

JUDGE KATHLEEN CARDONE

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

FILED
JAN 20 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

Mohamed Sidy Diallo,

Petitioner,

Case No. _____

v.

Pamela Bondi, Attorney General,

Kristi Noem, Secretary, U.S. Department of Homeland
Security,

U.S. Department of Homeland Security,

Todd M. Lyons, Acting Director of Immigration and
Customs Enforcement,

U.S. Immigration and Customs Enforcement,

Marisa Flores, Director, El Paso Field Office Immigration
and Customs Enforcement, and

Curtis Taylor, Major General, U.S. Army at Camp Bliss

Respondents.

EP26CV0102

VERIFIED
PETITION
FOR WRIT OF
HABEAS CORPUS

Expedited Handling
Requested

INTRODUCTION

1. Petitioner, Mr. Mohamed Sidy Diallo, ("Diallo" or "Petitioner"), by and through Next Friend Aisatu Jalloh, Petitioner's sister, hereby files this petition for a writ of habeas corpus and a complaint for declaratory and injunctive relief to require U.S. Immigration and Customs Enforcement ("ICE") to release Diallo from ICE detention and/or provide him with a bond hearing pending the completion of his immigration proceedings.

JURISDICTION AND VENUE

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (federal employee mandamus action); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2241 (habeas corpus); Art. I, § 9, c. 2 of the U.S. Constitution (“Suspension Clause”); 5 U.S.C. § 702 (waiver of sovereign immunity); and 28 U.S.C. § 2201 (Declaratory Judgment Act).
3. Federal question jurisdiction exists because Diallo seeks to challenge his custody as a violation of the Constitution and the Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*
4. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by the Department of Homeland Security (“DHS”). *Denmore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); and *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019).
5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because Diallo is detained within the Western District of Texas.
6. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A), because Respondents are operating in this district.

PARTIES

7. Petitioner is a citizen of Guinea and a resident of Brooklyn Park, Hennepin County, Minnesota, who is currently being held at the ERO El Paso Camp East Montana detention facility in El Paso, Texas. Petitioner is under the direct control of the respondents and has no scheduled release date.

8. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Diallo.
9. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a), routinely transacts business in the Western District of Texas, supervises ICE field offices, and is legally responsible for pursuing Diallo's detention and removal. As such, Respondent Noem is a legal custodian of Diallo.
10. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for Petitioner's detention.
11. Respondent Marisa Flores is being sued in her official capacity as the Field Office Director for the El Paso Field Office for ICE within DHS. In that capacity, Field Office Director Marisa Flores has supervisory authority over the ICE agents responsible for detaining Diallo. The address for the El Paso Field Office is 1541 Montana Ave, Suite E, El Paso, Texas, 79936.
12. Respondent Major General Curtis Taylor is being sued in his official capacity as the Commanding General responsible for the ERO El Paso Camp East Montana Detention Center within the U.S. Army Fort Bliss. Because Petitioner is detained in the ERO El

Paso Camp East Montana Detention Center, Major General Taylor has immediate day-to-day control over Petitioner.

NEXT FRIEND

13. Next Friend Aisatu Jalloh brings this habeas corpus action as next friend of Petitioner, who is currently detained by U.S. Immigration and Customs Enforcement.
14. A next friend does not become a party to the habeas action but instead prosecutes the case on behalf of the detained individual, who remains the real party in interest. *Whitmore v. Arkansas*, 495 U.S. 149, 163 (1990).
15. Next-friend standing is appropriate to remedy a situation where the detainee cannot prosecute the action on their own, due to lack of access to the courts or a similar disability. *Id.* at 163–64.
16. For a court to have jurisdiction over a habeas petition filed by a next friend, the application for habeas corpus must “set forth an adequate reason or explanation of the necessity of the ‘next friend’ device.” *Weber v. Garza*, 570 F.2d 511, 514 (5th Cir. 1978).
17. First, the next friend must explain and be able to support with proof “why the real party in interest cannot appear on his own behalf to prosecute the action.” *Soto v. Sowell*, No. CV H-25-1362, 2025 WL 2822000, at *3 (S.D. Tex. Oct. 3, 2025) (quoting *Whitmore*, 110 S. Ct. at 1727). Second, that the next friend “is ‘truly dedicated to the best interest of the person on whose behalf he seeks to litigate’” *Id.* Lastly, the next friend must have “some significant relationship with the real party in interest.” *Id.*
18. Here, the detainee is unable to prepare, sign, or file this petition because he is being held in ICE custody at ERO El Paso Camp East Montana without reliable access to legal materials or translation services, and facing pending removal. Petitioner speaks Flani and

French, and speaks only minimal English—far from fluent. These conditions make meaningful access to the courts impossible absent next-friend intervention, especially given that Petitioner could be deported at a moment's—or without any—notice.

