

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.

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

UNITED STATES DISTRICT COURT

for the
District of New JerseyLUCAS DE SOUZA-FERREIRA, A# *Petitioner*

v.

ALEJANDRO MAYORKAS, Secretary of DHS;
MERRICK B. GARLAND, Attorney General;
JOHN TSOUKARIS, Director ICE Newark Field Office
YOLANDA PITTMAN, WARDEN, Elizabeth Detention Center
Respondent
(name of warden or authorized person having custody of petitioner)

Case No.

(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: Lucas De Souza-Ferreira A-Number: 
(b) Other names you have used:
2. Place of confinement:
(a) Name of institution: Elizabeth Detention Center, Elizabeth, NJ
(b) Address: 625 Evans St, Elizabeth, NJ 07201

(c) Your identification number: A- 
3. Are you currently being held on orders by:
☐ Federal authorities ☐ State authorities ☒ Other - explain:
Immigration Detention – ICE Custody
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): Petitioner challenges ongoing ICE detention despite being granted Deferral of Removal CAT on August 8, 2025. Removal is legally impossible, and detention beyond 90 days violates *Zadvydas v. Davis* and 8 U.S.C. § 1231(a)(6).

6. Provide more information about the decision or action you are challenging:
- (a) Name and location of the agency or court: U.S. Immigration and Customs Enforcement (ICE), Newark Field Office
- (b) Docket number, case number, or opinion number:
- (c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed): Continued detention despite CAT protection approval and 90 days

(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:
- (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: Petitioner request was granted (CAT). However, multiple release requests were submitted to ICE (ERO Newark). Reason for No Further Appeal: ICE does not provide a formal review or appeal process for prolonged detention after CAT deferral.

8. **Second appeal**

After the first appeal, did you file a second 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 second appeal:

No second or third level administrative review exists for post-order detention challenges involving CAT deferral.

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 second or third level administrative review exists for post-order detention challenges involving CAT deferral.

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

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:

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: The remedy under 28 U.S.C. § 2255 is inadequate or ineffective for Lucas De Souza Ferreira because § 2255 is specifically designed for federal prisoners who are challenging the validity of their federal criminal convictions or sentences. In contrast, Lucas De Souza Ferreira is not challenging a federal criminal conviction or sentence. Instead, he is in immigration detention following a grant of deferral of removal under the Convention Against Torture (CAT). The appropriate legal avenue for his challenge is a habeas corpus petition under § 2241.

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 06/08/2025
- (b) Date of the removal or reinstatement order: 12/21/2018
- (c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Date of filing:

(2) Case number:

(3) Result:

(4) Date of result:

(5) Issues raised:

Reentered the U.S.: 2019 (not detained upon entry) • CAT Deferral granted: August 8, 2025

• No appeal required; CAT was granted by the Immigration Judge. • Removal is not legally permitted.

(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:

No additional petitions filed other than a workplace injury lawsuit in New Jersey.

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: Plaintiff's continued detention violates 8 U.S.C. §1231(a)(6) as construed by Zadvydas because removal is not reasonably foreseeable and is legally barred by CAT protection.

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

Plaintiff has been detained since June 8, 2025. On August 8, 2025, the Immigration Judge granted CAT protection EOIR records reflect no appeal. CAT protection legally prohibits removal to Brazil because the IJ found Plaintiff more likely than not would be tortured there. Defendants have not identified any third country willing to accept Plaintiff. Thus, there is no significant likelihood of removal in the reasonably foreseeable future. The statutory 90 day removal period has elapsed.

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

☐ Yes ☒ No

GROUND TWO: Plaintiff's prolonged civil detention violates the Fifth Amendment's Due Process Clause

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

1. Because it is not reasonably related to a legitimate governmental purpose: Here, the asserted purpose—effectuating removal—cannot be served because removal to Brazil is legally prohibited and no alternative country has been identified. Detaining Petitioner under these circumstances is excessive in relation to any legitimate purpose and violates due process. 2. Due process- right to a fair legal process: Detention Impedes Plaintiff's Ability to Participate in His Workers' Compensation Claim.

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

☐ Yes ☒ No

GROUND THREE: ICE's Violation of Its Own Policy Regarding Post-Relief Detention

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

Petitioner has been detained for more than 90 days following the grant of CAT protection, with no exceptional circumstances justifying continued detention. This prolonged detention contravenes ICE's established policy and further underscores the unlawfulness of Petitioner's continued confinement.

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

☐ Yes ☒ No

GROUND FOUR: Defendants' failure to provide adequate medical care to address serious medical needs further violates due process and underscores the need for immediate release.

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

Plaintiff's serious medical needs are well documented: a seizure disorder [REDACTED] neurology and neurosurgery follow up for a possible pituitary microadenoma; and complex orthopedic injuries with a risk of avascular necrosis requiring periodic imaging and specialized care. In detention, Plaintiff has not consistently received the prescribed antiepileptic regimen and is given only minimal analgesics, placing him at risk of seizures, permanent neurological injury, and irreversible orthopedic deterioration. The risk of imminent, irreparable harm strongly favors immediate release or, at minimum, court ordered medical care.

(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: There are no internal administrative appeals available for challenges to ICE's continued detention CAT deferral. Thus, Petitioner could not pursue additional appeals. or review inadequate medical care inside detention. A federal court is the only forum capable of preventing further harm.

Request for Relief

15. State exactly what you want the court to do: Petitioner respectfully requests the following relief:

(1) Assume jurisdiction over this matter. (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days. (3) Declare Petitioner's prolonged detention unlawful. (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from ICE custody within 48 hours on his own recognizance, on bond, or alternatively, under an Order of Supervision with reasonable conditions or such other condition

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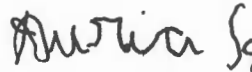
Declaration Under Penalty Of Perjury

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

LUCAS DE SOUZA FERREIRA

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: 11/23/2025



Signature of Petitioner

Signature of Attorney or other authorized person, if any