

No. 24-445 IN

THE
Supreme Court of the United States

SAMUEL KINUTHIA
GICHARU, *Petitioner,*

V.

ANTONE MONIZ, *Respondent.*
SUPERINTENDENT
PLYMOUTH COUNTY
CORRECTIONAL FACILITY,

**On Petition for a Writ of Certiorari to the
United States Court of Appeals for the First
Circuit**

PETITION FOR REHEARING

SAMUEL KINUTHIA GICHARU
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TABLE OF CONTENTS

| | Page |
|--|-------------|
| TABLE OF AUTHORITIES | ii |
| PETITION FOR REHEARING..... | 1 |
| REASONS FOR GRANTING REHEARING | 1 |
| CONCLUSION..... | 3 |
| CERTIFICATE OF COUNSEL/PRO-SE PETITIONER | 4 |

TABLE OF AUTHORITIES

| | Page(s) |
|--|---------|
| CASES AND STATUES | |
| <i>Spencer v. Kemna</i> , 523 U.S. 1 (1998)..... | 1 |
| <i>Maleng v. Cook</i> , 490 U.S. 488 (1989) | 1 |
| <i>Diamond Alternative Energy, LLC v. EPA, et al</i> , 24-7 certiorari is granted 12-13-2024 (2024) | 2 |
| 8 U.S.C. § 1231, Statute | 1,2 |
| 28 U.S.C. § 2241, Statute | 1,2,3 |
| OTHER AUTHORITIES | |
| Sup. Ct. R. 44.2 | 1 |

PETITION FOR REHEARING

Petitioner Samuel Kinuthia Gicharu respectfully petitions for rehearing of this Court's December 16, 2024 Order denying his petition for a writ of certiorari.

REASONS FOR GRANTING REHEARING

Rule 44.2 authorizes a petition for rehearing based on "intervening circumstances of a substantial . . . effect." My petition explained why this Court's review was warranted in the first instance— namely, the existence of a clear split, between this Supreme Court and the First circuit on what establishes the redressability component of Article III standing. This Supreme Court by relying on "in custody" requirement of 28 U.S.C. § 2241 Supreme Court precedent, *Spencer v. Kemna*, 523 U.S. 1 (1998); noted: "it is true, of course, that a Habeas Corpus petitioner must be "in custody" to be eligible for relief under Section 2241(c), and it is also true that a Habeas petitioner must satisfy the "in custody" requirement only as of the date on which his Petition was filed. *Maleng v. Cook*, 490 U.S. 488, 490-91 (1989). However, the constitutionally based case-or-controversy requirement is different from the statutory "in custody" requirement ..." *Spencer v. Kemna*, 523 U.S. 1, 7 (1998)." This above Supreme Court precedent distinction that notes lack of "in custody" requirement of 28 U.S.C. § 2241 moot the establishment of the redressability component of Article III standing; is a split with the new First Circuit contrived Article III standing decision that substitute lack of "in custody" requirements of 8 U.S.C. § 1231 removal statute agency removal actions to moot the establishment of the redressability component of Article III standing, which will imperil future §2241 Habeas challenges to administrative action- example the coming/promised 'Lightening speed' Mass deportations promised in 2025.

On DECEMBER 13, 2024, the same day my Petition for writ of certiorari was DISTRIBUTED for Conference, this Court granted certiorari in DIAMOND ALTERNATIVE ENERGY, LLC V. EPA, ET AL. That decision constitutes an “intervening circumstance [] of a substantial . . . effect,” because it provides an additional and independent justification for this Court’s review. As relevant here, the Court granted certiorari in Diamond Alternative Energy, LLC V. EPA, Et AL on the question “[w]hether a party may establish the redressability component of Article III standing by relying on the coercive and predictable effects of regulation on third parties.”

Similarly, as In DIAMOND ALTERNATIVE ENERGY, LLC V. EPA, ET AL brief; in the decision below, the First Circuit erected barriers to demonstrating redressability that have no basis in this Court’s Article III jurisprudence. These barriers are especially problematic in cases like this one, and all future §2241 Habeas corpus in which the ICE agency action concerns a question of national importance—specifically the promised mass deportations promised in 2025. Such major questions should not be artificially insulated from judicial review.