19. Next Friend Aisatu Jalloh is Petitioner's adult sister, and shares a close bond with Petitioner. Petitioner has lived with Next Friend in Brooklyn Park, Minnesota, since he first arrived in the United States, and has a significant relationship with Next Friend and Next Friend's family, including her children. Next Friend is acting solely in the Petitioner's best interests, not to assert her own rights or interests in any way. Next Friend Aisatu Jalloh therefore satisfies the requirements for next friend standing under *Whitmore* and *Soto*, and this Court has jurisdiction to consider the petition.
20. In the alternative, if this Court requires additional proof to establish the facts supporting next friend status, Next Friend Aisatu Jalloh respectfully requests the opportunity to submit additional affidavits attesting to the facts above.

FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY

21. Diallo is a resident of Brooklyn Park, Minnesota and a citizen of Guinea.
22. Diallo fled Guinea in 2023, after he and his family suffered years of persecution and continuous threats from the country's government and police forces. Diallo was [REDACTED] while living in Guinea, [REDACTED] and his association with [REDACTED].
23. Diallo entered the United States on November 30, 2023, in Arizona. Diallo was apprehended upon his arrival to the United States and held in detention in Arizona for three days, during which period he filed an I-589 Application for Asylum and for Withholding of Removal.

24. Diallo was released by U.S. Customs and Border Patrol, and moved to live with his sister, Next Friend Aisatu Jalloh, in Brooklyn Park, Minnesota for the pendency of his asylum application.
25. Diallo's asylum application remains pending.
26. Diallo has lived in the United States continuously for more than two years—specifically, he has lived in the United States since November 30, 2023.
27. Diallo is an active member of his sister's household. He shares a close bond with his sister and her young children, and assists regularly with childcare and with responsibilities in the household. Petitioner also has developed close friendships in his Brooklyn Park community and is active in the community.
28. Diallo has been committed to making every effort to being an involved, contributing, and lawful member of his community since he first entered the United States in 2023.
29. Diallo is enrolled in English-Second-Language ("ESL") adult education classes in New Hope, Minnesota, and has been dedicated to improving his English-language skills.
30. Diallo was approved for a work permit on December 22, 2025. He had been eagerly awaiting this work permit, so that he could work as a productive member of his community and contribute financially to his sister's household. Petitioner was unfortunately detained by ICE prior to receiving his physical work permit card, and thus had not yet obtained employment.
31. On Tuesday night, January 6, 2026, ICE apprehended and arrested Diallo's friend, Mamadou Saliou Barry, in Brooklyn Park outside of the Value Foods African Market.
32. On Wednesday, January 7, 2026, at approximately 10:00 A.M., a mechanic who knew both Diallo and Barry called Diallo and informed Diallo that Barry's car had been left

parked in the street following his arrest, and asked Diallo to go with him to retrieve the car.

33. When Diallo arrived with the mechanic at the Value Foods African Market, ICE officers were there.
34. Not wanting any trouble or an altercation, Diallo started to walk away from the officers. The ICE officers, interpreting his movement as an effort to run, apprehended Diallo and placed him under arrest. Diallo submitted to arrest and, upon information and belief, was taken to the Fort Snelling Immigration Office in St. Paul, Minnesota.
35. Diallo attempted to call his sister and other community members from his cell phone on Wednesday, January 7, 2026, immediately after he was apprehended. Upon information and belief, Diallo was able to speak briefly with a friend in the community and advise them of his arrest.
36. Diallo attempted to call his sister on Thursday, January 8, 2026, but she was unable to answer the phone. By the time Diallo first spoke with his sister, Next Friend Aisatu Jalloh, on Friday, January 9, 2026, he had already been transported to El Paso.
37. Diallo was allowed only a single call with his sister from ERO El Paso, which lasted approximately 2 minutes, on Friday, January 9, 2026. Apart from this call, Diallo has had no contact with his sister.
38. The ICE detainer locator confirms that Diallo is currently being held in ICE custody at ERO El Paso Camp East Montana.
39. Diallo has an assigned A number, which is .
40. Diallo has no criminal convictions, nor charges, nor arrests, since he first arrived in Brooklyn Park, Minnesota in 2023, apart from the arrest underlying the instant petition.

