

**-UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
COLUMBUS DIVISION**

FILED '25 FEB 24 AM 8:15 NDGA-COL

A No.: 

HERMAN FLORES
Petitioner,

v.

ALEJANDRO N. MAYORKAS
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;
PATRICK J. LECHLIETNER
U.S IMMIGRATION AND CUSTOMS ENFORCEMENT;
RUSSELL WASHBURN, U.S. ICE FIELD OFFICE
DIRECTOR FOR THE GEORGIA FIELD OFFICE and
WARDEN OF IMMIGRATION DETENTION FACILITY,
Respondents.

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Case No. _____

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PETITIONER FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. SECTION 2241

Petitioner, HERMAN FLORES appearing hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In writ habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the Stewart Detention Center Lumpkin, Georgia, pursuant to a contractual agreement with the Department of Homeland Security.

I.

JURISDICTION

2. This action arises under the constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.C.S. Section 1101 et seq., as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (“IIRIRA”) Pub. L. No. 104 – 208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. Section 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. Section 2241; art. I Section 9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C. Section 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in the violation of the Constitution, laws, all treaties of the United States. This court may grant relief pursuant to 28 U.S.C. Section 2241, 5 U.S.C. Section 702, and the All Writs Act, 28 U.S.C. Section 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493 – 500 (1973), venue Lies in the United States District Court for the Georgia, the judicial district in which Petitioner resides.

PARTIES

6. Petitioner is a native and citizen of Nicaragua who was arrested on U.S. international waters on November 5, 2022 and was taken into Federal custody on November 21, 2022. Subsequently, on April 24, 2024 the petitioner was sentenced to twenty four (24) months in the Federal Bureau of Prisons (“BOP”). The petitioner was release from federal custody on August 2, 2024 and on the same day he was taken into ICE custody on August 2nd, 2024, and has remained in ICE custody continuously since that date. The petitioner was also ordered removed on August 2nd, 2024.

7. Respondent Merrick Garland is the Attorney General of the United States and is responsible for the administration of ICE and the Implementation and Enforcement of the Immigration and Naturalization Act (INA). As such Respondent Pam Bondi has ultimate custodial authority over Petitioner.

8. Respondent Alejandro N. Mayorkas is the Secretary of the Department of Homeland Security. He is responsible for the administration of ICE and the implementation and enforcement of the INA. As such Alejandro Mayorkas is the legal custodian of Petitioner.

9. Respondent Russell Washburn is the Field Officer Director of the Atlanta Field Office of ICE and is Petitioner's immediate custodian. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. Denied, 122 S.Ct. 43 (2001).

10. Respondent Warden of Stuart Detention Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

11. Petitioner, Herman Floras is a native and citizen of Nicaragua. Petitioner has been in ICE custody since August 2nd, 2024. The petitioner was issued a "Final Administrative Removal Order" in removal proceedings under section 238(b) of the immigration and National Act on August 2, 3rd, 2024. The petitioner do not have any pending charges.

12. Regarding the instant case the Petitioner has no intention on seeking any other remedy for relief except for prolong detention as stating within this "Petition For A writ of Habeas Corpus. The petitioner's drug charge is an aggravated offense.

13. Petitioner was taken into custody by ICE on August 2nd, 2024 and has been in the custody of ICE for more than six months since his removal/deportation exclusion order became final.

14. As to the 90 days Custody Review by the Department of Homeland Security Headquarter Post-Order Detention Unit ("HQCDU") in Washington DC, in the petitioner's case no review was conducted since the petitioner's arrival at Stewart Detention Center. There was no decision to Continue the Petitioner's Detention. If is order to be release in the U.S., Petitioner will reside with his friend at: 800 NW 173 Perr, Miami, Florida 33169.

15. To date, however, ICE has been unable to remove Petitioner to Nicaragua or any other country. 1) On August 2nd, 2024 a Final Administrative Removal Order issued by at Stewart Detention Center, located at: 146 CCA Road, P.O. Box 248, Lumpkin, GA 31815.

16. Petitioner has fully cooperated with ICE regarding his removal from the United States. Petitioner signed his deportation papers and conducted his finger prints with ICE; Petitioner had his family contacted the Nicaragua embassy to furnish ICE with information to obtain his travel documents, but the ICE failed to obtain any travel document(s) to date. Still the petitioner continue to furnish ICE with information via emails (tablet) and had his mother in Nicaragua e-mailed his ICE Officer Kristopher R. Addison (Kristopher.R.Addison@ICE.DHS.GOV.) documents to aid his deportation process.

17. Petitioner's custody status was never reviewed by his or any ICE agents/officers.

18. On or about August 2nd, 2024, Petitioner was transferred authority over his custody status to ICE HQPDU.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate their removal. *Id.* at 702. In *Clark v. Martinez*, 543 U.S. 371 (2005), the Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible aliens. Department of Homeland Security Administrative regulations also recognize that the HQPDU has a six month period for determining whether there is a significant likelihood of an alien's removal in the reasonably foreseeable future. 8 U.F.R. Section 241.13(b)(ii).

20. Petitioner was ordered removal on August 2nd, 2024, and the removal order became final

on or about August 2nd, 2024. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on or about February 2, 2025. Regarding the case at hand, petitioner has been in detention since August 2nd, 2024, for seven months, exceeding the six months period.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner's re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. Section 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for removal efforts has expired. Petitioner still has not been removed, and Petitioner continues to languish in detention. Petitioner's removal to Nicaragua or any other country is not significant likely to occur in the reasonably foreseeable future. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone like Petitioner under such circumstances is unlawful.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

23. Petitioner re-alleges and incorporates by reference paragraphs 1 through 22 above.

24. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

25. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. *Zadvydas* recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal. The presumptively reasonable period during which ICE may detain an alien is only six months. Petitioner has already been detained in excess of six months and Petitioner's removal is not significant likely to occur in the reasonably foreseeable future.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 through 25 above.

27. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case had been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process. Ice has detained Petitioner for more than six months since the issuance of his final order of removal. There is no significant likelihood that Petitioner removal will occur in the reasonably foreseeable future. Petitioner does not pose a danger to the community or a risk for flight, and no special circumstances exist to justify his continued detention. As petitioner is not dangerous, not a flight risk, and cannot be removed, his indefinite detention is not justified and violates substantive due process. See *Zadvydas*,

533 U.S. At 690-91.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a Writ of Habeas Corpus directing the Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary in permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Award Petitioner Attorney's fees and cost under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. Section 504 and 28 U.S.C. Section 2412, and on any other basis justified under law;
- 5) Grant any other and further relief that Court deems just and proper.

I affirm, under penalty of perjury, that foregoing is true and correct.

Signature: _____

Herman Floras

Petitioner's Name: _____

Herman Floras

Date: _____

12/2/2025

A No.:

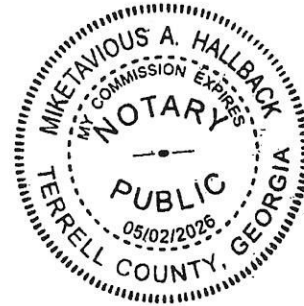


146 CCA Road

Lumpkin, Georgia 31815

PUBLIC NOTARY

2/12/25
Mhalaba
Signature



CERTIFICATE OF SERVICE

I Herman Floras hereby certify that on 12/2/2025 a copy of this Petition for Writ Habeas Corpus which it was send via priority mail to:

United States District Court
For the Middle District of Georgia
Columbus Division
P.O. Box 124
Columbus, Georgia 31902