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**UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION**

GONZALEZ SANTANA, Rafael

A No.: 

Petitioner,

v.

PAMELA BONDI,

Attorney General;

KRISTI NOEM,

Secretary of the Department of
Homeland Security;

ALBERTO CORNAVACA,

SDDO Jacksonville ICE-ERO Field
Office;

SCOTTY RHODEN,

Sheriff of Baker County Detention
Center;

Respondents.

Civil Action No.:

3:25-cv-732-MMH-MCR

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

Petitioner, GONZALEZ SANTANA, Rafael, appearing pro se, 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 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 Baker County Detention Center in MacClenny, Florida. ICE has contracted with Baker County Detention Center to house immigration detainees such as Petitioner. Petitioner is in 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.S.C. § 1101 et seq., as amended by Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104 -208, 110 Stat. 1570, and Administrative Procedure Act (“APA”), 5 U.S.C § 701 et seq.
3. This Court has jurisdiction under 28 U.S.C § 2241; art. 1 § 9, cl. 2 of the United States Constitution (“Suspension Clause”); and 28 U.S.C § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C § 2241, 5 U.S.C § 702, and the All Writs Act, 28 U.S.C § 1651.

VENUE

4. 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 Middle District of Florida, Jacksonville Division, the judicial district in which Petitioner resides.

PARTIES

5. Petitioner is a native and citizen of Cuba. Petitioner has been in ICE custody since May 16, 2025, and has remained in custody continuously since that date.
6. Respondent PAMELA BONDI is the Attorney General of United States and is responsible for the administration of ICE and implementation and enforcement of the INA. As such, U.S. Attorney General has ultimate custodial authority over Petitioner.
7. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and implementation and enforcement of the INA. As such, Secretary of the Department of Homeland Security is the legal custodian of Petitioner.
8. Respondent ALBERTO CORNANVACA is the Supervisory Detention and Deportation Officer (SDDO) of the Jacksonville ICE – ERO (Enforcement Removal Operations) Field Office and is Petitioner's immediate custodian. See Vasquez v. Reno, 223 F. 3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

9. Respondent SCOTTY RHODEN is the Sheriff of Baker County Detention Center where petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

10. Petitioner, GONZALEZ SANTANA, Rafael, is a native and citizen of Cuba.
11. Petitioner first arrived in United States on September 6, 1995, and was paroled in United States.
12. Petitioner adjusted his status in September 1996, as a CU-6 Lawful Permanent Resident.
13. In August 1999, Petitioner was sentenced to 10 months jail followed by 5 years' probation due to criminal convictions in the Miami-Dade County.
14. ICE took Petitioner's custody after serving sentence for his convictions.
15. An Immigration Judge ordered the Petitioner removed on May 4, 2000. Petitioner waived his appeal from the order of deportation, thereby making it final on that same day. Petitioner was then released from immigration detention on order of supervision (OSUP) by ICE in September 2001.
16. Petitioner successfully finished his 5 years' probation for his conviction in Miami-Dade County without any violation. Petitioner was on immigration supervision without any

violation of immigration law or his supervision conditions. ICE would issue him I-94 and Employment Authorization Document (EAD) every year.

17. On May 16, 2025, the Petitioner was stopped by a State Trooper and Border Patrol Agents based on an illegal immigration enforcement operation in Monroe County, Florida.
18. Petitioner was informed by the Border Patrol Agent that he has an order of removal from May 4, 2000, and therefore would have to follow him to the Border Patrol Office.
19. Petitioner obeyed the instructions and was taken into custody as soon as he arrived at the Marathon Border Patrol office on May 16, 2025.
20. Petitioner tried to ask the arresting agent the reason for his detention and the agent simply stated that he has an order of removal.
21. Petitioner was then transferred to Krome Immigration Service Processing Center (Krome SPC) and stayed there for next four days before getting transferred to Baker County Detention Center (BCDC) on May 20, 2025.
22. After his conviction in the year 1999, Petitioner has no history of any violation of State or Federal laws.
23. Petitioner has successfully done over 24 years on immigration supervision without any violations and thus, he is not a danger to the community.
24. To date, ICE has unable to remove the Petitioner to Cuba. Respondent had 24 years since the entry of final order of deportation against Petitioner and to obtain his travel documents for his return to Cuba. It is Petitioner's understanding that Cuba has and

will deny any and all requests for Petitioner's travel document as there are currently no formal diplomatic relations between Cuba and the United States, nor is there any formal or informal agreement.

25. Petitioner has co-operated fully with all efforts by ICE to remove him from United States to Cuba.

26. In Zadvydas v. Davis, 533 U.S. 678 (2001), Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate removal.

27. Petitioner was ordered removed on May 4, 2000, and the removal order became final on the same date and therefore six months presumptively reasonable period has long elapsed.

28. Petitioner alleges that ICE authority to re-detain him after he was issued a final order of removal, detained, and subsequently release on OSUP is not in compliance with 8 C.F.R. § 241.13(i)(3).

