UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Juan PUERTAS MENDOZA, **Petitioner-Plaintiff,** **v.** **PAM BONDI,** **United States Attorney General;** **KRISTI LYNN NOEM,** **Secretary of the United States** **Department of Homeland Security;** **TODD M. LYONS,** **Director of United States** **Immigration and Customs Enforcement;** **SYLVESTER ORTEGA** **Field Office Director** **for Detention and Removal, U.S.** **Immigration and Customs Enforcement,** **REYNALDO CASTRO, Warden,** **South Texas Detention Complex;** **Respondents-Defendants.**	Civ. No. :25-890 DHS File Number: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR PRELIMINARY INJUNCTIVE RELIEF

The Petitioner, Juan Puertas Mendoza ("Mr. Puertas) respectfully petitions this Honorable Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention.

INTRODUCTION

This is a Petition for a Writ of Habeas Corpus filed on behalf of Mr. Puertas seeking declaratory and injunctive relief to remedy his unlawful detention by Respondents. Mr. Puertas is being detained at the discretion of Respondents as a person granted withholding of removal from Mexico in 2016, who was released at that time on an order of supervision, Form I-220B, and in the intervening nine years has been granted work authorization status, and has complied with all conditions of his withholding of removal order. On Thursday, July 17, 2025, he attended his annual ICE check in at their San Antonio field office, namely at 3523 Cross Point Drive, San Antonio, Texas 78217. This time, ICE revoked his order of supervision, and has detained him without bond. ICE has abused him, and has used terror tactics to try get him to sign that he wishes to be removed to Mexico, notwithstanding the immigration judge's order stating that ICE may *not* remove him to Mexico. These tactics this past week include telling him that he would soon board a plane to "Syria" if he did not sign. In fact, for nearly ten years, ICE has been unable to locate a country to remove him to.

ICE thus has maintained custody of him on its Order of Supervision, for well over nine years, and thus well over the presumptively unreasonable 180 day permitted post-order detention provided by the U.S. Supreme Court. Under the controlling case law, unless there has been a provable change in circumstances regarding the viability of removal, with the service bearing the burden of proof, such as receipt of travel documents and permission of the foreign national's country of nationality to receive him/her, and then his removal is not "imminent." In *Zadvydas v. Davis*, the Supreme Court held that "the statute, read in light of the Constitution's demands, limits [a noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal

from the United States." 533 U.S. 678, 689 (2001). "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. Petitioner demonstrates here that the government has had months years to act on their final order and their failure to do so does not give them the right to now detain a foreign citizen while they initiate the process of executing the final order, and that they can only detain the foreign citizen once they can prove that they are in, or within a reasonable period of time will be in, a position to execute the order. The regulations refer to an order of supervision as a "release" (alternative to detention) under terms and conditions as set by ICE (U.S. Department of Homeland Security, Immigration and Customs Enforcement). 8 C.F.R. § 241.4(l) (order of supervision cannot be rescinded without providing the foreign national with a written explanation of how the order of supervision was violated and why it is being rescinded and as to give the foreign national an opportunity to respond and show that they did not violate the terms and conditions of the order of supervision.)

His detention by defendants began under their order of supervision, more than nine years ago. Petitioner's detention on July 17, 2025 is unconstitutional because ICE has had custody under its order of supervision (Form I-220B) since March 24, 2016, more than six months after the removal order in his case became administratively final on March 24, 2016, because removal is not reasonably foreseeable. Accordingly, to vindicate Petitioner's statutory and constitutional rights and to put an end to his continued arbitrary detention, this Court should grant the instant petition for a writ of habeas corpus.

The Supreme Court construed § 1231(a)(6) as having an implicit, temporal limitation of six months post-order of removal, after which an alien must generally be released absent a significant likelihood of removal in the reasonably foreseeable future.

The defendants do not have a likelihood of imminently removing Petitioner. The apparent purpose of detaining him at his yearly ICE check in was to try to browbeat him in to renouncing the immigration judge's 2016 withholding of removal order so he would "sign" his removal to Mexico. In the past nine years, the defendants have shown no ability to remove him to a third country under the statute and regulations. Nor would his release on supervision, as previously, prevent the defendants continuing their efforts to locate a third country to remove him to. The Petitioner, moreover, shows evidence that he has filed for relief in the form of a petition for nonimmigrant U visa status in the United States, namely, on June 22, 2025. Exhibit A. If the U.S. Citizenship and Immigration Services (USCIS) grants his request for waivers of grounds of inadmissibility, namely, of his existing removal order, on humanitarian grounds, there is no impediment to him remaining lawfully in the U.S. See 8 U.S.C. §1101(a)(15)(U) (aliens who have suffered substantial physical or mental abuse as a result of having been the victim in the United States of a qualifying crime). Mr. Puertas was robbed at gunpoint in Austin, Texas on February 18, 2025, he reported the crime, and has cooperated ever since. On June 23, 2025, the Austin Police Department certified his assistance and cooperation in the investigation of the robbery on the required U visa forms, and on July 22, 2025, he filed the required forms to attain U visa status with USCIS. Exh. A. Thus, if this Court orders his release, he is pursuing a pathway to lawful status authorized by Congress.

Absent an order from this Court, Petitioner will likely remain detained for many more months, if not years.

Petitioner asks this Court to find that his prolonged incarceration is unreasonable and to order his immediate release.

JURISDICTION

1. Petitioner is detained in civil immigration custody at South Texas Detention Center in

Pearsall, Texas. He has been in the custody of ICE since on or about March 24, 2016, when it released him on an Order of Supervision. Recently, on July 17, 2025, ICE revoked its Order of Supervision without explanation. He has not received an individualized bond hearing before an immigration judge (IJ). Other than his immigration violations, he has no criminal convictions to render him a flight risk or a danger to the community.

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*.

3. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

4. Venue is proper because Petitioner is detained at Pearsall, Texas, which is within the jurisdiction of this District.

5. Venue is proper in this District also pursuant to 28 U.S.C. § 1391(e), because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to her claims occurred in this district, and no real property is involved in this action.

PARTIES

6. Petitioner is a citizen of Mexico, was ordered removed following proceedings under 8 U.S.C. § 1231(a)(5). He has been under ICE's custody on an Order of Supervision for over nine years, and now in addition ICE has revoked such order and is currently detaining him at

South Texas Detention Center, Pearsall, Texas. He is in the custody, and under the direct control, of Respondents and their agents.

7. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is empowered to carry out any administrative order against Petitioner and is a legal custodian of Petitioner.
8. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA. DHS oversees ICE and the detention of noncitizens. DHS is a legal custodian of Petitioner.
9. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and oversees the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.
10. Respondent Todd M. Lyons is sued in his official capacity as nationwide Director of ICE, with authority to carry out any administrative order against Petitioner, and is legal custodian of Petitioner.
11. Sylvester Ortega, in his official capacity as the Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Ortega is a legal custodian of Petitioner and has authority to release him.
12. Respondent Reynaldo Castro is the Warden of South Texas Detention Center, and he has immediate physical custody of Petitioner pursuant to a contract with ICE to detain nonciti-

zens and is a legal custodian of Petitioner. He is sued in her official capacity, as well as by any successors or assigns.

STATEMENT OF FACTS

13. Petitioner Juan Puertas, citizen of Mexico, was ordered removed, but granted withholding of removal from Mexico, 8 U.S.C. §1231(b)(3), by immigration judge Margaret Kolbe on March 24, 2016 ("[t]he Attorney General may not remove an alien to a country if the Attorney General decides that the alien's life or freedom would be threatened in that country because of the alien's race, religion, nationality, membership in a particular social group, or political opinion.") Under the relevant regulation at 8 C.F.R. §1208.16(f), "[N]othing in this section or §1208.17 shall prevent the Service from removing an alien to a third country other than the country to which removal has been withheld or deferred." Here, for the past nine years, since 2016, ICE has failed to remove Mr. Puertas to a third country.

14. On July 17, 2025, ICE revoked his Order of Supervision and began detaining him at the South Texas Detention Center without bond. No immigration judge has authority under 8 U.S.C. §1226(a) to grant him a bond, because he is subject to a final order of removal, dated March 24, 2016, albeit it withheld under the statute at 8 U.S.C. §1231(b)(3).

15. Petitioner is a 48 year-old citizen of Mexico. He suffered torture and persecution in Mexico, and at a hearing held on March 24, 2025, the immigration judge granted him withholding of removal to that country. Petitioner has four (4) children living in the United States, two of whom are U.S. citizens. He divorced the children's mother, Sara Muniz, on November 22, 2019, in Austin, Texas. They raise the children in Austin pursuant to an order of joint custody.

Proceedings Before the Immigration Judge in 2016

16. Mr. Puertas initially immigrated to the United States in 1995. He returned to Mexico several times, and reentered unlawfully. Eventually on June 17, 2001 he was apprehended while attempting to enter unlawfully, he was removed to Mexico under 8 U.S.C. §1225(b). He subsequently tried to reenter, and his order was reinstated on October 18, 2009. He then attempted to return to the U.S. on or about March, 2016, he was apprehended, and he expressed a reasonable fear of returning to Mexico based on past persecution on account of his membership in a particular social group. The immigration judge then held a hearing on March 24, 2016, and granted him withholding of removal and relief under the U.N. Convention Against Torture. ICE then released him into the United States on an Order of Supervision, Form I-220B. He has complied with such order ever since, including annual check ins. At the most recent check in on July 17, 2025, however, ICE revoked his order of supervision and has detained him in Pearsall, TX.

17. Petitioner has filed a request for U visa nonimmigrant status with USCIS on July 22, 2025, based on being the cooperative victim of a qualifying crime (felony assault). That petition is pending. Exh. H.

LEGAL FRAMEWORK

18. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added).

19. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flo-*

res, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

20. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious."). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

21. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during "the removal period," which is defined as the 90-day period beginning on "the latest" of either "[t]he date the order of removal becomes administratively final"; "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court's final order"; or "[i]f the [noncitizen]is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement."

22. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that "the statute, read in light of the Constitution's demands, limits [a noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

23. The regulations at 8 C.F.R. § 241.4 provide situations where ICE may revoke its order of release – "(l) Revocation of release—(1) Violation of conditions of release. Any alien described in paragraph (a) or (b)(1) of this section who has been released under an order of supervision or other conditions of release who violates the conditions of release may be returned to custody. Any such alien who violates the conditions of an order of supervision is subject to the penalties described in section 243(b) of the Act. Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded 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.

24. Petitioner argues that ICE has not complied with its own regulation. It has never supplied him with a reason as to an alleged violation, nor afforded him an opportunity or received any notification of ICE's reasons. Further, he shows that ICE has maintained custody of him under its Order of Supervision but has never in nine years shown any progress towards imminent removal or reasonably foreseeable removal to a third country.

25. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen's due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

26. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

27. The first justification of preventing flight, however, is "by definition . . . weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive detention based on dangerousness" is permitted "only when limited to specially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

28. Thus, under *Zadvydas*, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700. If removal is reasonably foreseeable, "the habeas court should consider the risk of the [noncitizen's] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period." *Id.* at 700.

29. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701

(stating that "Congress previously doubted the constitutionality of detention for more than six months" and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

30. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

31. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

32. Petitioner has been under the custody of Respondents, under an order of supervision, for nine years, and now has been detained by Respondents for over one week. Over nine years of this prolonged detention has taken place *after* his removal period began.

33. Petitioner's removal order became administratively final on March 24, 2016. The removal period began on that day and thus elapsed on March 24, 2016.

34. Petitioner's prolonged detention is not likely to end in the reasonably foreseeable future. ICE has browbeat him, threatened him with removal to war-torn countries if he does not sign renouncing his fear of Mexico, and has failed to follow its own regulation requiring notification and reasons for its revocation of supervision, and affording him an opportunity to respond to the alleged violation. 8 C.F.R. § 241.4. In fact, ICE has never had an agreement with Syria or any other third country to accept Petitioner, for more than nine years. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the

purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

35. For these reasons, Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of 8 U.S.C. § 1231(a)

36. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

37. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention "beyond the removal period" only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute."). Because Petitioner's removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Declare that Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);

(3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

(4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;

(5) Enjoin ICE from transferring Mr. Puertas outside of the Western District of Texas while this matter is pending;

(6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted on this 25th day of July, 2025

/s/ Stephen O'Connor

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Juan Puertas Mendoza, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 25th day of July, 2025.

s/ Stephen O'Connor
Stephen O'Connor