UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OD GEORGIA
COLUMBUS DIVISION

A No.: [redacted]

David Ernesto Ortiz
Petitioner,

Case No.:_____

v.

PAM BONDI,
ATTORNEY GENERAL;
ALEJANDRO N. MAYORKAS,
SECRETARY OF THE DEPARTMENT
OF HOMELAND SECURITY;
PATRTICK 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.

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

Petitioner, David Ernesto Ortiz 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. Petitioner is undeer the direct control of Respondents and their agents.

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 Untied 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 El Salvador. Petitioner was first taken into ICE custody on 10/18/2023 and has remained in ICE custody continuously since that date. Petitioner was ordered removed on N/A.

7. Respondent PAM BONDI 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 PAM BONDI has ultimate custodial authority over Petitioner.

8. Respondent Alejandro Majokos 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 Majokas 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, David Ernesto Ortiz is a native and citizen of El salvador.

Petitioner has been in ICE custody since 10/18/2023. An Immigration Judge ordered the Petitioner removed on I have been ice Custody from 10/18/2023 to 06/23/2025, Which is over six Months My final and I still haven't been removed there is no forseeable date in Sight.

12.

13.

14.

15. To date, however, ICE has been unable to remove Petitioner to El Salvador or any other country.

16. Petitioner has fully cooperated with all the efforts ICE regarding his removal from the United States.

17. Petitioner's custody status was first reviewed on N/A. Petitioner was served a written decision ordering his/her continued detention.

18. On 10/18/2023. Petitioner was severed with a notice transferring authority over his/her custody status to ICE Headquarters Post-Order Detention Unit (" HQPDU"). 03/14/2025,

I have been in ice custody for a two years now and I am not deportable. So I am asking for release thru the court, As my detention has become illegal.

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 10/18/2023, and the removal order became final on 10/18/2023. Therefore, the six-month presumptively reasonable removal period for Petitioner ended on 03/14/2025.

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 10/18/2023 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 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.

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; and

5) Grant any other and further relief that this Court deems just and proper.

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

Signature: David Ernesto Ortiz
Name:

Date: 06/23/2025

Petitioner's Name: David Ernesto Ortiz
A No.: [redacted]
146 CCA Road
P..O. Box 248
Lumpkin, Georgia 31815

PUBLIC NOTARY

6/23/25
Signature

MIKETAVIOUS A. HALLBACK
MY COMMISSION EXPIRES
NOTARY
PUBLIC
05/02/2026
TERRELL COUNTY, GEORGIA

CERTIFICATE OF SERVICE

I David Ernesto Ortiz hereby certify that on 6/23/25 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

Executed on this 23 day of June 2025 under penalty of perjury pursuant to 28 U.S.C. Section 1746.

David Ernesto Ortiz

Name: