08325-WLH-RAO. This Court agrees. The memo suggests removal to a third country may occur without an opportunity to be heard if the United States receives and believes diplomatic assurances that there will be no persecution or torture. According to the Ninth Circuit, "last minute orders of removal to a third country may violate due process if an immigrant was not provided an opportunity to address his fear of persecution in that country." *Nawjar v. Lynch*, 630 F. App'x 424 (9th Cir. 2016)

③③ Additionally, when the third country does not provide such assurances, ERO "will not affirmatively ask whether the alien is afraid of being removed to that country." However, "failing to notify individuals who are subject to deportation that they have the right to apply for asylum... and for withholding of deportation to the country to which they will be deported violates regulations and Due Process." *Andriasian v. I.N.S.* 180 F.3d 1033, 1041 (9th Cir. 1999). (Citing *Kossov v. I.N.S.*, 132 F.3d 405, 408-09 (7th Cir. 1998))

③④ In conclusion, my prolonged unlawful detention violates the Due Process Clause, Fifth Amendment and my Constitutional rights. I respectfully request that this Court order Respondents to show cause why should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed", pursuant to 28 U.S.C. §2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release me from their custody or in the alternative order a bond hearing at which government must prove by clear and convincing evidence that my continued detention is necessary.

Respectfully submitted.


Signature: ~~\_\_\_\_\_~~

Name: Brook Yitbank Kebede

A-Number: ~~\_\_\_\_\_~~

Detention Center: Aurora Detention Facility.

UNITED STATES DEPARTMENT OF JUSTICE  
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW  
IMMIGRATION COURT  
3130 NORTH OAKLAND STREET  
AURORA, COLORADO 80010

**In The Matter Of:** )  
)  
**KEBEDE, Brook Yitbark** ) **IN REMOVAL**  
) **PROCEEDINGS**  
)  
**Respondent.** )  
)  
**File No.** A  ) **DETAINED**

**CHARGES:** Sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (INA or Act), as amended.

**APPLICATIONS:** Asylum under INA § 208; Withholding of Removal under INA § 241(b)(3); Protection under the regulations implementing the United Nations Convention Against Torture (CAT), 8 C.F.R. §§ 1208.16(c), 1208.17, 1208.18.

**ON BEHALF OF RESPONDENT:**  
Jared White, Esquire  
Birch Grove Immigration  
140 South Wilcox Street, Suite B  
Castle Rock, Colorado 80104

**ON BEHALF OF DHS:**  
Joshua Harvey, Assistant Chief Counsel  
U.S. Department of Homeland Security  
12445 East Caley Avenue  
Centennial, Colorado 80111

**WRITTEN DECISION**

**I. PROCEDURAL HISTORY**

Brook Yitbark Kebede (Respondent) is a native and citizen of Ethiopia. Exhibit 1. On September 26, 2023, the Department of Homeland Security (DHS) initiated removal proceedings against him by filing a Notice to Appear (NTA) with the Court. *Id.*; 8 C.F.R. § 1003.14. DHS subsequently filed Form I-261, Additional Charges of Inadmissibility/Deportability (I-261). Exhibit 1A. DHS charges Respondent with inadmissibility based on his violations of sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the INA. Exhibits 1, 1A.

In written pleadings filed February 14, 2024, and during the individual merits hearing on November 5, 2025, Respondent, through counsel, admitted the factual allegations contained in his NTA and conceded both charges of inadmissibility. Exhibit 2. Based on Respondent's admissions and concessions, the Court sustained the charges of inadmissibility and designated Ethiopia as the country of removal. *See* INA § 241(b)(2).

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On February 16, 2024, Respondent filed Form I-589, Application for Asylum and for Withholding of Removal (I-589), seeking asylum under section 208 of the INA, withholding of removal under section 241(b)(3) of the INA, and protection under the regulations implementing the CAT. Exhibit 3. On November 5, 2025, Respondent appeared, represented by counsel, for an individual hearing and testified in support of his applications for relief.

For the reasons below, the Court denies Respondent's application for asylum but grants him withholding of removal to Ethiopia.

## II. EVIDENCE

The documentary evidence within Respondent's electronic Record of Proceeding (ROP) consists of nine exhibits, all of which the Court identified on the record and admitted into evidence. The Court has thoroughly considered and afforded proper weight to all evidence. Throughout this decision, the Court cites the exhibits in the electronic ROP by referencing the exhibit number followed by the EOIR page numbers electronically stamped in the lower left margin of each page. In addition to the documentary evidence submitted, Respondent testified in support of his applications.

