

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT**

AMADO PLAIN

Petitioner,

v.

Case No. 2025-cv-1234

Mike Manuel, Warden of Allen Parish Public
Safety Complex; Brian Acuna, ICE New Orleans
Field Office Director; Kristi Noem, in her capacity
as Secretary of Homeland Security; Pam Bondi in
her capacity as Attorney General of the United
States

Respondents

PETITION FOR WRIT OF HABEAS CORPUS UNDER §2241

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PRELIMINARY STATEMENT

1. This case challenges the government's authority to indefinitely detain a non-citizen who has been issued an order of removal. It asks that this Court grant the Petitioner release from prolonged immigration detention.

2. Petitioner is Amado Plain. Mr. Plain has been residing in the United States since 2007.

3. As of the date of this Petition, Petitioner has been detained by Immigration and Customs Enforcement ("ICE") for over eight (8) months, with no end to Petitioner's detention in the reasonably foreseeable future. Petitioner was originally detained and placed in removal proceedings by ICE on or around December 2024 and has been held in continuous custody while he waits to be deported to Cuba.

4. Petitioner's prolonged, indefinite detention pending removal violates the U.S. Constitution's Fifth Amendment because it deprives Petitioner of liberty without due process of law and the Immigration and Nationality Act because it is not authorized by the statute.

5. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary.

PARTIES

6. Petitioner is presently detained at the direction of Respondents at Allen Parish Public Safety Complex, 7340 Hwy 26 West, Oberlin, LA 70655.

7. Respondent Mike Manuel is named in his official capacity as the warden of the facility where Petitioner is held. In this capacity, he is a legal custodian of Petitioner. Respondent's address is Allen Parish Public Safety Complex, 7340 Hwy 26 West, Oberlin, LA 70655.

8. Respondent Brian Acuna is named in his official capacity as the Acting Field Office Director for New Orleans ICE Field Office. In this capacity, he is a legal custodian of Petitioner. Respondent's address is 1250 Poydras, Suite 325 New Orleans, LA 70113.

9. Respondent Kristi Noem is named in her official capacity as the Secretary of the United States Department of Homeland Security. She is responsible for the administration of immigration laws. 8 U.S.C. § 1103(a). She routinely transacts business in the Western District and is legally responsible for Petitioner's detention. As such, she is a legal custodian of Petitioner. Respondent Noem's address is United States Department of Homeland Security, 2707 Martin Luther King Jr Ave SE, Washington, DC 20528.

10. Respondent Pam Bondi is named in her official capacity as the Attorney General of the United States. She is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review. 8 U.S.C. § 1103(g). She routinely transacts business in the Western District and is legally responsible for Petitioner's detention. As such, she is a legal custodian of Petitioner. Respondent Bondi's address is United States Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

JURISDICTION

11. Petitioner is detained in the custody of Respondents at Allen Parish Public Safety Complex, 7340 Hwy 26 West, Oberlin, LA 70655.

12. This Court has subject matter jurisdiction over this Petition under 28 U.S.C. § 2241 (power to grant habeas corpus) and 28 U.S.C. § 1331 (federal question jurisdiction); the All Writs Act, 28 U.S.C. § 1651; and the Administrative Procedure Act, 5 U.S.C. § 701.

13. Federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. Demore v. Kim, 538 U.S. 510, 516-517 (2003).

VENUE

14. Under 28 U.S.C. § 2241(d), venue properly lies in the Western District because Petitioner is physically present and in the custody of Respondents within the district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. Louisaire v. Muller, 758 F. Supp. 2d 229, 234 (S.D.N.Y. 2010); Garcia v. Shanahan, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009). Any requirement of administrative exhaustion is therefore purely discretionary.

16. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order... the need for collateral review is most pressing... In this context the need for habeas corpus is more urgent.” Boumediene v. Bush, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

17. Moreover, where the agency has predetermined a dispositive issue, no further action with the agency is necessary. See e.g., Monestime v. Reilly, 704 F. Supp. 2d 453, 456-457 (S.D.N.Y. 2010) (holding that administrative challenges to a noncitizen’s classification under the mandatory

detention statute would be futile given the agency's precedent on the issue); Garcia, 615 F. Supp. 2d at 180 (same).

18. Further, "the BIA [Board of Immigration Appeals] does not have jurisdiction to adjudicate constitutional issues..." (quotations and citation omitted). United States v. Gonzalez-Roque, 301 F.3d 39, 48, (2d Cir. 2002). Because Petitioner raises a constitutional due process claim in his habeas petition, exhaustion of his due process claims would be futile.

STATEMENT OF FACTS

19. Amado Plain entered the United States on or about 2007. Mr. Plain received a thirty (30) month sentence for medical fraud on or around May 2023. After serving nineteen (19) months of that sentence, he was detained by ICE.

