UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
MAR 23 2026
JEFFREY P. COLWELL
CLERK

Abdoulaye BARRY
[redacted]

Petitioner

v.

Pam BONDI
United States Attorney General,
Et al.;

Respondents

Civ. No.

March 17, 2026

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

PRELIMINARY STATEMENT

COMES NOW, Petitioner Abdoulaye BARRY ("Barry"), a detainee of the Department of Homeland Security ("DHS")/Immigration and Customs Enforcement ("ICE"), moves this Honorable Court pursuant to the writ of Habeas Corpus under 28 U.S.C. § 2241 to order Respondents to immediately release him back to supervision pending the outcome of his removal proceedings. Barry claims that his immigration re-detention violates federal regulations and the Due Process Clause of the Fifth Amendement. In support therefore, Barry states the following:

CASE BACKGROUND

1. On or about May 08, 2011, Barry, a citizen of Guinea, arrived in the United States as a child of an asylee under the classification of AS3 at New York, New York. On October 23, 2011, Barry adjusted his status to that of a Lawful Permanent Resident under the immigration classification AS8.

2. On August 03, 2017, Barry was convicted in the United States District Court for the Western District of New York for Fraud and Misuse of Visa, Permits and other Documents in violation of Title 18, United States Code, Section 1546 (a) and Aggravated Identity Theft, in violation of Title 18, United States Code, Section 1028 A (a)(1). And was sentenced to 36 months in federal prison.

3. On September 17, 2019, Barry was released from federal prison and detained by the DHS/ICE.

4. Barry applied for Withholding of Removal and Deferral of Removal under the Convention Against Torture Act commonly known as CAT, asserting that if removed to Guinea he will tortured and killed. On January 08, 2020, his application was denied. Barry filed an appeal of the immigration judge's ("IJ") decision with the Board of Immigration Appeals ("BIA") which was also denied on June 26, 2020.

5. Barry filed a timely Petition for Review with the United States Court of Appeals for the Third Circuit. On November 24, 2020, Barry's case was remanded. On February 24, 2021, the BIA also remanded the case to the Immigration Court for further proceedings and for the entry of a new decision.

6. On March 9, 2021, approximately eighteen months in ICE custody, the United States District Court for the Middle District of Pennsylvania granted Barry's petition for a writ of habeas corpus and ordered that he be provided with an individualized bond hearing.

7. On April 14, 2021, Barry was brought before the same IJ who denied his application for CAT on January 08, 2020. The IJ denied him bond, concluding that DHS established, by clear and convincing evidence that Barry was a flight risk. On the same day, the IJ held a hearing for Barry's CAT claim. Additional evidence was provided from Barry. On May 19, 2021, Barry's application for CAT was denied again. Barry filed another timely appeal with the BIA in June 2021. It was still pending when Barry was released on supervised released on April 08, 2022, after about 31 months of ICE custody.

8. About a week after Barry's release, he reported to the ICE Field Office in Centennial, CO as

instructed. Barry was then instructed to report to the Alternatives to Detention Program for the Intensive Supervision Appearance Program ("ISAP"). ISAP put Barry on a weekly virtual check-in, a once-a-month "in person" office check-in and a once-a-month "stay-at-home" home visit.

9. Barry remained fully compliant with his supervision terms and has received no further criminal convictions.

10. On or about February 6, 2026, Barry's case worker from ISAP left him a message instructing him to check in at the ISAP Office the next morning to get his monitoring device, which was placed back on his ankle about five months prior, removed. When Barry showed up at his check in the following morning, he was detained by ICE.

11. Barry was not issued a Notice of Revocation of Release. Barry was then taken to the Aurora/ICE Processing Center where he remains in detention.

12. Barry's application for CAT has just been remanded back to the IJ from the BIA and is currently pending a court date.

PARTIES

13. Petitioner, Abdoulaye BARRY, is a native and citizen of Guinea. Barry was re-detained on or about February 07, 2026, after 3 years and 10 months of supervised release. Barry has non-continuously been detained by the Bureau of Immigration and Customs Enforcement for approximately 32 months.

14. Respondents are Pamela BONDI, *Attorney General of the United States*, Kristi NOEM, *Secretary of Department Homeland Security*, Todd LYONS, *Director of ICE Enforcement and Removal Operations*, Robert HEIGAN, *Director of ICE Field Office in Centennial, CO*, and Juan BALTAZAR, *Warden of the Aurora Contract Detention Facility*.

JURISDICTION

15. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"), and 28 U.S.C. § 1331.

VENUE

16. Venue lies in the District of Colorado because Barry is currently detained in the territorial jurisdiction of this Court, at Aurora/ICE Processing Center. 28 U.S.C. § 1391.

LEGAL ARGUMENT

17. Barry argues that his detention is unlawful because ICE failed to comply with the regulatory requirements governing revocation of supervised release under 8 C.F.R. § 241.13 (i), 241.4 (I)(1).

18. Barry further contends that there is no significant likelihood of his removal in the reasonably foreseeable future under *Zadvydas v. Davis, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001)*, and that his detention violates the due process and the Administrative Procedure Act.

I. Regulatory Claims

19. Barry contends that ICE did not provide him with a Notice of Revocation of Release explaining the basis for revoking his supervised release, did not serve him with a Notice of Custody Determination identifying any "changed circumstances" rendering his removal significantly likely in the reasonably foreseeable future, and did not afford him an interview as contemplated by 8 C.F.R. § 241.13 (i).

