

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Biniam Gebreslase Kidane v. Immigration and Customs Enforcement
(ICE); Warden, Otay Mesa Detention Center

Kidane · No. 26-CV-599 JLS (SBC) · Decided February 3, 2026

SUMMARY

The United States District Court for the Southern District of California declines to summarily dismiss Biniam Gebreslase Kidane’s 28 U.S.C. § 2241 habeas petition challenging his immigration detention. The Court refers the petition to Federal Defenders of San Diego, Inc. for evaluation regarding whether appointment of counsel would benefit Petitioner and requests a status report or appropriate motion by March 3, 2026.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	February 3, 2026
DOCKET	26-CV-599 JLS (SBC)
DISPOSITION	other
PROCEDURAL POSTURE	Petition for a writ of habeas corpus under 28 U.S.C. § 2241; the court declined to summarily dismiss the petition and referred it to Federal Defenders for evaluation regarding appointment of counsel.
STANDARD OF REVIEW	Summary dismissal of a habeas petition is appropriate only when the allegations are vague or conclusory, palpably incredible, or patently frivolous or false.
PRECEDENTIAL VALUE	unknown
PARTIES	Biniam Gebreslase Kidane v. Immigration and Customs Enforcement (ICE), Warden, Otay Mesa Detention Center

TOPICS

- immigration detention
- immigration
- civil procedure

PRACTICE AREAS

immigration detention

habeas corpus

appointment of counsel

QUESTIONS PRESENTED

1. Whether the § 2241 petition warranted summary dismissal based on its allegations.
2. Whether the petition should be referred to Federal Defenders for evaluation regarding appointment of counsel because it lacked sufficient detail for meaningful consideration of the requested relief.

HOLDINGS

1. Summary dismissal was unwarranted because the allegations were not shown to be vague or conclusory, palpably incredible, patently frivolous, or false.
2. Because the petition lacked sufficient detail for meaningful consideration of the requested relief, the court referred it to Federal Defenders for evaluation of whether appointment of counsel would benefit petitioner.

KEY QUOTATIONS

“Summary dismissal is appropriate only where the allegations in the petition are vague or conclusory, palpably incredible, or patently frivolous or false.” (1)

FACTUAL BACKGROUND

Biniam Gebreslase Kidane alleged that he had been detained by the Department of Homeland Security's Immigration and Customs Enforcement division at the Otay Mesa Detention Center since November 28, 2024. The court determined that the petition did not contain sufficient detail for meaningful consideration of the requested relief.

PROCEDURAL HISTORY

Petitioner filed a § 2241 habeas petition alleging that he had been detained by ICE at the Otay Mesa Detention Center since November 28, 2024. The court found that summary dismissal was unwarranted but that the petition lacked sufficient detail to permit meaningful consideration of the requested relief. The court referred the petition to Federal Defenders for an evaluation and directed a status report or appropriate motion by March 3, 2026.

DISPOSITION

other

CASES CITED

- *Kourteva v. INS*, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 2001)
- *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 BINIAM GEBRESLASE KIDANE, Case No.: 26-CV-599 JLS (SBC) 12
Petitioner, ORDER REFERRING PETITION TO 13 v. FEDERAL DEFENDERS FOR
EVALUATION REGARDING 14 IMMIGRATION AND CUSTOMS APPOINTMENT OF
COUNSEL ENFORCEMENT (ICE); WARDEN, 15 OTAY MESA DETENTION CENTER, (ECF
No. 1) 16 Respondents.

17 18 Presently before the Court is Biniam Gebreslase Kidane's Petition for Writ of 19 Habeas
Corpus pursuant to 28 U.S.C. § 2241 ("Pet.," ECF No. 1). Petitioner alleges that 20 he has been
detained by the United States Department of Homeland Security's ("DHS") 21 Immigration and
Customs Enforcement ("ICE") division at the Otay Mesa Detention 22 Center since November 28,
2024.

Pet. ¶ 11. 23 Having reviewed the Petition, the Court finds that summary dismissal of the Petition
24 is unwarranted at this time. See *Kourteva v. INS*, 151 F. Supp. 2d 1126, 1128 (N.D. Cal. 25
2001) ("Summary dismissal is appropriate only where the allegations in the petition are 26 vague
or conclusory, palpably incredible, or patently frivolous or false.") (citing *Hendricks 27 v.*
Vasquez, 908 F.2d 490, 491 (9th Cir.

1990)). However, the Court finds that the Petition 28 lacks sufficient detail for the Court to
meaningfully consider the requested relief. 1 || Accordingly, the Court REFERS this Petition to
Federal Defenders for an evaluation of 2 || whether appointment of counsel would be beneficial to
Petitioner.

The Court requests that 3 Federal Defenders make its evaluation and file a status report or
appropriate motion by 4 March 3, 2026. The Clerk of the Court SHALL SERVE a copy of this
Order and the 5 || Petition on the Federal Defenders of San Diego, Inc. 6 IT IS SO ORDERED. 7
||Dated: February 3, 2026. tt f Le 8 on. Janis L. Sammartino 9 United States District Judge 10 11
12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28