41. Diallo poses no risk to society and has strong connections to his community in Brooklyn Park, including his family and friends.
42. Detaining Diallo is an expensive and pointless endeavor. Diallo respectfully seeks the opportunity to return to his home in Brooklyn Park and to continue following the legal processes set up by Congress and DHS for immigrants to seek status in this country.
43. Pending the adjudication of his Petition, Diallo further seeks an order restraining the Respondents from transferring him to a location outside of this District, so that he may remain within the jurisdiction of this Court and accessible to his legal counsel and family support networks.

STANDARD OF LAW

29. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The “Great Writ” has been referred to by US Courts as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). A petitioner may seek a writ of habeas corpus when their custody violates the US Constitution or a federal law. 28 U.S.C. § 2241(c)(3).
30. The Court must grant a petition for writ of habeas corpus or issue an order to show cause to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

31. Courts have jurisdiction to hear habeas petitions filed by noncitizens who have no final removal order, whose challenges to their arrest and detention are “independent of any future removal order.” *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *3 (W.D. Tex. Sept. 22, 2025). Nor is a petitioner required to first exhaust administrative remedies where, as here, petitioner is not appealing a final order of removal. *Id.* at 6.
32. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including [immigrants], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
33. Only under certain circumstances are noncitizens subject to ongoing detention without a bond hearing. *See, e.g.*, 8 U.S.C. § 1226(c) (individuals with certain criminal convictions may be detained without a bond hearing for the pendency of removal proceedings) and 8 U.S.C. § 1225(b) (authorizing mandatory detention of immigrants seeking admission from outside the United States).
34. Otherwise, the “default rule” is that 8 U.S.C. § 1226(a) and its implementing regulations apply to noncitizens “already present in the United States” and subject to pending removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) (distinguishing between mandatory detention for noncitizens “seeking to enter the country” under 1225(b), and noncitizens who, per 1226, are “already in the country” and thus who are entitled to bond hearings pursuant to pending the outcome of their removal proceedings, subject to criminal record exceptions). Under this default rule, detention is not mandatory and immigrants are constitutionally entitled to a bond hearing.

35. Despite this clear, longstanding distinction between noncitizens seeking entry from outside the country, to whom 1225(b) applies, and noncitizens who have been living in the United States for more than two years subject to the default 1226(a), Respondents have decided to openly create a new interpretation of these rules contrary to how Courts and ICE themselves have interpreted immigration law since 1996. *See Lopez-Arevelo*, 2025 WL 2691828, at 7. Now, Respondents are saying that 1226(a) does not apply to anyone.
36. This departure involves a drastic expansion of the interpretation of mandatory detention so as to apply to individuals who have been living in the country for years, not just those seeking admission at the border.
37. The BIA's position change (described in *In re: Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)) flies in the face of existing Supreme Court precedent, where it is clear and understood that the Government's authority to detain certain noncitizens who are already in the country, and subsequent requirement to afford them a bond hearing, comes from 8 USC § 1226, not § 1225. *Jennings*, 583 U.S. at 281-82.
38. Not only that, but a majority of courts across the country have since rejected this interpretation of the statute by the BIA, resoundingly and repeatedly:

In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect. *See Lopez-Campos v. Raycraft*, — F. Supp. 3d —, — n.5, 2025 WL 2496379, at *8 n.5 (E.D. Mich. Aug. 29, 2025) (collecting twelve such decisions); *see, e.g., Jimenez v. FCI Berlin, Warden*, — F. Supp. 3d —, — & n.9, 2025 WL 2639390, at *10 & n.9 (D.N.H. Sept. 8, 2025). That includes courts in the Fifth Circuit. *Lopez Santos*, 2025 WL 2642278, at *5; *Kostak v. Trump*, No. 25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025).

Lopez-Arevelo, 2025 WL 2691828, at 8.

39. Here, Petitioner fits the 'default rule' as someone without a criminal record who has been in the United States for more than two years, and is thus entitled to a bond hearing.