20. Federal regulations govern the termination of parole and state that the only basis for an automatic termination of parole without written notice is based upon a departure from the United States, where "the expiration of the time for which parole was authorized" 8 C.F.R. § 212.5 (e)(1). In all other instances, written notice is specifically required. 8 C.F.R. § 212.5 (e)(2).

21. 8 C.F.R. § 241.4 (I) (1) ("Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview

promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification."). As Barry stated above, he was not given a notice nor an informal interview.

22. Courts across the country routinely hold that (1) ICE violating its own regulations in detaining an individual is a due process violation, and (2) this violation makes the detention unlawful and the proper remedy is release. See *Sanchez v. Bondi, No. 25-cv-02287-CNS, 2025 U.S. Dist. LEXIS 250824, 2025 WL 3484756, at *2* (D. Col. Dec. 4, 2025) (ordering release of noncitizen [*8] when ICE failed to follow its own regulations (collecting cases)); *Guerra, 2026 U.S. Dist. LEXIS 8085, 2026 WL 114258, at *8* ("Habeas corpus relief is warranted" where "Respondents' failure to comply with § 241.4 (I)(3) resulted in re-detention, accompanied by a lack of notice or a meaningful opportunity to respond."); *Funes, 2025 U.S. Dist. LEXIS 230070, 2025 WL 3263896, at *25* (finding that the court must order the petitioner's release in align[ment] with numerous cases releasing habeas petitioners held in custody following procedural due process violations" (collecting cases)); *Grigorian v. Bondi, No. 25-cv-022914-RAR, 2025 U.S. Dist. LEXIS 175489, 2025 WL 2604573, at *9-10 (S.D. Fla. Sept. 9, 2025)*("The failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause. This compels Petitioner's release. Courts around the country have concluded likewise."(collecting cases)); "[b]ecause ICE violated its own regulations when it detained [Petitioner] without notifying him of the reasons why he was being detained, [Petitioner] is entitled to habeas relief." *Roble v. Bondi, case No. 25-cv-3196 (LMP/LIB), F. Supp. 3d, 2025 U.S. Dist. LEXIS 164108, 2025 WL 2443453, at *3 (D. Minn. Aug. 25, 2025).* See also *Nguyen, 788 F. Supp. 3d at 152-53* ("Based on ICE's own violations of its own regulations, I [*6] conclude that Mr. Nguyen's detention is unlawful and that his release is appropriate."); *Roble, 2025*

*U.S. Dist. LEXIS 164108, 2025 WL 2443453, at *5* ("The court will thus follow the approach of other courts facing similar cases and order Roble's release from custody as a remedy for ICE's illegal [*7] re-detention of Roble.").

II. Violation of Fifth Amendment Right to Due Process

23. Barry challenges his detention as unlawful based on ICE's alleged noncompliance with several provisions of 8 C.F.R. §§ 241.4 and 241.13. Barry's claims therefore implicate the Due Process Clause. The Due Process Clause prohibits deprivations of life, liberty and property without due process of law. U.S. Constitution Amendment V.

24. "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." *Sanchez v. LaRose at *7 (citing Zadvydas v. Davis, 533 U.S. at 690).* Although immigration detention is administrative, it is still subject to due process clause review. *Id.* (*citing Hernandez v. Sessions, 872 F 3d at 981* ("the government's discretion to incarcerate noncitizens is always constrained by the requirements of due process.")). When the government grants an alien parole into the country, it creates a liberty [*7] interest intimately tied to freedom from imprisonment. *Id.*(*citing Alegria Palma v. La Rose, 25-cv-1942, ECF No. 14, 2025 U.S. Dist. LEXIS 213718 (S.D. Cal. Aug. 11, 2025*)(finding that "continued freedom after release on own recognizance" was a core liberty interest)). Here, Barry was deprived of his liberty interest in his prior parole status when Respondents revoked that parole and place him in detention.

25. 28 U.S.C. § 2241 (c)(3) provides [*6] that a court shall grant the writ of habeas corpus if a petitioner "is in custody in violation of the Constitution or laws or treaties of the United States.".

PRAYER FOR RELIEF

WHEREFORE, Barry respectfully asks that this Court grant the following relief:

(1) Order Respondents to immediately release Barry from their custody, subject to the conditions in

his preexisting Order of Supervision;

(2) Order Respondents not to transfer Barry except to a facility within this District, the District of Colorado, to preserve this Court's jurisdiction pending a ruling on the petition;

(3) Enjoin Respondents from re-detaining Barry without providing him a pre-detention hearing before a neutral decision maker where Respondents bear the burden of demonstrating by clear and convincing evidence that Barry is a flight risk or a danger such that his physical custody is required;

(4) Grant such other and further relief as this Court deems just and proper.

I declare under penalty of perjury that I am the petitioner, I have read this petition, 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: 03/19/2026



Signature of Petitioner

CERTIFICATE OF SERVICE

Abdoulaye BARRY

[redacted]

On 03/19/2026, I, Abdoulaye Barry served a true and correct copy of this petition for habeas corpus and any attached pages to:

U.S. DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION AND CUSTOMS ENFORCEMENT
OFFICE OF CHIEF COUNSEL
12445 E. CALEY AVENUE
CENTENNIAL, CO 80111-6432

By the Aurora ICE Processing Center's mailing system.



Signature

March 19, 2026

Date