

FILED
MAR 13 2026
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: 008 DEPUTY

Hayleyesus Gebru Gebremeskel (A249 140 584)

NAME

PRISON NUMBER

Imperial Regional Detention Facility

PLACE OF CONFINEMENT

1572 Gateway Road, Calexico, CA 92231

ADDRESS

**United States District Court
Southern District Of California**

Hayleyesus Gebru Gebremeskel

(FULL NAME OF PETITIONER)

Petitioner

v.

Warden Jeremy Caskey

(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER, E.G. PAROLE OFFICER)

Respondent

and

The Attorney General of the State of California, Additional Respondent.

Civil No. '26CV1631 BJC BJW

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS

UNDER 28 U.S.C. § 2241

1. 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 or case number (if you know): _____

(c) Date of sentencing: _____

Being held on immigration charge

Other (explain): _____

2. Are you currently being held on orders by:
 Federal authorities State authorities Other - explain: By DHS (Department of Homeland Security)

3. What are you challenging in this petition:
 How your sentence is being carried out, calculated, or credited by prison or parole authorities
 Pretrial detention
 Immigration detention
 Detainer
 The validity of your conviction or sentence as imposed
 Disciplinary proceedings
 Other (specify): _____

4. Provide more information about the decision or action you are challenging:

(a) Name and location of the court or agency: Board of Immigration Appeals
Office of the Clerk, P.O.Box 8530, Falls Church, VA 22041

/ Imperial Immigration Court located at 2409 La Brucherie Rd, Imperial, CA 92251

(b) Case number, docket number or opinion number (if you know): [REDACTED]

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): Lacking and absence of timely bond hearing; arbitrary, unreasonable and unnecessary detention serving no public interest; lack of specific detention grounds. (Zadvydas v. Davis). This petition is being submitted pursuant to Art. 1 § 9, cl. 2 of the U.S. Constitution; 28 U.S.C. § 2241(Habeas Corpus) and 28 U.S.C §1331 (Federal Question). This arises under the Due Process Clause of the 5th Amendment and INA, 8U.S.C. §1101, et seq.

(d) Date of the decision or action: 10/07/2025

5. Did you appeal the decision, file a grievance or seek an administrative remedy?

Yes No Appeal was filed to challenge the decision by the Imperial Immigration Court denying my asylum application

(a) If your answer to 5 was "Yes," give the following information:

(1) Name of court, agency or authority: Board of Immigration Appeals

(2) Date of filing: October 28, 2025

(3) Case number, docket number or opinion number: [REDACTED]

(4) Result: Pending

(5) Date of result: Pending

(6) Issues raised: Appeal was filed to challenge the decision by the Imperial Immigration Court denying my asylum application on the ground that the Immigration Judge made factual and legal errors.

(b) If your answer to 5 was "No," explain why you did not appeal: _____

6. After the first appeal, did you file a second appeal to a higher authority, court or agency?

Yes No

(a) If your answer to 6 was "Yes," give the following information:

- (1) Name of court, agency or authority: N/A
- (2) Date of filing: _____
- (3) Case number, docket number or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____
- _____
- _____

(b) If your answer to 6 was "No," explain why you did not appeal: _____

7. After the second appeal, did you file a third appeal to a higher authority, agency or court?

Yes No

(a) If your answer to 7 was "Yes," give the following information:

- (1) Name of court, agency or authority: N/A
- (2) Date of filing: _____
- (3) Case number, docket number or opinion number: _____
- (4) Result: _____
- (5) Date of result: _____
- (6) Issues raised: _____
- _____
- _____

(b) If your answer to 7 was "No," explain why you did not appeal: _____

8. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and facts supporting same,

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available court remedies as to each ground on which you request action by the federal court. Moreover, if you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

You should *raise in this petition all available grounds* on which you base your allegations that you are being held in custody unlawfully.

GROUND ONE: Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Procedural Due Process.

(a) Supporting FACTS (state *briefly* without citing cases or law) _____

The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law," U.S. Const. amend. V. Petitioner has a vested liberty interest in his release from immigration custody. Due Process does not permit the government to strip him of that liberty without a hearing before a neutral adjudicator.

See Morrissey, 408 U.S. at 487-488

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

Yes No

GROUND TWO: Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Substantive Due Process

(a) Supporting **FACTS** (state *briefly* without citing cases or law): _____

I, Petitioner, re-allege and incorporate by reference the paragraphs above. The Due Process Clause of the Fifth Amendment forbids the government from depriving any individuals of their right to be free from unjustified deprivations of liberty. U.S. Const. amend. V. Due Process does not permit the government to strip Petitioner of liberty without it being tethered to one of the two constitutional bases for civil immigration detention: to mitigate against the risk of flight or to protect the community from danger. Civil detention that is unrelated to a Civil detention that is unrelated to a valid regulatory purpose or excessive in relation to that purpose is punitive, in violation of substantive due process. See Jones, 393 F.3d at 934.

