

United States District Court

For the Middle District of Florida, Jacksonville Division.

Jimenez Gonzalez-Alejandro

Civil Action NO: 3:25-cv-1208-WB-SJH

Alien # 

Petitioner

Pamela Bondi

Attorney General

Kristi Noem

Secretary of the Department of Homeland Security

Alberto Cornanvaca

SDDO Jacksonville ICE -ERO Field Office

North Florida Detention Facility

Memorandum of law in support of Petition of WRIT OF HABEAS
CORPUS PURUANT 28 U.S.C &2241

NAME: Alejandro Jimenez Gonzalez

Alien Registration No: 

PRO Se Petitioner – Detained

North Florida Detention Facility

INTRODUCTION

1. Petitioner, JIMENEZ GONZALEZ ALEJANDRO, petitions this Court for a writ of habeas Corpus to remedy Petitioner's indefinite detention by Respondents. Petitioner submits This Memorandum of Law in support of the Petition for a Writ of Habeas Corpus.
2. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), noncitizens cannot be detained indefinitely if government is unable to carry out their removal. Instead, detention after final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for six months. Detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a noncitizen's removal. But after that six-month period, once a 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." And the longer a noncitizen has been detained, the stronger the government's showing must be.
3. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrates that there is a significant likelihood of removal in the reasonably foreseeable future.
4. Petitioner respectfully requests that the Court use its authority under 28 U.S.C. § 2243 to order the Respondents to file a return within three days, unless they can show good cause for additional time. See 28 U.S.C. § 2243 (stating that an order to show cause why a petition for a writ of habeas corpus should be denied is returnable "within three days unless for good cause additional time, not exceeding twenty days, is allowed").

5. In order to permit full judicial review of the claims herein and requested relief, Petitioner Respectfully requests that the Court order Respondents not to transfer Petitioner outside the jurisdiction of this Court pending consideration of this Petition.

STATEMENT OF FACTS

6. Petitioner was born in: CUBA
7. Petitioner entered the United States on or about: 02/25/2019
8. An Immigration Judge Ordered Petitioner removed from the United States on or about: 05/02/2025
9. Petitioner did not file an appeal with the Board of Immigration Appeals
10. Petitioner has cooperated fully with all of ICE' s efforts to removed Petitioner. Petitioner has cooperated with ICE in the following ways: Petitioner has cooperated with ICE by providing information about Petitioner' s country of birth and country of citizenship.
Petitioner has cooperated with Ice by signing a travel document application.
Petitioner has cooperated with ICE by providing fingerprints.

11. Nonetheless, ICE has been unable to remove Petitioner from the United States. ICE is unlikely to remove Petitioner in the reasonably foreseeable future because :

- ___ Petitioner received a letter from his consulate stating that the country will not accept Petitioner back into the country.
- ___ Petitioner is being deported to a country that does not cooperate with United States deportation efforts.

12. If released, Petitioner will be supported by family and friends in the United States, In particular:

___ [REDACTED]

- ___ HELLEN ALVARADO / CITIZEN
- ___ ROLEYSI SANCHEZ / RESIDENT

- ___ SUPPORTED BY FAMILY
- ANNALIET REYES / RESIDENT
- LAZARO MOLINA / RESIDENT
- CLAUDIA HERNANDEZ / RESIDENT
- ANNIA PEREZ / RESIDENT
- ERNESTO GONZALEZ / RESIDENT
- DENNYS GABRIEL / RESIDENT
- ALLEN JIMENEZ / CITIZEN
- MANUEL DIAZ / CITIZEN

ARGUMENT

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA") 8 U.S.C. § 1101-1537. Amended by the Illegal Immigration Reform and Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.
14. This Court has jurisdiction under 28 U.S.C. § 2241, the Suspension Clause, U.S. Const. art. I § 9, cl. 2, and 28 U.S.C. § 1331, as petitioner is presently in custody under color of the authority of the United States, and Petitioner's custody is in violation of the Constitution, law, or treaties of the United States. See *Zadvydas*, 533 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (habeas corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).
15. The Due Process clause applies to all person in the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment-from government custody, detention, or other forms of physical lies at heart of the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80(1992)). The Court noted, "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem." *id.*; see also *Plyer v. Doe*, 457 U.S. 202, 210 (1982) ("Aliens, even aliens whose presence in this country is unlawful, have long been recognized as 'person' guaranteed due process of law by the Fifth and Fourteenth Amendments.")
16. Under 8 U.S.C. § 1231(a)(2). Noncitizens subject to final orders of removal "shall" be detained during the first 90 days- the "removal period"-and they "shall" be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6). The government "may" continue detention beyond the 90-day removal period if a noncitizen falls within certain broad categories of removability or is determined "to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).
17. In *Zadvydas*, the Supreme Court construed 8 U.S.C. § 1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. at CITE. After a noncitizen meets his or her initial burden to show that no such likelihood of removal exists, the burden shifts to Government to "respond with evidence sufficient to rebut [the alien's] showing." *id.* at 701.

