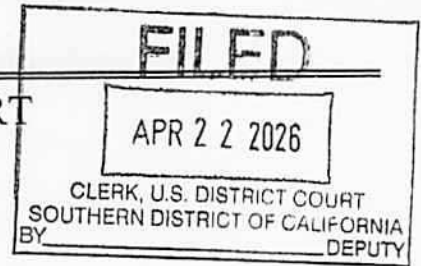


AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT
for the
Southern District of California



WISKENDY FRANCOIS

Petitioner

v.

CHRISTOPHER J. LAROSE, Warden; TODD LYONS,
Acting Director of ICE; MARKWAYNE MULLIN, Sec. of
DHS; TODD BLANCHE, Acting Attorney General

Respondent

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

Case No. **'26CV2556 DMS GC**
(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: Wiskendy Francois
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Otay Mesa Detention Center
(b) Address: 7488 Calzada De La Fuente, San Diego, CA 92154
(c) Your identification number: [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)

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

- ☐ 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: Otay Mesa Detention Center (Immigration Court) and DHS/ICE
7488 Calzada De La Fuente, San Diego, CA 92153
 (b) Docket number, case number, or opinion number: _____
 (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):
Violation of Due Process (Indefinite and Prolonged Detention 14-months), Failure of Administrative Process
(Arbitrary Detention), The Dissolution of the Government's Justification ("Mootness of Danger")/ The Shift in the
"Balance of Interests", Irreparable Harm (Mental Health and Livelihood), and Lack of Flight Risk.
 (d) Date of the decision or action: 04/15/2026

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: Broward Transitional Center (BTC) Court
Department of Homeland Security/Immigration Customs Enforcement
 (2) Date of filing: _____
 (3) Docket number, case number, or opinion number: _____
 (4) Result: Denied Immigration Bond
 (5) Date of result: 03/18/2025
 (6) Issues raised: Government raised that I am a Public Safety due to eight (8) traffic violations.

- All traffic violations are 100% cleared.

- Petitioner has never been convicted for a crime.

- Petitioner have strong ties in the community he serve as a Digital Literacy CyberSecurity Coach for the Education Foundation and The School District of Palm Beach County.

- Petitioner is not a flight risk because Petitioner intends to live in the U.S.

(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

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

(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: Filed 3-4 separate motions for bond re determination showing that all traffic violations were dismissed. All motions were denied by the IJ. BIA takes 6-12 months to rule; requiring exhaustion would double the length of an already unconstitutional 14-month detention.

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: While a BIA Appeal was not filed, the 9th Cir. has held that exhaustion here would be "futile" and cause "irreparable injury", as I would remain detained during the entire appeal process. Furthermore, the 9th Cir. allows judicial waiver of extension in §2241 cases

10. Motion under 28 U.S.C. § 2255 INVOLVING CONSTITUTIONAL DUE PROCESS CLAIMS.

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

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

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: 02/10/2025
- (b) Date of the removal or reinstatement order: _____
- (c) Did you file an appeal with the Board of Immigration Appeals?
☐ Yes ☒ No

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

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: Petition For Writ Of Habeas Corpus
- (b) Name of the authority, agency, or court: U.S. District Court - Southern District of California

(c) Date of filing: 12/15/2025

(d) Docket number, case number, or opinion number: 3:25-cv-03635-BTM-MMP

(e) Result: Dismissed in Part and Denied in Part Petition for Habeas Corpus

(f) Date of result: 01/20/2026

(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. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Violation of Due Process (Prolonged Detention)

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

I have been in detention for 14 months. My detention has become punitive rather than regulatory. My final hearing is now delayed indefinitely due to Court's scheduling conflicts. Under *Rodriguez v. Marin* (9th Cir.), detention that exceeds six (6) months becomes "prolonged", triggering heightened scrutiny which raises constitutional concerns under the Due Process Clause of the Fifth Amendment.

The Supreme Court in *Zadvydas v. Davis* established that detention must be related to its purpose.

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

☐ Yes

☒ No

GROUND TWO: Failure of Administrative Process (Arbitrary Detention)

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

I had an individual hearing on 12/23/25 which was rescheduled to 03/16/26 due to IJ's family emergency. I received a notice informing that I now had a new IJ. I was prepared for my final hearing on 03/16/26. Due to internal EOIR scheduling errors—double-booking with another detainee—the hearing was canceled. I was scheduled another hearing (04/08/26), which was also canceled due to another double-booking. This constitutes an "unreasonable delay" under the APA. I should not be deprived of liberty. I am now facing indefinite detention.

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

☐ Yes

☒ No

GROUND THREE: The Dissolution of the Government's Justification ("Mootness of Danger")/ The Shift in the "Balance of Interests"

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

The government's sole justification for detention was "danger to the community" finding based on eight (8) traffic citations. I have since cleared 100% of these citations. There are currently zero (0) pending charges or violations. Consequently, the Government's original deprivation of liberty has evaporated and the detention becomes prolonged, the due Process Clause requires a new, meaningful custody review where the Government bears the burden of proof by "clear convincing evidence" that I am a danger. My detention is now "arbitrary and capricious".

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

☐ Yes

☒ No

GROUND FOUR: Irreparable Harm (Mental Health and Livelihood)(a) Supporting facts (*Be brief. Do not cite cases or law.*):

Continued detention is causing severe clinical depression, anxiety, and serious mental health issues. I requested to speak with a Therapist, the facility has not provide one, and it constitutes "cruel and unusual punishment". Furthermore, as a Digital Literacy CyberSecurity Coach, my specialized skills are deteriorating, and my service to the Education Foundation and The School District of Palm Beach County—a vital community interest—is being permanently severed without a criminal conviction.

(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 request that this Court: Direct Respondents to release me from custody immediately. Order Immediate Unconditional Release: Cleared traffic record and the 14-month prolonged detention without further delay. Release Under Supervision: Under the ATD program, including but not limited to: GPS monitoring, telephonic reporting; or a reasonable appearance bond. Immediate "Diouff II" Bond Hearing: If the court does not grant immediate release, order Respondents to provide me with a new bond hearing before an IJ within (3) days,

WHERE: GOVERNMENT BEARS THE BURDEN OF PROOF BY CLEAR AND CONVINCING EVIDENCE THAT I AM A DANGER OR FLIGHT RISK. IJ MUST CONSIDER MY STRONG COMMUNITY TIES AND STABLE EMPLOYMENT. IJ MUST CONSIDER MY CURRENT CLEARED TRAFFIC RECORD.

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

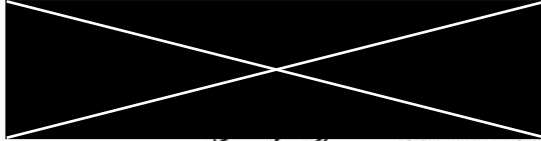
Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

04/16/2026

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: 04/15/2026

A black rectangular box with a white 'X' drawn across it, used to redact the signature of the petitioner.

Signature of Petitioner

Signature of Attorney or other authorized person, if any