

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

Edgardo Maravilla Martinez,

Petitioner,

v.

Joseph Simon, *Acting ICE Washington Field
Office Director,*

Todd Lyons, *Acting Director, U.S. Immigration
and Customs Enforcement,*

Kristi Noem, *Secretary of Homeland Security,*

Pamela Bondi, *Attorney General,*

Paul Perry, *Warden, Caroline Detention
Facility,*

Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

In November 2022, Petitioner Edgardo Maravilla Martinez won an order from an immigration judge granting him a form of relief called deferral of removal, which prohibits Respondents from removing him to his native El Salvador. Should Respondents wish to remove Petitioner to El Salvador, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of deferral of removal. Should Respondents wish to remove Petitioner to any other country, they would first need to provide him with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. But Respondents have arrested Petitioner without warning and without observance of procedures required by regulation, and are detaining

him for no reason; they now appear to be seeking to deport Petitioner without observance of any legal procedures whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue lies in this District because Petitioner is currently detained at the Caroline Detention Facility in Bowling Green, Va., within the territorial jurisdiction of this Court, and under the supervision of Respondent Joseph Simon, whose principal place of business is in Chantilly, Va.; and each federal Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

4. Petitioner Edgardo Maravilla Martinez is a citizen and native of El Salvador who resides in Maryland and is currently detained in Bowling Green, Va. Respondents seek to deport him without any legal process whatsoever, and in violation of an immigration judge order and a federal regulation prohibiting them from doing so.

5. Respondent Joseph Simon, the Field Office Director of the U.S. Immigration and Customs Enforcement ("ICE") Washington Field Office in Chantilly, Va., is responsible for

overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. He is the federal official responsible for managing the detention of noncitizens at the Caroline Detention Facility. He is the immediate legal custodian of Petitioner for purposes of a habeas corpus petition.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

7. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

8. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

9. Respondent Paul Perry is the warden of the Caroline Detention Facility in Bowling Green, Va., a facility which contracts with ICE to house noncitizen detainees, and is the facility where Petitioner is currently detained. He is the immediate physical custodian of Petitioner for purposes of a habeas corpus petition.

10. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

11. Deferral of removal under 8 C.F.R. § 1208.17 prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be tortured by or with the acquiescence of a public official. This form of relief is mandatory if the applicant meets the standard. The deferral of removal regulation implements the Convention

Against Torture (“CAT”), a multinational treaty to which the United States is a signatory.

12. The government may not remove an individual with a valid deferral of removal order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.17(d).

13. However, deferral of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received “ample notice and an opportunity to be heard”).

14. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. §1231(a)(1)(A).

15. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be “released” if “subject to the terms of supervision” set forth in 8 U.S.C. § 1231(a)(3).

16. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “[W]here detention’s goal is no longer practically attainable, detention no longer ‘bear[s][a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 (“But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.”)

17. The purpose of detention during and beyond the removal period is to “secure[] the alien’s removal.” *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court “read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien’s removal.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

18. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because “the need to detain the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *See id.* at 689.

19. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a “reasonable period of detention” for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a “presumptively reasonable period of detention,” after which the burden shifts to the government

to justify continued detention if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

20. Where a petitioner has provided “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future,” the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

FACTS

21. Petitioner Edgardo Maravilla Martinez has lived in the United States since he was eight years old.

22. On November 7, 2022, an Immigration Judge (“IJ”) in Georgia granted deferral of removal to Petitioner. Respondents did not appeal this order, and to date have not taken any steps to reopen or rescind the grant of relief. *See* EOIR Automated Case Information (available at <https://acis.eoir.justice.gov/> (last visited on October 23, 2025)):

The screenshot shows the ACIS website interface. At the top, the browser address bar displays <https://acis.eoir.justice.gov/en/caselnformation>. Below the address bar, the breadcrumb trail reads "Home > MARAVILLA MARTINEZ, EDGARDO (294-293-850)". The main heading is "Automated Case Information". Below this, the case details are displayed: "Name: MARAVILLA MARTINEZ, EDGARDO" and "Docket Date: 4/18/2022". The page is divided into four sections:

- Next Hearing Information:** Displays "There are no future hearings for this case."
- Court Decision and Motion Information:** Displays "The immigration judge GRANTED CAT Deferral." Below this, it lists the "DECISION DATE" as "November 7, 2022" and the "COURT ADDRESS" as "146 CCA ROAD PO BOX 248 LUMPKIN, GA 31815".
- BIA Case Information:** Displays "No appeal was received for this case."
- Court Contact Information:** Displays "If you require further information regarding your case, or wish to file additional documents, please contact the immigration court." Below this, it lists the "COURT ADDRESS" as "146 CCA ROAD, PO BOX 248 LUMPKIN, GA 31815" and the "PHONE NUMBER" as "(229) 838-1320".

