

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

Blenvenu Mayala Mbombolo

Petitioner

v.

Patrick Diver, et al.


Respondent

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

Case No. '26 CV2904 RBM DDL
(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: Blenvenu Mayala Mbombolo
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: Imperial Regional Detention Facility
(b) Address: 1572 Gateway Road
Calexico, CA 92231
(c) Your identification number: 
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: Imperial Regional Detention Facility

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

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

(d) Date of the decision or action: 01/08/2025

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: _____

(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: _____

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: 01/08/2025
- (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: _____
 - (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: See attached.

(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:

(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:

(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:

(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: Order Respondents to Immediately release petitioner from immigration detention, or in the alternative order petitioner's release unless the Respondents provide him with a bond hearing.

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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: 05/08/2026

Signature of Petitioner

/s/ Sanjay Sobti
Signature of Attorney or other authorized person, if any

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4 Corona, CA 92878
5 Ph. (951) 371-0027
6 Email: uslawcorona@gmail.com
7 Counsel for Petitioner

8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

10 Bienvenu Mayala Mbombolo,



11 **Petitioner,**

12 vs.

13
14 Patrick Divver, San Diego
15 Field Office Director, Enforcement
16 and Removal Operations, United
17 States Immigration and Customs
18 Enforcement (ICE);

19 Jeremy Casey, Senior Warden, Imperial
20 Regional Detention Facility; Markwayne
21 Mullin, Secretary, United States
22 Department of Homeland Security;

23 Todd Blanche, Acting Attorney General
24 Of the United States; Executive
25 For Immigration Review (EOIR);

26 Respondents.

Case No: _____

'26CV2904 RBM DDL

**PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR ADMINISTRATIVE
PROCEDURE ACT RELIEF**

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INTRODUCTION

1. Petitioner Bienvenu Mayala Mbombolo (“Petitioner”) respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, seeking immediate release from immigration detention or, in the alternative, a constitutionally adequate bond hearing.
2. This case presents a straightforward constitutional violation: Petitioner has been detained for over sixteen months without a bond hearing while his petition for review is pending before the Ninth Circuit and a stay of removal is in place.
3. There is no meaningful likelihood of removal in the reasonably foreseeable future. Detention has become indeterminate, excessive, and punitive.
4. Courts in the Southern District of California routinely grant habeas relief under materially indistinguishable circumstances. See, e.g., *Kydyrali v. Wolf*, 499 F. Supp. 3d 768 (S.D. Cal. 2020).
5. Petitioner seeks immediate release or, at minimum, a constitutionally adequate bond hearing within seven days at which the government bears the burden of proof by clear and convincing evidence.

JURISDICTION AND VENUE

6. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331. Venue is proper because Petitioner is detained within this District.

PARTIES

7. Petitioner, Bienvenu Mayala Mbombolo , is a 45-year-old native and citizen of the Democratic Republic of the Congo who is currently detained at the Imperial Regional Detention Facility in Calexico, California.

- 1 8. Respondent Patrick Divver is the Field Office Director for ICE Enforcement and
2 Removal Operations (ERO) in San Diego, California. He is Petitioner's immediate
3 custodian, responsible for his detention Imperial Regional Detention Facility and the
4 person with the authority to authorize his detention or release. Respondent Patrick Divver
5 is sued in his official capacity.
- 7 9. Respondent Jeremy Casey Senior Warden of the Imperial Regional Detention Facility
8 oversees the day-to-day functioning of the facility, and has immediate physical custody
9 of Petitioner pursuant to a contract with ICE to detain noncitizens. Respondent Jeremy
10 Casey is sued in his official capacity as the warden of a federal detention facility.
- 12 10. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security.
13 As Secretary, he oversees the federal agency responsible for implementing and enforcing
14 the INA, including the detention of noncitizens. He is sued in his official capacity.
- 16 11. Respondent Department of Homeland Security (DHS) is the federal agency responsible
17 for implementing and enforcing the INA, including the detention of noncitizens.
- 18 12. Respondent Todd Blanche is the Acting Attorney General of the United States and head
19 of the U.S. Department of Justice. In that capacity, he oversees EOIR and the
20 immigration court system the agency administers. He is ultimately responsible for the
21 agency's operation. He is sued in his official capacity.
- 23 13. The Imperial Immigration Court is the adjudicatory body within EOIR with jurisdiction
24 over the removal and bond cases of all individuals detained at the Imperial Regional
25 Detention Facility.

26 **FACTUAL ALLEGATIONS**

- 27 14. Petitioner has been continuously detained since January 8, 2025—over sixteen months.
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15. He has never received a constitutionally adequate bond hearing.

16. His petition for review is pending before the Ninth Circuit, which has issued a stay of removal. As a result, removal cannot occur during the pendency of judicial review.

17. There is no evidence that Petitioner has caused delay.

18. Petitioner suffers from ongoing medical conditions, including gastrointestinal complications, which have worsened in detention.

19. Petitioner sought medical treatment in detention, however the detention facility has continuously failed to provide the care that he needs.

20. Petitioner's continued detention jeopardizes his health.

CLAIMS FOR RELIEF

COUNT I

Violation of Fifth Amendment – Procedural Due Process

21. Prolonged detention without a bond hearing violates the Fifth Amendment. See Singh v. Holder, 638 F.3d 1196 (9th Cir. 2011).

COUNT II

Violation of the Fifth Amendment – Substantive Due Process

22. Detention has become excessive in relation to its regulatory purpose and is therefore punitive. See Jones v. Blanas, 393 F.3d 918 (9th Cir. 2004).

COUNT III

Declaratory and Injunctive Relief

23. An actual and ongoing controversy exists between the parties regarding the legality of Petitioner's detention.

MEMORANDUM AND POINTS OF AUTHORITIES

1 **A. DETENTION IS UNCONSTITUTIONALLY PROLONGED**

2 24. Petitioner's detention exceeds sixteen months—well beyond the point at which courts in
3 this District require a bond hearing.

4 25. Whether analyzed under § 1226(a) or § 1231, continued detention is unconstitutional

5 26. Under § 1226(a), due process requires a bond hearing once detention becomes prolonged.
6 Singh, 638 F.3d at 1203–05.

7 27. Under § 1231, detention beyond six months is presumptively unreasonable unless
8 removal is reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678 (2001).

9 28. Here, removal is not foreseeable because the Ninth Circuit has issued a stay.

10 **B. S.D. CAL. FACTORS STRONGLY FAVOR RELIEF**

11 29. Courts consider:

12 (1) Length of detention – 16+ months weighs heavily in favor of relief.

13 (2) Foreseeability of removal – removal is not imminent due to Ninth Circuit stay.

14 (3) Delay – no evidence Petitioner caused delay.

15 (4) Purpose of detention – continued detention no longer serves a regulatory purpose.

16 See *Kydyrali*, 499 F. Supp. 3d at 772–73.

17 **C. IRREPARABLE HARM IS ESTABLISHED**

18 30. Loss of liberty alone constitutes irreparable harm. *Hernandez v. Sessions*, 872 F.3d 976
19 (9th Cir. 2017).

20 31. That harm is compounded by:

21 1) indefinite detention;

22 2) lack of procedural safeguards; and

23 3) worsening medical conditions.
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REQUESTED RELIEF

WHEREFORE, Petitioner requests:

1. Immediate release; OR
2. A bond hearing within 7 days where the government bears the burden by clear and convincing evidence;
3. An order requiring consideration of less restrictive alternatives;
4. Attorneys' fees under EAJA;
5. Any further relief deemed just.

Respectfully submitted,

/s/ Sanjay Sobti

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