

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI, FLORIDA



Mario Petitfrere

A 

Petitioner

v.

Case No.

Paul Swartz, Field Office Director  
Merrick Garland, Attorney General  
Alejandro Mayorkas, Secretary of  
Department of Homeland Security  
Respondents

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PETITION FOR WRIT OF HABEAS CORPUS  
AND RELEASE FROM DETENTION UNDER  
28 U.S.C. § 2241

Petitioner, Mario Petitfrere, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunction relief, Petitioner alleges as follows.

**CUSTODY**

Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (ICE). Petitioner is detained at the Krome N. Service Processing Center, 18201 SW 12 Street Miami, FL 33194. His continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted in *Zadvydas*.

In support of this Petition, Petitfrere alleges as follows:

**JURISDICTION**

1. This Court has jurisdiction under 28 U.S.C. § 2241, the Suspension Clause, U.S. Const. art. I § 9, cl. 2, and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the



authority of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (habeas corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).

### **VENUE**

2. Venue lies in the Southern District of Florida is appropriate under 28 U.S.C. § 1391(e)(2) and because the respondent Paul Swartz resides in this district and because Petitioner Mario Petitfrere is being held in detention in Krome Miami, the judicial district in which the Petitioner resides.

### **PARTIES**

3. Petitioner, Mario Petitfrere is a native and citizen of Bahamas. Petitioner was first taken into ICE on October 22nd 2024, and has remained in ICE custody continuously since that date. Petitioner was given a Custody Review which was violated  
**See Exh.A**

### **FACTUAL ALLEGATIONS**

Petitioner's Case History and Background **See Exh.B**

***Immigration Law > Deportation & Removal > Administrative Proceedings > Custody & Bond  
Criminal Law & Procedure > Sentencing > Supervised Release***



Immigration and Naturalization Service (INS) regulations related to 8 U.S.C.S. 1231 add that the INS District Director will initially review the alien's records to decide whether further detention or release under supervision is warranted after the 90-day removal period expires. 8 C.F.R. 241.4(c)(1), (h), (k)(1)(i) (2001). If the decision is to detain, then an INS panel will review the matter further, at the expiration of a three-month period or soon thereafter. 241.4(k)(2)(ii). And the panel will decide, on the basis records and possible interview, between still further detention or release under supervision. 241.4(i)

*Immigration Law > Deportation & Removal > Administrative Proceedings > Custody & Bond*  
*Criminal Law & Procedure > Sentencing > Supervised Release*

In making this decision under 8 C.F.R. 241.4(c)(1), (h), (k)(1)(i) as to whether further detention or release under supervision is warranted after the 90-day removal period expires, an Immigration and Naturalization Services (INS) panel will consider, for example, the aliens disciplinary record, criminal record, mental health reports, evidence of rehabilitation, history of flight, prior immigration history, and factors such as family ties. 241.4(f). To the authorize release, the panel must find that the alien is not likely to be violent, to pose a threat to the community, to flee if released, or to violate the conditions of release. 241.4(e). And the alien must demonstrate to the community, to satisfaction of the Attorney General that he will pose no danger or risk of flight. 241.4(d)(1). If the panel decides against release, it must review the matter again within a year, and can review it earlier if conditions change.



- 4 Petitioner is unlikely to be removed in the reasonably foreseeable future.
- 5 Section 241 of the INA does not authorize the Respondents to detain indefinitely a noncitizen subject to a final order of removal.
- 6 Petitioner's detention violates the principles in Zadvydas.
- 7 Petitioner's detention also violates the Due Process Clause.
- 8 No special circumstances exist to justify Petitioner's continued detention.

**RELIEF REQUESTED**

- 9 Petitioner's detention has been prolonged since the issuance of the order of Removal. There is no significant likelihood that his removal will occur in the reasonably foreseeable future. Petitioner has not been determined to pose a danger to the community nor a risk for flight, and no special circumstances exist to justify his continued detention. Petitioner should be released based on his certified proof of Rehabilitation and letters of support.

Dated this 13<sup>th</sup>, day of January 2025

  
Mario Petitfrere

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