

LUIS ALBERTO ALVAREZ CUAN

A: [REDACTED]

STEWART DETENTION CENTER

146 CCA ROAD

LUMPKIN, GA 31815

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

L.A.A.C

A: [REDACTED]

PETITIONER,

V.

PAM BONDI, ATTORNEY GENERAL OF THE UNITED STATES; KRISTI NOEM,
SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY; TERRACE
DICKERSON, DIRECTOR FOR THE U.S. ICE FIELD OFFICE ATLANTA AND
WARDEN OF STEWART DETENTION CENTER.

RESPONDENTS.

Civil Action No.

MOTION FOR APPOINTMENT OF COUNSEL
PURSUANT TO 18 U.S.C. § 3006 A

PETITIONER IS A CITIZEN OF CUBA. PETITIONER IS IN ICE CUSTODY
IN THE UNITED STATES, BUT HAS BEEN ORDERED REMOVED TO CUBA

BY IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE), PETITIONER'S REMOVAL ORDER IS FINAL, BUT PETITIONER CANNOT BE REMOVED TO CUBA OR ANY OTHER COUNTRY. THUS, PETITIONER REMAINS INDEFINITELY DETAINED IN ICE CUSTODY, AND HAS BEEN CONFINED FOR A PERIOD FAR LONGER THAN THE LAW MANDATES. UNDER 8 U.S.C. § 1231(a)(1)-(2), ONCE AN ALIEN HAS BEEN ORDERED REMOVED, THE ATTORNEY GENERAL MUST CARRY OUT THE REMOVAL WITHIN A PERIOD OF 90 DAYS, DURING WHICH TIME THE ALIEN SHALL BE DETAINED. THE POST-REMOVAL PERIOD PROVISION OF THE SAME STATUTE, 8 U.S.C. § 1231(a)(6), ALLOWS FOR CERTAIN ALIENS TO BE DETAINED BEYOND THE REMOVAL PERIOD, BUT THE SUPREME COURT EXPLICITLY LIMITED THIS DETENTION PERIOD IN *ZADNYDAS V. DAVIS*, 533 U.S. 678 (2001). IN THAT CASE, THE COURT HELD THAT § 1231(a)(6) RESTRICTS AN ALIEN'S POST-REMOVAL PERIOD DETENTION TO A PERIOD REASONABLY NECESSARY TO BRING ABOUT THAT ALIEN'S REMOVAL, AND THAT IT "DOES NOT PERMIT INDEFINITE DETENTION" *ZADNYDAS*, 533 U.S. at 689. THE COURT FOUND THAT A PRESUMPTION EXISTS THAT AN ALIEN MAY NOT BE HELD LONGER THAN SIX MONTHS; THE GENERAL RULE IS THAT AN ALIEN MAY NO LONGER BE CONFINED WHEN THERE IS "NO SIGNIFICANT LIKELIHOOD OF REMOVAL IN THE REASONABLY FORESEEABLE FUTURE." *Id.* at 701. IN *CLARK V. MARTINEZ*, THE SUPREME COURT EXTENDED THIS HOLDING TO INADMISSIBLE ALIENS, 125 S.Ct. 716, 722 (2005).

THE QUESTION AS TO WHETHER PETITIONER'S DETENTION IS IN VIOLATION OF THE LAWS OF THE UNITED STATES IS ONE FOR A FEDERAL HABEAS COURT TO HEAR. 28 U.S.C. § 2241. ACCORDINGLY, PETITIONER FILES THE ACCOMPANYING HABEAS CORPUS PETITION, PURSUANT TO 28 U.S.C. § 2241, REQUESTING THAT THIS COURT ORDER PETITIONER'S RELEASE. PETITIONER HAS NO INCOME, HE NO HAVE PROPERTY AND ENOUGH TO PAY FOR A LAWYER. THEREFORE, PETITIONER REQUESTS THAT

THIS COURT APPOINT COUNSEL TO REPRESENT PETITIONER IN THIS HABEAS ACTION.

