IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

JN Fenel Auguste Petitioner, vs Todd Blanche, in his capacity as acting Attorney General of the Unite States; Markwayne Mullen, in his capacity as Secretary of the Homeland Security; Todd Lyons, in his capacity as Director of U.S. Immigration Customs Enforcement; Kevin Raycraft in his capacity as the Field Director of the USCIS District; Dennis Sullivan in his official capacity as Executive Director for the Corrections Center Of Northwest Ohio, Respondents.	AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Petitioner JN Fenel Auguste petitions this Honorable Court for a writ of habeas corpus ordering an immediate release from unlawful detention by Respondents and enjoin them from deporting him. Petitioner is being held as an ICE detainee at the Corrections Center of Northwest Ohio, in Stryker, Ohio, as result of violations of Due Process and clearly established law. Petitioner's claims are fundamental challenges to an ongoing deprivation of liberty for which the writ of habeas corpus has always been the proper remedy.

Jurisdiction and Venue

2. This Court has jurisdiction over this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331. Petitioner is in the custody of Respondents and challenges the statutory and constitutional legality of his detention, which is the historical core of the Great Writ. District courts in this Circuit, including this Court, routinely exercise § 2241 jurisdiction over habeas challenges to unlawful civil immigration detention.

3 . Statutory provisions that limit judicial review of certain discretionary decisions and final orders of removal, such as 8 U.S.C. § 1226(e) and 8 U.S.C. § 1252, do not strip this Court of its subject-matter jurisdiction under § 2241 to adjudicate the lawfulness of executive detention itself. This petition does not seek review of a discretionary bond denial or a final order of removal; rather, it challenges the government's underlying authority to subject Petitioner to a mandatory detention and the constitutionality of his prolonged confinement which are questions of law to be properly reviewed in a habeas corpus petition. This Court also has jurisdiction based on the Suspension Clause of Article I of the United States Constitution. *INS v. St. Cyr* 533 U.S. 289 (2001).

4 . Venue is proper in the United States District Court for the Northern District of Ohio pursuant to 28 U.S.C. § 2241(d). Petitioner is detained at the Corrections Center of Northwest Ohio in Stryker, Oiho. In addition, Petitioner's removal proceedings took place at the Carl B. Stokes US Court House, 801 West Superior Ave, Cleveland Ohio, 44113.

Parties

5. Petitioner JN Fenel is a 46 -year-old native and citizen of Haiti who is currently held at the Corrections Center of Northwest Ohio, in Stryker, Ohio at the direction of the Respondents. Exhibit A, Copy of the ID page of Petitioner's Hattian Passport.

6. Todd Blanche is the Attorney General of the United States and is sued in his official capacity. As Attorney General, he has ultimate responsibility for the administration and enforcement of the immigration laws and oversees the Executive Office for Immigration Review, which adjudicates Petitioner's removal proceedings.

7. Respondent Markwayne Mullen is the Secretary of the Department of Homeland Security ("DHS") and is sued in his official capacity. As DHS Secretary, he is responsible for the enforcement of federal immigration laws and for the custody and removal of noncitizens through DHS departments including ICE.

8. Respondent Todd Lyons is the Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. He exercises nationwide supervisory authority over ICE's civil immigration enforcement and detention operations, including policies governing detention and release.

9. Respondent Kevin Raycraft is the Field Director of the USCIS Detroit Field Office, which has jurisdiction over Ohio.

10. Respondent Dennis Sullivan is the Executive Director of the Corrections Center of Northwest Ohio (CCNO) in Stryker Ohio. There is no Warden and as Executive Director of this facility he is the legal custodian of the Petitioner.

11. All Respondents are sued in their official capacities.

Exhaustion

12. Petitioner has exhausted all available and effective administrative remedies, as required by law. He filed an appeal with the Board of Immigration Appeals on June 27, 2025 in case A 244-583-814, Auguste, JN Fenel. Exhibit B, Brief of Resonent before the BIA.

13. On Monday April 20, 2026, the Board of Immigration Appeals entered an order dismissing the case. [1] Exhibit C, Decision of the Board of Immigration Appeals.

14. The relief Petitioner seeks is release from custody so that he can pursue his I-130 and I-485 adjustment. He needs to get his fingerprints taken and his medical exam done but cannot while locked up. He has asked for repeated continuances. Exhibits D and E, ASC Appointment Notices from USCIS, 4/03/2026 and 4/08/2026, respectively.

Statement of Facts: Petitioner's Immigration History

15. On June 16, 2024, Petitioner applied for admission and entered the United States at Brownsville, Texas under CPB Parole. Rather than detaining him, DHS exercised its authority to parole Petitioner into the United States. His Form I-94, issued by Customs and Border

[1] This decision was issued about the same time Counsel for the Government filed a Joint Motion to Remand based on Petitioner's available forms of relief. Motion Exhibit F, Joint Motion to Remand. The availability of the I-485 was brought before the Board of Immigration Appeals. Exhibit B. The motion was rejected. Exhibit G, Rejection Notice from the BIA.