Additionally, has never committed any crime anywhere in the world and that he has a community tie as he has siblings and many other people from his community. He poses no danger to the community. The government's arrest of Petitioner is untethered from any valid basis for civil immigration detention, is excessive in relation to any risk that does exist, is a clear danger to his health due to his preexisting health conditions and is therefore punitive in violation of substantive due process. Petitioner's continued detention is unlawful and violates due process.

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

Yes No

GROUND THREE: Arbitrary and Capricious Agency Action (APA, 5 U.S.C. § 706)

(a) Supporting FACTS (state *briefly* without citing cases or law): _____
Petitioner re-alleges and incorporates by reference the paragraphs above. Respondents DHS and ICE acted arbitrarily, capriciously, and contrary to law when they detained Petitioner and failed to consider the totality of his immigration history, his health condition and his eligibility for asylum and for withholding of removal and for relief under the Convention Against Torture. By detaining Petitioner shortly after he entered into the country and keeping him in detention thereby restricting his sufficient access to his attorney, access to medical evaluation and the ability to gather his evidences to support his claim, Respondents acted in a manner that was arbitrary, capricious, and an abuse of discretion, in violation of 5 U.S.C. § 706(2)(A) that warrants judicial correction under the APA and the Constitution.

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

Yes No

GROUND FOUR: Violation of 8 USC § 1226(a), Unlawful Denial of Bond Hearing

(a) Supporting FACTS (state *briefly* without citing cases or law): Petitioner is alleged as having entered the U.S. without inspection. 8 U.S.C. § 1182(a)(6)(A)(i). Petitioner is denied release by the Department of Homeland Security (DHS) and would seek a bond hearing before an immigration judge. However, such a request is futile because the immigration judge will hold that he/she lacks jurisdiction over the bond hearing based on new EOIR policy that all persons who entered without inspection are deemed applicants for admission to the United States and are ineligible for bond hearings based on the immigration statute, 8 U.S.C. § 1225(b)(2)(A). Section 1225(b)(2)(A) states that an applicant for admission seeking admission shall be detained for a removal proceeding. It is the position of the Executive Office for Immigration Review (EOIR), which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border. However, § 1225(b)(2)(A) does not apply to non-citizens, like myself, the Petitioner, who is in the United States who are subject to the the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Instead, such non-citizens are subject to detention under a different statute, § 1226(a), and eligible for release on bond. Nevertheless, on July 8, 2025, ICE "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. The new policy entitled "Interim Guidance of the Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). As such, I, the Petitioner, seek an order of declaratory and injunctive relief and set aside relief under the Administrative Procedure Act requiring that he be provided a bond hearing before the immigration judge.

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

Yes No

9. If any of the grounds listed in 4A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not presented, and give your reasons for not presenting them:

My (Petitioner's) Asylum appeal brief has not yet been submitted. However, I intend to further present all of the above grounds on my appeal brief.

10. Do you have any petition or appeal now pending in any court, either state or federal, as to the execution of sentence under attack?

Yes No

11. Give the name and address, if known, of each attorney who represented you in the following stages of the execution of sentence attacked herein:

(a) In any post-conviction proceeding _____

(b) On appeal from any adverse ruling in a post-conviction proceeding I only have an attorney who filed my notice of appeal to challenge an Immigration judge's decision deny application for asylum and for withholding of removal and for relief under CAT.

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

03/05/2026
(DATE)



SIGNATURE OF PETITIONER

**INSTRUCTIONS FOR FILING
PETITION UNDER 28 U.S.C. § 2241 FOR WRIT OF HABEAS CORPUS
IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

- (1) This petition must be legibly handwritten or typewritten. You must tell the truth in the petition and you must sign the petition under penalty of perjury. If you do not tell the truth in this petition, you may be prosecuted for and convicted of perjury.
- (2) Answer all the questions on the form as concisely as you can. You do not need to cite cases. Include the facts supporting your ground for relief. If briefs or arguments are submitted, they should be submitted as a separate memorandum.
- (3) You must pay a **\$5.00 filing fee** to have your petition filed. The \$5.00 fee must be submitted with the petition, not separately. If you do not have the \$5.00 for the filing fee and any other costs, you may request permission to proceed in forma pauperis. To do so, fill out and submit the "Motion to Proceed in Forma Pauperis" form provided by the Court with your petition. You also **MUST** have an authorized officer at the penal institution complete the "Prison Certificate" statements stating the amount of money and securities on deposit to your credit in any account in the institution.
- (4) You may only challenge a judgment entered by one court in a single petition. If you want to challenge judgments entered by different courts either in the same state or in different states, you must file separate petitions as to each court.
- (5) You must include all grounds for relief and all facts supporting such grounds for relief in the petition you file seeking relief from any judgment of conviction.
- (6) When the petition is fully completed, the original and at least one copy must be mailed to:

Clerk of U.S. District Court
Southern District of California
333 W. Broadway, Suite 420
San Diego CA 92101

- (7) Petitions that do not conform to these instructions will be returned with a notation as to the deficiency.