CLAIMS FOR RELIEF

COUNT ONE

Fifth Amendment Due Process

Petitioner is being deprived of an adequate and meaningful process to challenge his ongoing confinement.

40. Petitioner realleges and incorporates by reference the allegations contained above.
41. Petitioner has due process rights as a resident of the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
42. Federal courts use the three-part test in *Matthews v. Eldridge* to determine whether civil detention violates a detainee's due process rights. 424 U.S. 319 (1976). The elements of this test are: (1) the private interest that the official action affects; (2) the risk that the procedures used will result in an erroneous deprivation of the private interest, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest in following the existing procedures, both in achieving their objectives and in the potential burdens of an alternate procedure. *Id.* at 335.
43. Here, all three factors favor Petitioner.
44. First, he has a significant private interest at stake. A person's interest in freedom from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004); *see also Zadvydas*, 533 U.S. at 690, 121 S.Ct. 2491 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects."). Petitioner currently experiences the gambit of deprivations that come with physical detention, including separation from his family and

his community, and future inhibitions to participate fully in his now pending immigration proceedings.

45. Second, Petitioner will continue to be deprived of this interest if the current procedure (detaining Petitioner without a hearing) is followed. With his lack of criminal record, Petitioner has a strong likelihood of meeting the criteria for being released on bond. 8 CFR §§236.1(c)(8), 1236.1(c)(8) (2020); *In re Adeniji*, 22 I. & N. Dec. 1102, 1113 (BIA 1999). Even if he is not subsequently released, he still has a legal and constitutional interest in the hearing itself, in being heard.
46. Lastly, the Government has no legitimate interest in refusing to follow its own rules. Petitioner poses no safety threats to the community. Releasing Petitioner, or holding a hearing to release him on bond, would in fact *save* the government the resources and expense of continuing to imprison him.
47. The placement of Petitioner in detention pending the resolution of his asylum proceedings violates his constitutional rights to due process guaranteed in the Fifth Amendment.

COUNT TWO

Immigration and Nationality Act, 8 U.S.C. § 1226

Petitioner's Ongoing Detention, without the Opportunity for a Bond Hearing, Violates his Statutory Right to a Hearing as Guaranteed by 8 U.S.C. § 1226

48. Petitioner realleges and incorporates by reference each and every allegation contained above.
49. When a decision in an asylum application is pending on appeal and an immigrant is being detained pursuant to 8 U.S.C. § 1226(a), that immigrant is entitled to a bond hearing pursuant to 8 CFR §§236.1(c). Respondents violate the Immigration and Nationality Act

by attempting to apply the mandatory detention statute 8 U.S.C. § 1225(b)(2), to Petitioner.

50. Petitioner is detained, notwithstanding his pending asylum application, without being afforded an opportunity to advocate for his release back into his community as the law requires.

REQUEST FOR ORDER TO SHOW CAUSE

51. Within three days, unless good cause for a delay is shown, “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.
52. Next Friend, on behalf of Petitioner, respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court’s order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Mohamed Sidy Diallo prays that this Court grant the following relief;

1. Assume jurisdiction over this matter;
2. Issue an Order that Petitioner not be deported outside of the United States while this matter is pending;
3. Issue an Order requiring Respondents to show cause as to why Petitioner should not be released immediately, or in the alternative afforded a bond hearing;
4. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days; and

5. Grant any other and further relief that this Court may deem just and proper.

Date: January 10, 2026

/s/ Aisatu Jalloh

Aisatu Jalloh

7355 Zane Avenue North

Brooklyn Park, MN 55443

Aisatuj6@gmail.com

(612) 229-4974

Next Friend to Petitioner

Not An Attorney

**Verification by Someone Acting on
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's sister and am acting on Petitioner's behalf as a Next Friend. I have personal knowledge of the factual assertions in this petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: January 10, 2026

/s/ Aisatu Jalloh
Aisatu Jalloh

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

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CERTIFICATE OF SERVICE

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Army at Camp Bliss

Respondents.

I hereby certify that on 1/10/26, I caused a copy of the
Verified Writ of Habeas Corpus and Civil Cover Sheet to be served by first class
mail, postage paid, to the following:

El Paso Field Office, 6920 Digital Rd., El Paso, TX 79936

U.S. Attorney's Office; 700 E. San Antonio, Suite 200; El Paso, Texas 79901

Date: 1/10/26

Signature: Misatu Diallo

Printed Name: MISATU DIALLO