Protection, records his class of admission as "DT" (parole) and lists an "Admit Until Date" of June 15, 2026. Exhibit H, I-94 of Petitioner.

16. On February 22, 2025, Petitioner married Kwelin Blow (hereinafter "Kwelin") in Columbus, Ohio. The couple live in their apartment in Columbus, Ohio, when Petitioner is not detained by ICE. Petitioner integrated into his community and demonstrated significant ties. He obtained work authorization and a Social Security Card. Exhibits I and J, respectively. He worked for Google and Amazon.com, Inc. and paid taxes.

17. On May 10, 2025, Petitioner and his wife Kwelin received a receipt notice of their I-130 Petition for Alien Relative from USCIS with a priority date for the same day. Exhibit K, Receipt Notice of I-130 Petition from USCIS.

18. On June 2, 2025, Petitioner had his first appearance in the Immigration Court. The IJ never advised Petitioner, then Respondent, of his right to counsel nor gave him an opportunity to obtain counsel. The IJ dismissed the case based on the prosecutor's motion, which itself was lacking in proper notice as required by rule.

19. At the hearing Petitioner did not understand the difference between a "closure" of a case and a "dismissal," of a case. There is a difference because in immigration law "closure" keeps the section 240 proceedings open, allowing him to remain on bond, which would allow him to pursue adjustment through marriage, while the "dismissal" allowed Immigration and Customs to detain him and place him expedited removal unlawfully. He was arrested as soon as the hearing terminated in front of his wife.

20. Petitioner was placed in expedited removal prior to his 1 year deadline to file for Asylum. Once he was put in Expedited Removal, he longer had the opportunity to file an Asylum claim

with the court, and has to wait for his credible fear interview. He has a fear of returning to Haiti because he worked with The United Nations Stabilization Mission in Haiti (MINNUSTAH) as an interpreter for Brazilian troop. MINNUSTAH was large scale, long-term Chapter VII peacekeeping mission of the United Nations. He is a target for serious physical harm and death by groups that the Haitian government cannot and will not control. As of this date no credible fear hearing has been held.

21. On June 27, 2025 Petitioner, then Respondent, filed an Appeals with the Board of Immigration Appeals in case A [redacted] Auguste, JN Fenel. Exhibit B, Brief of Respondent before the BIA.

22. On August 15, 2025, Petitioner filed his I-485 despite being detained. However, he has not been able to get his medical exam due to being detained. Exhibit L, Request for Evidence from USCIS, requesting Medical Exam.

23. On Monday April 20, 2026, the Board of Immigration Appeals entered an order dismissing the case. [2] Exhibit C, Decision of the Board of Immigration Appeals.

24. On April 24, 2026, Petitioner filed a Habeas Corpus Petition before this Honorable Court.

25. On April 28, 2026, Respondents filed a new Notice to Appear alleging Petitioner is an Arriving Alien, precluding him from getting a bond redetermination before an immigration Judge. Exhibit M, Notice to Appear, April 28, 2026.

[2] This decision was issued about the same time Counsel for the Government filed a Joint Motion to Remand based on Petitioner's available forms of relief. Motion Exhibit F, Joint Motion to Remand. The availability of the I-485 was brought before the Board of Immigration Appeals. Exhibit B. The motion was rejected. Exhibit G, Rejection Notice from the BIA.

26. Throughout his detention, Respondents have treated Petitioner as an "arriving alien" subject to mandatory detention under INA § 235(b), based on his initial 2025 entry, thereby precluding any possibility of a bond hearing.

Petitioner's Criminal History

27. Petitioner has no criminal history.

Claims for Relief

Count I.

Petitioner is Unlawfully Detained Because His Custody is Governed By The Discretionary Framework Of 8 U.S.C. § 1226(A), Not The Mandatory Regime Of § 1225(B).

28. Respondents are unlawfully detaining Petitioner by erroneously designating him as a perpetual "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225. This classification is a statutory misinterpretation that ignores DHS's own prior, documented decision to parole Petitioner into the United States, where he lived freely for nearly 1 year. The statutory provision that properly governs Petitioner's current custody is 8 U.S.C. § 1226(a), which establishes a default rule of discretionary detention and permits release on bond.

A. The INA Establishes Distinct Detention Regimes for Border and Interior Apprehensions.

29. The INA creates distinct statutory frameworks for the detention of noncitizens. Section 1225 governs the inspection and detention of "applicants for admission" who are "arriving in the United States." This regime, aimed at border control, mandates detention pending removal proceedings. In stark contrast, 8 U.S.C. § 1226 provides the general authority for the arrest and

detention of noncitizens already present within the United States, explicitly granting the Attorney General discretion to release an alien on bond under § 1226(a). As the Supreme Court has recognized, § 1226 "applies to aliens already present in the United States" and authorizes detention "on a warrant". Section 1226(a) is the default mechanism for custody determinations for individuals apprehended in the interior who are not subject to other mandatory detention provisions not at issue here.