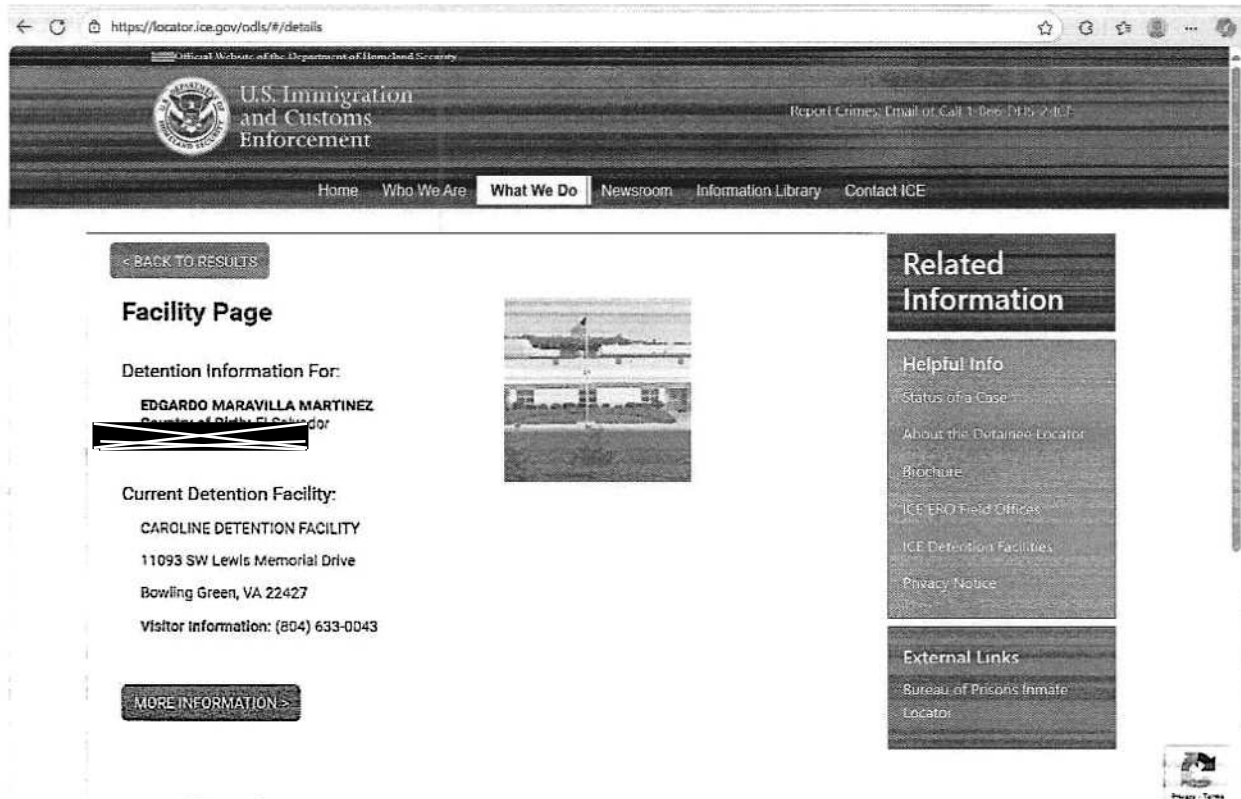
23. Petitioner was thereafter released on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3) on December 31, 2022. *See* Ex. 1 hereto, Order of Supervision.

24. Since 2022, Petitioner has not been convicted of any crimes, nor has Petitioner violated the terms of his order of supervision with ICE. Respondents have granted Petitioner employment authorization pursuant to 8 U.S.C. § 1231(a)(7), with which Petitioner has been working legally in Maryland.

25. On September 24, 2025, Petitioner appeared for a scheduled check-in with ICE. Without any explanation for the legal or factual basis of his detention, Petitioner was detained by ICE.