## III. CREDIBILITY

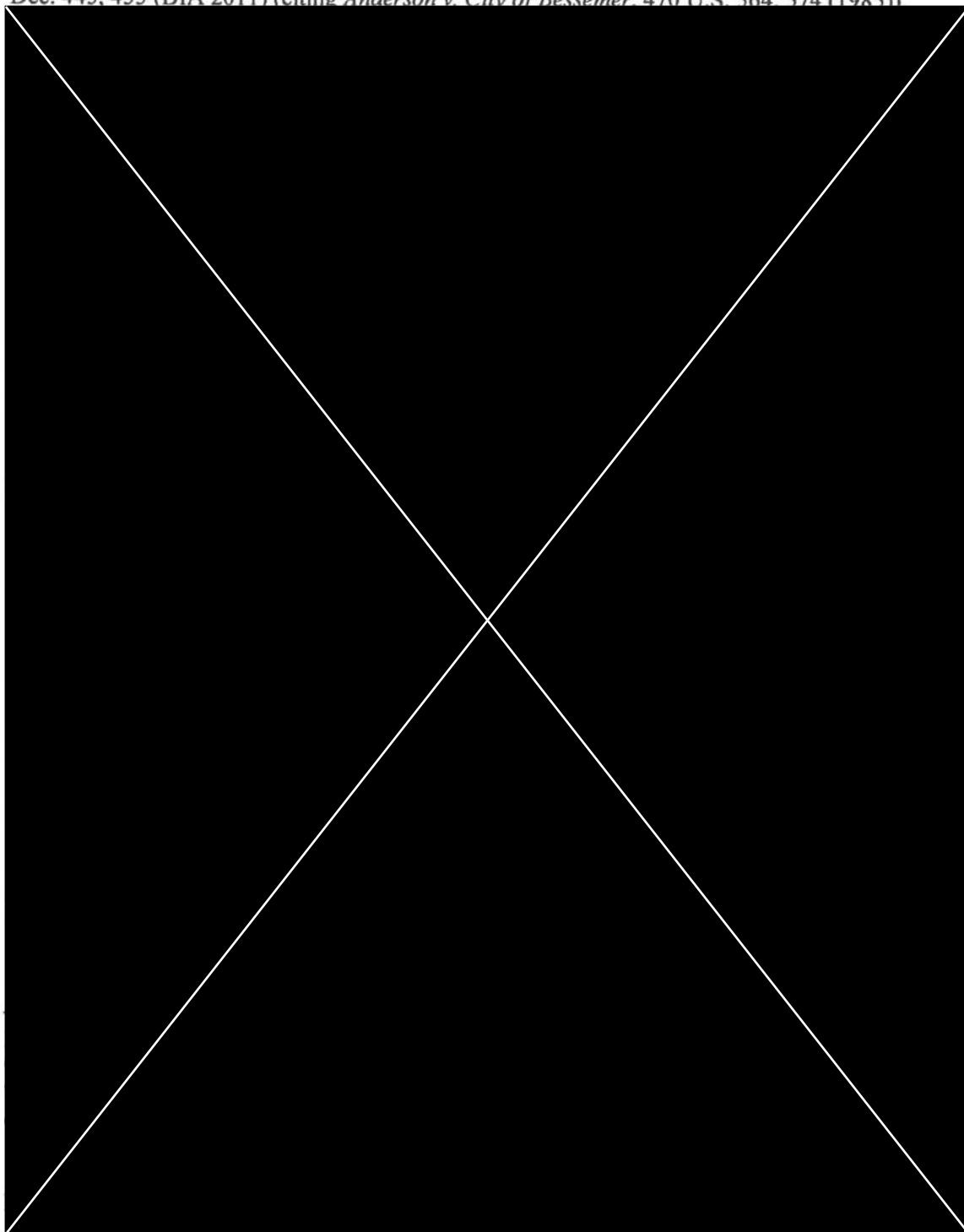
In all applications for relief and protection, the Court must make a threshold credibility determination for the applicant and any other witness. *See* INA § 240(c)(4); *Matter of O-D-*, 21 I&N Dec. 1079, 1081 (BIA 1998) (asylum and withholding of removal); *Ismail v. Mukasey*, 516 F.3d 1198 (10th Cir. 2008) (CAT eligibility). A credibility determination must be made based on the "totality of the circumstances" and "all relevant factors," including: demeanor, candor, responsiveness, inherent plausibility of the claim, the consistency between oral and written statements, the internal consistency of such statements, the consistency of such statements with evidence of record, and any inaccuracy or falsehood in such statements, regardless of whether it goes to the heart of the applicant's claim. INA § 240(c)(4)(C).

There is no presumption that an applicant is credible, and an applicant bears the burden of establishing his own credibility. *Matter of H-C-R-C-*, 28 I&N Dec. 809, 811 (BIA 2024); *Matter of G-C-I-*, 29 I&N Dec. 176, 177 (BIA 2025). An immigration judge "may credit all, some, or none of an applicant's testimony, so long as the finding considers 'the totality of the circumstances and all relevant factors.'" *Matter of G-C-I-*, 29 I&N Dec. at 177 (citing *Matter of H-C-R-C-*, 28 I&N Dec. at 811).