20. On December 4, 2024, an immigration official issued a Final Order of Removal. On December 21, 2025, immigration officials determined that Mr. Plain was a flight risk and advised they would not allow his release.

21. Petitioner has been compliant with efforts to secure his paperwork from the Cuban government. He has been in attendance at his interviews.

CRIMINAL HISTORY

22. On or around January 25, 2024, Mr. Plain was sentenced to thirty (30) months of imprisonment for violating 18 U.S.C. § 1349 Conspiracy to Commit Health Care Fraud and Wire Fraud.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

**VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO
THE U.S. CONSTITUTION**

23. Petitioner re-alleges and incorporates by reference the paragraphs above.
24. Petitioner's prolonged detention without any individualized assessment of the need for detention deprives petitioner of due process of law. The Court should therefore order release from unconstitutional detention.
25. 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.
26. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas v. Davis, 533 U.S. 678, 693 (2001). For this reason, even "removable and inadmissible aliens are entitled to be free detention that is arbitrary and capricious," Id. At 721 (Kennedy, J., dissenting). "Deportable aliens, even those who [have] already been ordered removed, possess a substantive Fifth Amendment liberty interest..." Ly v. Hansen, 351 F.3d 236, 269 (6TH Cir., 2003).
27. "A statute permitting indefinite definition of an alien would raise a serious constitutional problem" under the Fifth Amendment's Due Process Clause. Id. at 690. That serious constitutional problem is raised by the government's reading of 8 U.S.C. § 1231(a)(6). It interprets the statute to permit the indefinite detention of a noncitizen who has been given a final order of removal.

28. The doctrine of constitutional avoidance requires this Court to “first ascertain whether a construction of the statute is fairly possible by which the [constitutional] question may be avoided.” Crowell v. Benson, 285 U.S. 22, 62. In light of the text and overall construction of § 1231 as discussed above, the statute may be fairly construed to limit indefinite detention.

29. The Supreme Court has applied the canon of constitutional avoidance to preclude prolonged categorical detention without individualized review in the context of post-removal period detention under 8 U.S.C. § 1231(a)(6). In Zadvydas v. Davis, the Supreme Court held that post-removal period detention under § 1231(a)(6), like other “nonpunitive” civil detention, is subject to due process limitations. 533 U.S. at 690-692, 696-700.

30. In Zadvydas v. Davis, the Supreme Court rejected the government's argument that its immigration powers permit it to indefinitely detain noncitizens after the conclusion of removal proceedings. Id. at 695. Since then, the government has repeated that same argument to justify prolonged, indefinite detention.

31. Similar to the aliens in the consolidated Zadvydas cases, Mr. Plain is potentially subject to be indefinitely detained under 8 U.S.C. § 1231(a)(6) well beyond the ninety (90) day removal period. He, too, is potentially subject to permanent incarceration if the Cuban government simply refuses to issue him travel documents and the United States merely continues his detention as it has done for over eight (8) months now. Mr. Plain's removal period has expired, and the United States has failed to remove him from the country.

32. Each time, federal courts have roundly rejected it. Every Court of Appeals to consider prolonged detention holds it limited to a *reasonable* period by the Due Process Clause. Emphasis added. See Sopo v. U.S. Attorney Gen., 825 F.3d 1199 (11th Cir. 2016); Reid v. Donelan, 819 F.3d

486 (1st Cir. 2016); Lora v. Shanahan, 804 F.3d 601 (2d Cir. 2015); Rodriguez v. Robbins, 804 F.3d 1060 (9th Cir. 2015); Diop v. ICE/Homeland Sec., 656 F.3d 221 (3d Cir. 2011); Ly v. Hansen, 351 F.3d 263 (6th Cir. 2003). All of these decisions hold that due process limits the period that noncitizens may be held in prolonged or indefinite detention. The Zadvydas Court determined that six months after a removal order became final was presumptively reasonable.

33. After the six (6) month period has passed, noncitizens can demand that the government justify their continued detention on an individual basis. Id. at 689 (explaining that courts must construe statutes to avoid constitutional concerns where “fairly possible”).

34. Petitioner’s prolonged, indefinite detention under § 1231 violates that Fifth Amendment by depriving him of liberty without due process of law. This Court should therefore order his release, with appropriate conditions of supervision if necessary, as the courts have long held that civil detention is unconstitutional absent sufficient justification and strong procedural protections. See, e.g., Nadarajah v. Gonzales, 443 F.3d 1069, 1084 (9th Cir. 2006); Foucha v. Louisiana, 504 U.S. 71 (1992); Chavez-Alvarez v. Warden York County Prison, (3rd Cir. 2015), 783 f.3D 469; United States v. Salemo, 481 U.S. 715, (1972) (ordering release from prolonged detention).