26. Petitioner believes that Respondents intend to deport him to Nicaragua, but does not recall having received any paperwork designating Nicaragua as a country of removal. Petitioner does not have any connections to Nicaragua, and does not believe that Nicaragua would have any reason to accept Petitioner for removal to that country; or, in the alternative, if Nicaragua would accept Petitioner into that country, it would only be for the purpose of swiftly re-deporting him to El Salvador, the country where an IJ has already determined it is more likely than not that Petitioner will be tortured. In any event, if Nicaragua is formally designated as a country of removal, Petitioner intends to express a fear of removal to that country.

27. Prior to his unlawful detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to his release on supervision. He now remains in detention in the Caroline Detention Facility in Bowling Green, Va. as of the time of filing this habeas corpus petition. *See* ICE Detainee Locator information (available at <https://locator.ice.gov/> (last visited on October 23, 2025));



28. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

29. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

**FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)**

30. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-29.

31. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed.

32. No significant likelihood of removal exists in the reasonably foreseeable future.

33. Under *Zadvydas*, the continued detention of someone like Petitioner is

unreasonable and not authorized by 8 U.S.C. § 1231.

**SECOND CLAIM FOR RELIEF:
Due Process/Detention**

34. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-29.

35. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have no factual basis to believe that such third-country removal will ever become practicable and legally permissible.

36. Respondent continues to detain Petitioner without evidence that they will be able to remove him imminently, to El Salvador or to Nicaragua or to any other country.

37. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

**THIRD CLAIM FOR RELIEF:
Procedural Due Process/Removal**

38. Petitioner incorporates the foregoing paragraphs 1-29 by reference.

39. Respondents' procedures for third-country removal fear claims consist only of an interview with U.S. Citizenship and Immigration Services ("USCIS"), without any review by an Immigration Judge.

40. Petitioner has a procedural due process right not to be removed to any country to which he has expressed a fear of removal, without an Immigration Judge first reviewing his claim of fear of removal.

**FOURTH CLAIM FOR RELIEF:
Violation of 8 C.F.R. § 241.4(l)/*Accardi***

41. Petitioner incorporates the foregoing paragraphs 1-29 by reference.

42. As set forth above, Respondents' actions in cancelling Petitioner's release on supervision and re-arresting Petitioner without any advance or contemporaneous explanation of the legal or factual basis for re-detention violated 8 C.F.R. § 241.4(l), a regulation designed to protect the due process rights of noncitizens like Petitioner.

43. In addition, Petitioner's Order of Supervision was revoked by an individual who lacked authority to do so, without observance of proper and required formalities and without the requisite findings being made, in violation of 8 C.F.R. § 241.4(l)(2).

44. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution, as well as the legal doctrine set forth in *Accardi v. Shaughnessy*, 347 U.S. 260 (1954) and cases following same.

45. In arresting and re-detaining Petitioner, Respondents violated important substantive and procedural rules designed to protect his due process rights, and the writ of habeas corpus should issue.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Preliminarily and permanently enjoining Respondents from removing Petitioner to El Salvador, unless and until his order of deferral of removal is terminated, including all appeals;
- c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity

to apply for deferral of removal under the Convention Against Torture as to that country, including review by an Immigration Judge and all appeals therefrom;

- d) Setting aside the revocation of Petitioner's Order of Supervision, and restoring him to his Order of Supervision;
- e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody;
- f) Granting Petitioner his costs of suit; and
- g) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

/s/ Simon Y. Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
VSB No.: 77110
Counsel for Plaintiff
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
Facsimile: 703-763-2304
ssandoval@murrayosorio.com

Date: October 23, 2025

Certificate of Service

I, Simon Sandoval-Moshenberg, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the District of
Maryland
2100 Jamieson Ave
Alexandria, VA 22314

Todd Lyons, ICE Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5900
Washington, DC 20536-5900

Pamela Bondi, Attorney General of the
United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Kristi Noem, Secretary of Homeland
Security
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20508

Joseph Simon, Washington Field Office
Director
U.S. Immigration and Customs Enforcement
500 12th St., SW, Mailstop 5900
Washington, D.C. 20536

Paul Perry, Warden
Caroline Detention Center
11093 SW Lewis Memorial Drive
Bowling Green, VA 22427

Respectfully submitted,

/s/ Simon Y. Sandoval-Moshenberg
Simon Y. Sandoval-Moshenberg, Esq.
VSB No.: 77110
Counsel for Plaintiff
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
Facsimile: 703-763-2304
ssandoval@murrayosorio.com

Date: October 23, 2025