I. THE COURT SHOULD EXERCISE ITS DISCRETION TO APPOINT COUNSEL ASSUMING THAT A PETITIONER HAS SHOWN FINANCIAL NEED, A DISTRICT COURT MAY APPOINT COUNSEL IN A HABEAS PROCEEDING UNDER 28 U.S.C. § 2241 WHEN THE INTERESTS OF JUSTICE SO REQUIRE. 18 U.S.C. § 3006A(a)(2)(B). COURTS HAVE OFTEN EXAMINED THREE ELEMENTS IN DETERMINING WHETHER APPOINTMENT OF COUNSEL IS NECESSARY, THE LIKELIHOOD OF SUCCESS ON THE MERITS, THE COMPLEXITY OF THE LEGAL ISSUES INVOLVED IN THE CASE, AND THE ABILITY OF THE PETITIONER TO PRESENT THE CASE IN LIGHT OF ITS COMPLEXITY. See, e.g., WEYGANDT V. LOOK, 718 F.2d 952, 954 (9th Cir. 1983); SAIDINA V. THORNBURGH, 775 F.Supp. 507, 511 (D. Conn. 1991). PETITIONER HAS BEEN HELD IN CUSTODY FOR OVER SEVEN MONTHS SINCE BEING ORDERED REMOVED TO CUBA, AND REMOVAL IN THE REASONABLE FORESEEABLE FUTURE IS UNLIKELY BECAUSE CUBA WILL NOT ACCEPT PETITIONER. UNDER THE SUPREME COURT'S DECISION IN ZADWIGAS, PETITIONER'S CONTINUED DETENTION IS PRESUMPTIVELY UNREASONABLE. THUS, PETITIONER HAS A HIGH LIKELIHOOD OF SUCCESS ON THE MERITS.

MOREOVER, PETITIONER WOULD ENCOUNTER GREAT DIFFICULTY IN PRESENTING THIS HABEAS CORPUS CASE ALONE. THE HOUSE REPORT ON THE PREDECESSOR TO § 3006A(a)(2)(B) RECOGNIZED THAT HABEAS CORPUS PROCEEDINGS OFTEN PRESENT SERIOUS AND COMPLEX ISSUES OF LAW AND FACT THAT WOULD NECESSITATE THE ASSISTANCE OF COUNSEL. H.R. REP. NO. 1546, 91ST CONG. 2d Sess. (1970). REPRINTED IN 1970 U.S.C. CAN 3982, 3993. IN ADDITION, THE CONGRESSIONAL REPORT ON § 3006A(2)(B) STATED THAT A COURT SHOULD APPOINT COUNSEL WHEN NECESSARY TO INSURE A FAIR HEARING. ID. THE

COMPLEXITY OF A HABEAS CASE WILL POSE AN ESPECIALLY GREAT OBSTACLE FOR PETITIONER, HE IS A LAY PERSON WITHOUT SPECIAL EDUCATION IN THE LAW. THE ISSUES PRESENTED IN MY CASE ARE COMPLEX AND MY FUNDAMENTAL RIGHT TO FREEDOM IS AT STAKE. IT WOULD BE DIFFICULT FOR ME TO RESPOND TO ANY DEFENSES RAISED BY ICE WITHOUT THE ASSISTANCE OF COUNSEL.

IN LIGHT OF THE COMPLICATED ISSUES INVOLVED IN HABEAS CASES AND PETITIONER'S INABILITY TO ADEQUATELY PRESENT THE CASE AT BAR, AS WELL AS PETITIONER'S LIKELIHOOD OF SUCCESS ON THE MERITS, THIS COURT SHOULD EXERCISE ITS DISCRETION TO APPOINT COUNSEL UNDER 18 U.S.C. 3006A(a)(2)(B).

II. APPOINTMENT OF COUNSEL IS NECESSARY BECAUSE DISCOVERY IS IMPERATIVE.

THE RULES GOVERNING HABEAS PROCEEDINGS REQUIRE THE APPOINTMENT OF COUNSEL IN CERTAIN CIRCUMSTANCES.⁵⁰ UNDER RULE 6(a), 28 U.S.C. FOL. § 2254, A JUDGE MUST APPOINT COUNSEL FOR A PETITIONER IF IT IS "NECESSARY FOR EFFECTIVE UTILIZATION OF DISCOVERY PROCEDURES." ICE HAS INFORMATION AND DOCUMENTS RELEVANT TO PETITIONER'S HABEAS PETITION, AND WITHOUT THE ASSISTANCE OF COUNSEL, PETITIONER WILL NOT BE ABLE TO EFFECTIVELY PURSUE DISCOVERY AND, AS A RESULT, WILL NOT ADEQUATELY PRESENT HIS CLAIMS. THE AID OF AN ATTORNEY IS ESPECIALLY IMPORTANT IN THIS CASE, GIVEN PETITIONER'S LACK OF FAMILIARITY WITH THE LEGAL PROCEDURE INVOLVED IN REQUESTING AND OBTAINING DISCOVERY. MOREOVER, EVEN IF PETITIONER WERE TO OBTAIN DOCUMENTS IN DISCOVERY, WITHOUT THE ASSISTANCE OF COUNSEL, PETITIONER WOULD NOT BE CAPABLE OF ANALYZING THEM TO DETERMINE HIS LIKELIHOOD OF BEING REMOVED IN THE FORESEEABLE FUTURE.

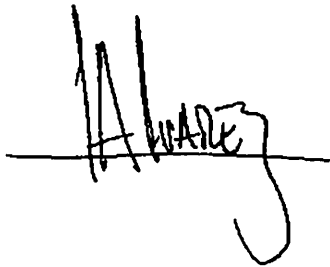
III. AN EVIDENTIARY OR MOTIONS HEARING MAY BE NECESSARY.

UNDER RULE 8(c), 28 U.S.C. FOL. §2254, THE COURT IS REQUIRED TO APPOINT COUNSEL IN A HABEAS PROCEEDING IF AN EVIDENTIARY HEARING IS NEEDED. AN EVIDENTIARY HEARING WILL LIKELY BE NECESSARY IN THIS CASE. REGARDLESS OF ANY OTHER ISSUES, IF AN EVIDENTIARY HEARING IS SCHEDULED, THE COURT MUST APPOINT COUNSEL FOR PETITIONER.

FOR THE ABOVE REASONS, THIS COURT SHOULD APPOINT COUNSEL TO ASSIST PETITIONER IN INSTANT HABEAS PROCEEDINGS CHALLENGING PETITIONER'S DETENTION BY ICE, PURSUANT TO THE SUPREME COURT DECISIONS IN *Zadvydas* AND *MARTINEZ*.

DATED: JUN. 19, 2025.

RESPECTFULLY SUBMITTED.
LUIS ALBERTO ALVAREZ CERAN.
PETITIONER

A handwritten signature in black ink, appearing to read "L. Alvarez", written over a horizontal line.

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

LUIS ALBERTO ALVAREZ CUAN.

A: 

PETITIONER,

V.

PAM BONDI, ATTORNEY GENERAL OF THE UNITED STATES; KRISTI
NOEM, SECRETARY OF THE HOMELAND SECURITY; TERRACE DICKERSON;
DIRECTOR FOR U.S. ICE FIELD OFFICE ATLANTA AND WARDEN OF
STEWART DETENTION CENTER.

RESPONDENTS.

Civil Action No.

ORDER

UPON CONSIDERATION OF PETITIONER LUIS ALBERTO ALVAREZ CUAN'S
PETITION FOR A WRIT OF HABEAS CORPUS AND MOTION FOR APPOINTMENT OF
COUNSEL, IT IS HEREBY.

ORDERED THAT PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL IS
HEREBY GRANTED.

DONE AND DATED THIS

DAY OF

2025.

BY THE COURT FOR THE MIDDLE DISTRICT OF GEORGIA, COLUMBUS DIVISION.