B. Petitioner's Parole and Extended Residence in the Interior Preclude Classification as a § 1225(b) Detainee Upon Re-Arrest.

30. Respondents cannot now treat Petitioner as a § 1225 "arriving alien" because DHS itself affirmatively paroled him into the country, where he lawfully resided for nearly year, getting married and proceeding to lawfully immigrate. The Government's own records confirm that on June 16, 2024, DHS paroled Petitioner into the United States, as evidenced by his I-94 record designating his class of admission as "DT" (parole). Exhibit H. Having been granted parole, Petitioner was not detained and instead, traveled to the interior, establishing a a life in Columbus, Ohio. His subsequent arrest on June 2, 2025, occurred in Cleveland, Ohio, at the Federal Courthouse, in the interior of the country, which was an interior enforcement action against a person lawfully present in the United States pursuant to a grant of parole. The Government's decision to release him in 2024 fundamentally altered the legal context of his presence. He was no longer an individual being processed at the border; he was an alien residing in the interior with the Government's permission. Therefore, his re-arrest is properly governed by the interior enforcement statute, § 1226, not the border inspection statute, § 1225.

II. Petitioner's Prolonged Detention Violates The Due Process Clause of The Fifth Amendment.

31. Petitioner's prolonged detention violates the Due Process Clause of the Fifth Amendment. It is a core constitutional principle that civil immigration detention must be non-punitive and accompanied by adequate procedural safeguards. As held in *Zadvydas v. Davis,* 533 U.S. 678, 699700 (2001), detention under the INA is not authorized to be indefinite. When detention becomes prolonged, the Constitution demands an individualized hearing to justify the ongoing deprivation of liberty. While the Supreme Court has upheld mandatory detention for brief periods, it did so on the express understanding that such detention would be short-term. Petitioner's detention is no longer brief. He has been in continuous ICE custody since June 2, 2025, a period that has already crossed the constitutional threshold from a short-term measure to prolonged confinement requiring heightened procedural protections. He has now had an New NTA issue but still cannot get out on bond because he is classified as an arriving alien. This is precisely the kind of arbitrary deprivation of liberty that the Due Process Clause forbids and engages the Great Writ.

III. The Proceedings before the Immigration Judge (IJ) were contrary to Statute and Due Process make them *Ultra Vires*

32. The proceedings before the IJ were *Ultra Vires* because they did not comply with Federal Statutes nor the Constitution: (1) the Petitioner was not advised of his right to obtain a lawyer and was not given time to get a lawyer in contravention of 8 C.F.R. § 1240.10(a)(1) and 8 USC § 1229a (2) the Petitioner was not provided a copy of any motion to dismiss prior to the hearing as required by rule; (3) the IJ did not develop the record in contravention 8 USC § 1229a(b)(1), which is especially important here because Respondent was *pro se* and did not understand the difference between "closure" of the case, which he wanted, versus "dismissal," which is what the prosecutor wanted; (4) Petitioner was not given a full year with which to file an asylum petition.

Indeed, the Petitioner has a meritorious claim for Asylum because of his work with the UN which made him a target by groups in Haiti the government could not control, as well as being a family member of a Police officer who was killed because of his position. Additionally, Petitioner has ability to adjust status through marriage, having filed an I-130 and an I-485. [3] (5) Petitioner did not voluntarily or knowingly agree to the dismissal. He agreed to a "closing" of the case, not "dismissal." [4]

Prayer for Relief

Petitioner JN Fenel Auguste respectfully requests that this Court issue an Order:

1. Assume Jurisdiction over this matter.
2. Direct Respondents to show cause why a writ of habeas corpus should not be issued.
3. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and ordering Petitioner's immediate release from custody, subject to appropriate conditions of supervision;
4. Order Officials of ICE or USCIS obtain his fingerprints in the jail and conduct a medical exam to process his I-130 and I-485 applications;
5. Order the Immigration Judge Conduct a Bond Hearing for the Petitioner.
6. Granting such other and further relief as this Court deems just and proper.

[3] Respondent cannot get a medical exam because he is detained or fingerprints, otherwise he could have already adjusted his status lawfully.
[4] In their decision the Board also gets this wrong. Exhibit C, Decision of the Board, page 2.

Verification Pursuant To 28 U.S.C. § 2242

I represent Petitioner JN Fenel Auguste and submit this verification on his behalf. I have discussed the events inside this Petition and have reviewed the documents referenced herein. On the basis of the discussions and review of documents hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated May 5, 2026



Francis R. Krajenke Jr., Esq.