35. Petitioner’s indefinite detention without release in the foreseeable future violates the due process clause of the Fifth Amendment of the U.S. Constitution and the remedy is release from detention.

SECOND CLAIM FOR RELIEF

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT 8 U.S.C. § 1231(a)(6)

36. Petitioner re-alleges and incorporates by reference the paragraph above.

37. 8 U.S.C. § 1231 (a)(6) provides that “when an alien is ordered removed, the Attorney General *shall* remove the alien from the United States within a period of 90 days”.

38. 8 U.S.C. § 1231 applies to aliens who have already been issued an order of removal. The Supreme Court has held that § 1231 permits the detention of removable aliens beyond the 90 days for a period reasonably necessary to bring about that alien’s removal from the United States. The Zadvydas Court determined that six months after a removal order became final was presumptively reasonable. Zadvydas v. Davis, 533 U.S. 678, 688. Petitioner has already been in custody in excess of both the statutory 90-day removal period and the jurisprudential six-month removal period. As of the time of drafting this petition, Petitioner has been in detention for approximately eight (8) months.

39. The government’s interpretation of 8 U.S.C. § 1231 has allowed for Petitioner’s detention well beyond the 90-day period that is statutorily prescribed. Read in light of the Constitution’s demands, § 1231(a)(6) limits post-removal detention to a period of time reasonably necessary to facilitate deportation and does not permit indefinite detention. Once removal is no longer reasonably foreseeable, continued detention is no longer authorized by 8 U.S.C. § 1231(a)(6).

40. Though the government’s interpretation of § 1231 as permitting indefinite mandatory detention is unconstitutional, “[w]hen the validity of an act of the Congress is drawn in question, and even if a serious doubt of constitutionality is raised, it is a cardinal principle that this Court will first ascertain whether a construction of the statute is fairly possible by which the question may be avoided.” Crowell v. Benson, 285 U.S. 22, 62 (1932); see also Zadvydas, 533 U.S. 678 at 689. (citing Crowell). This doctrine of statutory interpretation is known as constitutional avoidance.

41. “[S]ometime after the six-month timeframe considered by Demore, and certainly by the time [a noncitizen] ha[s] been detained for one year,” mandatory detention is unreasonable. Chavez-Alvarez v. Warden York Cty. Prison, 783 F.3d 478.

42. Moreover, delay caused by “individual actions by various actors in the immigration system, each of which takes only a reasonable amount of time to accomplish, can nevertheless result in the detention of a removable alien for an unreasonable, and ultimately unconstitutional, period of time.” Diop v. ICE/Homeland Sec., 656 F.3d 221, 223.

43. Petitioner’s prolonged detention raises all of these concerns. Mr. Plain has been detained for over eight (8) months, beyond the length of time which Chavez-Alvarez states “[strains] any common-sense definition of a limited or brief civil detention.” Chavez v. Alvarez v. Warden York Cty. Prison, 783 F.3d 469, 477.

44. This Court has found in Tran v. Ashcroft, that indefinite detention of aliens is not statutorily authorized. Tran v. Ashcroft, 411 F. Supp 2d 658 (W.D. LA. 2005). This Court held that there is no exception to the Zadvydas ruling or the holding in Clark that permits indefinite detention of aliens that may pose a special danger to the community. Id. at 665 citing to Clark v. Suarez Martinez, 534 U.S. 371, 722-724. (The Clark court determined that the federal government had suggested no reason why a period longer than six (6) months would be necessary to effect removal for an inadmissible alien and concluded that § 1231(a)(6) provided no distinction between admitted and inadmissible aliens) that where there is no dispute that a detainee has been held beyond the 90-day period set forth in § 1231(a)(6) and beyond the presumptive six-month period prescribed in Zadvydas and where removal is not reasonably foreseeable, continued post-removal federal detention is not authorized by 8 U.S.C. § 1231 (a)(6). 411 F. Supp 2d 658, 670.

45. Under either a bright-line rule or the facts and circumstances of this case, Petitioner's continued detention is unreasonably prolonged. This Court should therefore grant Mr. Plain's prayer for relief.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, on reasonable conditions of supervision if necessary;
- 3) Grant such further relief as the Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing *Petition for Writ of Habeas Corpus under §2241* has been filed in to the CM/ECF system of the United States District Court for the Western District and has been served on opposing counsel on this 25th day of August, 2025 by hand delivery, facsimile, or email transmissions, or by mailing same by United States mail, properly address, and first-class postage prepaid.

/s/Richard Sprinkle

Counsel for Amado Plain