29. Petitioner did not have any informal interview with ICE officers, nor he was given a reason regarding his revocation of supervision.

30. Petitioner alleges that Respondents have not identified any change in circumstances that caused them to place him in custody in May 2025, while they pursue his removal to Cuba.

31. Petitioner was never informed that he was eligible for repatriation to Cuba or removal to a third country.

32. To date, Respondents has not demonstrated that they are in progress to secure a travel document for Petitioner's removal to Cuba nor they have demonstrated that there is significant likelihood of removal in the reasonably foreseeable future because 24 years have elapsed without ICE securing a travel document from Cuba for his removal.
33. Petitioner asserts that his release in September 2001 on OSUP suggests that he was determined not to present a flight risk.
34. Petitioner alleges that the immigration detention is unnecessary on the basis of arbitrary detention and unconstitutional arrest as Petitioner did not violate any laws and there is no significant likelihood that Petitioner will be removed in the reasonable foreseeable future.

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

35. Petitioner re-alleges and incorporates by reference paragraphs 1 to 34 above.
36. Petitioner's continued detention by the Respondent violates 8 U.S.C § 1231(a)(6), as interpreted in Zadvydas. Petitioner's ninety-day statutory removal period and six-month presumptively reasonable period for continued removal efforts both have passed. Respondents are unable to remove Petitioner to Cuba because there is no

repatriation agreement between United States and Cuba, and Cuba will not accept its citizens who have been ordered removed from United States. Respondents have not identified any change in circumstances that caused them to place the Petitioner in custody in May 2025 while they pursue his removal. See Kareem Tardos v. Noem, 2025 U.S. Dist. LEXIS 113198 where courts concluded that Tardos has the better argument under Zadvydas. Under such circumstances Petitioner's continued infinite detention is unreasonable and not authorized by 8 U.S.C § 1231(a)(6).

COUNT TWO
SUBSTANTIVE DUE PROCESS VIOLATION

37. Petitioner re-alleges and incorporates by reference paragraphs 1 to 36 above.
38. There is no significant likelihood that Petitioner will be removed in the reasonable foreseeable future.
39. The Petitioner's continued detention violates his right to substantive due process by depriving him of his core liberty interest to be free from bodily restraint. The Due Process Clause of the Fifth Amendment requires that the deprivation of the Petitioner's liberty be narrowly tailored to serve a compelling government interest in assuring Petitioner's presence at the time of deportation, that interest does not justify Petitioner's unlawful and unconstitutional detention where he is unlikely to be removed to Cuba, his continued indefinite detention violates substantive due process.

COUNT THREE
PROCEDURAL DUE PROCESS VIOLATION

40. Petitioner re-alleges and incorporates by reference paragraphs 1 to 39 above.
41. 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 has been denied that opportunity.
42. The Department of Homeland Security regulation, 8 C.F.R. § 241.13(i)(3) states
- Revocation procedures: Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.
43. Here, the Petitioner was not afforded any informal interview, nor he was given an opportunity to respond to the reasons for revocation. Petitioner was not given any opportunity to submit any evidence or information that he believes that there is no significant likelihood he will be removed in the reasonably foreseeable future. ICE

violated its own regulation and did not afford the Petitioner his right to due process. See Van Nguyen v. Hyde, 2025 U.S. Dist. LEXIS 117495 where the courts allowed the Petitioner's motion for release upon finding that ICE violated its regulations that implicated a fundamental constitutional right also see Kong v. United States, 62 F. 4th 608.


44. There is no administrative mechanism in place for the Petitioner to obtain a decision from a neutral arbiter or appeal a custody decision. The custody review procedure are constitutionally insufficient both as written or applied. A number of courts have identified a substantial bias within ICE toward the continued detention of aliens, raising the risk of an erroneous deprivation to unconstitutionally high levels. See, e.g., Phan v. Reno, 56 F. Supp.2d 1149, 1157 (W.D. Wash. 1999) ("INS does not meaningfully and impartially review the Petitioners' custody status."); St. John v. McElroy, 917 F. Supp. 243, 251 (S.D.N.Y. 1996) ("Due to political and community pressure, INS, an executive agency, has every incentive to continue detain aliens with aggravated felony convictions, even though they have served their sentences, on suspicion that they may continue to pose a danger to the community."); see also Rivera v. Demore, No. C99-3042 THE, 1999 WL 521177, *7 (N.D. Cal. Jul 13, 1999) (procedural due process requires that alien release determination be made by impartial adjudicator due to agency bias).


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 and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Reinstate Petitioner's immigration supervision and terminate his imprisonment.
- 5) Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

/s/ 

GONZALEZ SANTANA, Rafael
A No.: 
Petitioner, Pro Se,
Baker County Detention Center,
1 Sheriffs Office Drive,
MacClenny, FL - 32063

06-24-25
Date Executed