Similarly, Petitioners’ redressability component of Article III standing to challenge an agency action should not depend on coercive and predictable effects (=lightning speed aliens’ deportations) of regulation on ‘third party’ (=removed alien lack of in custody)—whether petitioner has been removed from the United States but should rather rely on whether “in custody” was established when petitioner files a 28 U.S.C. § 2241 Habeas Corpus. Yet the First Circuit court held that petitioner already could not obtain effective redressability component of Article III standing relief because of the not being “in custody”—due to ICE agency action 8 U.S.C. § 1231 ‘lightning speed’ removal, rather contrary, I petitioner’ under 28 U.S.C. § 2241 “in custody” requirement established effective redressability component of Article III standing relief. The contrary rule adopted by First Circuit below creates an unworkable hurdle to establishing standing in agency § 2241 Habeas actions challenges—one with no basis in precedent or logic.

The First Circuit court's flawed approach could doom any 2241 Habeas Corpus challenge to a similar time-limited agency action of 'lightning speed' removing an alien from the USA, then the required 28 U.S.C. § 2241 "in custody" requirement only be established as of the date on which Petition actions challenges was filed, and not the agency actions of removal of an alien from the USA.

Immigration and Customs enforcement (ICE) Agency will 'lightning speed' expedite remove aliens in droves mass deportation, abuse the rights of mass deported aliens' redressability component of Article III standing right to challenge an agency action, claiming 'lightning speed' mass deported aliens are no longer "in custody"/are removed- President elect Trump has promised 'lightning speed' Mass deportations-this court by this rehearing will also preemptive a humane 'lightning speed' mass deportation precedent.

CONCLUSION

For the foregoing reasons, and those stated in the petition for a writ of certiorari, the Court should grant rehearing, and then grant the petition and review the judgment below.

December 30, 2024,

respectfully submitted,

SAMUEL KINUTHIA GICHARU

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Pro-se Petitioner

CERTIFICATE OF COUNSEL/PRO-SE PETITIONER

Pursuant to Rule 44.2, I, Samuel Kinuthia Gicharu, Pro-se petitioner, hereby certify that the petition for rehearing is restricted to the grounds specified in Rule 44.2. I further certify that the petition for rehearing is presented in good faith and not for delay.

December 30, 2024

SAMUEL KINUTHIA GICHARU

/s/ Samuel Kinuthia Gicharu

Samuel Kinuthia Gicharu

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AFFIDAVIT OF SERVICE

I, Isaac Kinuthia on behalf of my father, Samuel Kinuthia Gicharu, of lawful age, being duly sworn, upon my oath state that I did, on 27th day of December 2024, send out from Gresham Oregon, package (s) containing 40 copies of the petition for rehearing case 24-445 in the above-entitled case. All parties required to be served have been served by priority mail. Packages were plainly addressed to the following:

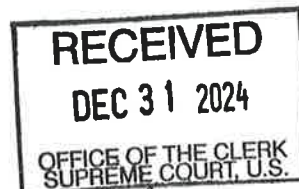
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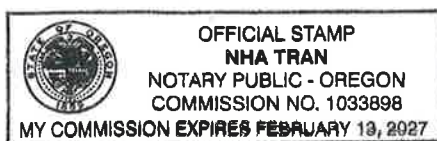
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SIGNED: SAMUEL GICHARU
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KINUTHIA

Subscribed and sworn to before me this 27th day of December 2024. I am duly authorized under the laws of the State of Oregon to administer oaths



State of Oregon
County of Multnomah
This instrument was acknowledged before me
on December 27, 2024
by Nha Tran
Notary Public - State of Oregon

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CERTIFICATE OF COMPLIANCE

As Required by supreme Court Rule 33.1 (h), I certify that the petition for rehearing for case 22-445, in the above entitled case complies with the typeface requirement of supreme Court Rule 33.1 (b), being prepared in New century schoolbook 12 point for the text and 10 point for the footnotes, and this brief contains total 998 word, excluding the parts that are exempted by supreme Court Rule 33.1 (d), as needed.

SAMUEL KINUTHIA GICHARU

SIGNED: SAMUEL GICHARU

Pro-se litigant/petitioner

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Subscribed and sworn to before me this 27th day of December 2024. I am duly authorized under the laws of the State of Oregon to administer oaths.

KINUTHIA

State of Oregon

County of Multnomah

This instrument was acknowledged before me

on December 27, 2024

by Nha Tran

[Signature]
Notary Public - State of Oregon