Testimony is not credible if it is inconsistent, inherently improbable, or contradicts evidence, including country conditions evidence in the record. *Matter of S-M-J-*, 21 I&N Dec. 722, 728-29 (BIA 1997). While minor and isolated discrepancies in the applicant's testimony are not necessarily fatal to credibility, omission of key events coupled with numerous inconsistencies may lead to a finding that the applicant is not credible. *Matter of A-S-*, 21 I&N Dec. 1106, 1109-10 (BIA 1998). Credibility issues may be remedied if the applicant provides a "convincing explanation for the discrepancies and omissions." *Id.* at 1109. However, "[a]n

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Immigration Judge is not required to accept a respondent's assertions, even if plausible, where there are other permissible views of the evidence based on the record." *Matter of D-R-*, 25 I&N Dec. 445, 455 (BIA 2011) (citing *Anderson v. City of Bessemer*, 470 U.S. 564, 574 (1985))



**Order of the Immigration Judge**



Immigration Judge: Gardzelewski, Ivan 01/13/2026

**Certificate of Service**

This document was served:

Via:  M ] Mail |  P ] Personal Service |  E ] Electronic Service |  U ] Address Unavailable

To:  ] Alien |  ] Alien c/o custodial officer |  E ] Alien atty/rep. |  E ] DHS

Respondent Name : | A-Number :

Riders:

Date: 01/13/2026 By: GUTHRIE, KIMBERLY, Court Staff

**KEREBE**  


Accordingly, Respondent established his eligibility for withholding of removal to Ethiopia under section 241(b)(3) of the INA.

**VII. PROTECTION UNDER THE CONVENTION AGAINST TORTURE**

Because the Court grants Respondent withholding of removal to Ethiopia under section 241(b)(3) of the Act, it will not address the merits of his request for protection under the regulations implementing the CAT.

Accordingly, the Court enters the following orders:

**ORDERS**

IT IS HEREBY ORDERED that Respondent’s application for asylum under section 208 of the Act is **DENIED**.

IT IS FURTHER ORDERED that Respondent be removed to **ETHIOPIA**, and in the alternative to the **UNITED KINGDOM**.

IT IS FURTHER ORDERED that Respondent’s application for withholding of removal to **ETHIOPIA** under section 241(b)(3) of the Act is **GRANTED**.

IT IS FURTHER ORDERED that appeal is **RESERVED** on behalf of both parties.

January 13, 2026

Date \_\_\_\_\_

**IVAN  
GARDZELEWSKI**

Digitally signed by IVAN  
GARDZELEWSKI  
Date: 2026.01.13 08:07:28 -07'00'

Ivan E. Gardzelewski  
Immigration Judge

**APPEAL RIGHTS:** All parties have the right to appeal the decision in this case. Any appeal is due to the Board of Immigration Appeals on or before thirty (30) calendar days from the date of service of this decision.

PLAINTIFFS' EXHIBIT NO. 2  
CASE NO. PX 25-951  
IDENTIFICATION: JUL 10 2025  
ADMITTED: JUL 10 2025

To All ICE Employees  
July 9, 2025

**Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)**

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On June 23, 2025, the U.S. Supreme Court granted the Government's application to stay the district court's nationwide preliminary injunction in *D.V.D. v. Department of Homeland Security*, No. 25-10676, 2025 WL 1142968 (D. Mass. Apr. 18, 2025), which required certain procedures related to providing a "meaningful opportunity" to assert claims for protection under the Convention Against Torture (CAT) before initiating removal to a third country. Accordingly, all previous guidance implementing the district court's preliminary injunction related the third country removals issued in *D.V.D.* is hereby rescinded. Absent additional action by the Supreme Court, the stay will remain in place until any writ of certiorari is denied or a judgment following any decision issues.

Effective immediately, when seeking to remove an alien with a final order of removal—other than an expedited removal order under section 235(b) of the Immigration and Nationality Act (INA)—to an alternative country as identified in section 241(b)(1)(C) of the INA, ICE must adhere to Secretary of Homeland Security Kristi Noem's March 30, 2025 memorandum, *Guidance Regarding Third Country Removals*, as detailed below. A "third country" or "alternative country" refers to a country other than that specifically referenced in the order of removal.

If the United States has received diplomatic assurances from the country of removal that aliens removed from the United States will not be persecuted or tortured, and if the Department of State believes those assurances to be credible, the alien may be removed without the need for further procedures. ICE will seek written confirmation from the Department of State that such diplomatic assurances were received and determined to be credible. HSI and ERO will be made aware of any such assurances. In all other cases, ICE must comply with the following procedures:

- An ERO officer will serve on the alien the attached Notice of Removal. The notice includes the intended country of removal and will be read to the alien in a language he or she understands.
- ERO will not affirmatively ask whether the alien is afraid of being removed to the country of removal.
- ERO will generally wait at least 24 hours following service of the Notice of Removal before effectuating removal. In exigent circumstances, ERO may execute a removal order six (6) or more hours after service of the Notice of Removal as long as the alien is provided reasonable means and opportunity to speak with an attorney prior to removal.
  - Any determination to execute a removal order under exigent circumstances less than 24 hours following service of the Notice of Removal must be approved by the DHS General Counsel, or the Principal Legal Advisor where the DHS General Counsel is not available.