Gomez Barco v. Witte, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not been able to secure necessary travel documents, noting that the ICE officer “clearly has no factual basis for his ‘belief’ that there is no foreseeable impediment to Petitioner’s removal or that her removal is imminent,” and that there was no foundation for the “expectation” that the COVID-19 related travel restrictions in place would soon be lifted); *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).¹ In granting Ms. Balza’s release, the court considered and rejected a conclusory declaration by a local ICE Assistant Field Officer that removal was imminent. *Id.* at *5. In *Alexis v. Smith*, the petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE’s vague statements that it was “endeavoring to rectify the issue” and concluded there was no end in sight for detention, and recommended release. The District Court Judge agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release

and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011), report and recommendation adopted, No. CIV.A. 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

20. Courts in this District have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See, e.g., Gomez Barco*, 2020 WL 7393786 (ordering release of an immigrant detainee who was a native and citizen of Venezuela who was detained longer than six months because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at *5 (ordering release of petitioner and noting that “[a]fter more than a year of detention, Petitioner’s removal need not necessarily be imminent, but it cannot be speculative”) (internal quotation marks omitted).

21. Under *Zadvydas*, courts have found that there is no significant likelihood of removal and granted relief where:

- No country will accept the petitioner. *See, e.g., Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).²
- The petitioner’s country of origin refuses to issue a travel document. *See, e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas relief to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermin v. Dir.*

- ICE fails to take action to secure travel documents for a prolonged period. *See, e.g., Senor*, 401 F. Supp. 3d at 430–31 (granting habeas relief after ICE initially requested travel documents but where “there [wa]s no indication from the record that anyone ha[d] taken any further action in the eight months since that time . . . to facilitate Senor’s receipt of the necessary travel documents”).⁶

22. As the length of detention grows, the period of time that would be considered the “reasonably foreseeable future” shrinks. *See, e.g., Zachrydas*, 533 U.S. at 701 (stating that as the length of time in detention grows “what counts as the ‘reasonably foreseeable future’ conversely would have to shrink”); *Senor*, 401 F. Supp. 3d at 430 (“[T]he passage of time combined with the ‘government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody’ [is] sufficient to meet that ‘initial burden.’”); *Lawrikow*, 2009 WL 2905549, at *12.
23. Petitioner’s continued detention is unlawful, and Petitioner is unlikely to be removed in the reasonably foreseeable future. Therefore, Petitioner’s detention violates the statute and s/he is entitled to immediate release.
24. Petitioner’s detention also violates the Due Process Clause. 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. “Freedom from imprisonment—from

of Immigr. & Customs Enf't, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad's refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner's HIV status).³

- There is no removal agreement between the United States and a country. In these scenarios, courts have found that the lack of a formal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. See, e.g., *Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of petitioner's parents was not Ethiopian).⁴
- There is either no response from a country designated for removal or a significant delay in receiving a response. See, e.g., *Gonzalez-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. Miss. June 23, 2020) (granting habeas relief to petitioner detained thirteen months where there was no response from Venezuelan officials).⁵

government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zahrydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner’s prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner’s detention violates Petitioner’s right to due process.

CONCLUSION

25. In conclusion, Petitioner’s indefinite detention violates the detention statute and is unconstitutional. Petitioner respectfully requests that this Court order Respondents to show cause why the writ should not be granted “within three days unless for good cause additional time, not exceeding twenty days, is allowed,” and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.

Respectfully submitted,

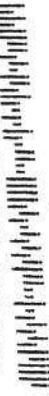
Signature: 

Name: Alexander Tenezy Gonzales

A-Number: 

Detention Center: North Florida Detention Facility

Address: 20706 - US Highway 90
West, Sanderson, Florida
32087



From: Alejandro Jimenez Youzdez

20706 US Hwy 90 W

Sanderson FL.

32087



To: US Distrito Court Clerk
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