UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ANGEL ALIPIO BAYAR
A# [redacted]
Petitioner,
v.

Civil Action No:_____

PAM BONDI
Attorney General;
KRISTI NOEM
Secretary of Department of Homeland Security;
HOMER BRYSON
U.S. ICE Field Office Director For The Middle District of Georgia Field Office, and **STREEVAL** Warden **at Stewart Detention Center,**
Respondent(s)

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C.§ 2241, BY A PERSON SUBJECT TO INDIFINATE IMMIGRATION DETENTION.

AND
MOTION FOR APPOINTMENT OF COUNSEL *PURSUANT TO 18 U.S.C. §3006A*

Petitioner, **ANGEL ALPINO BAYAR**, hereby petitions this Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

BACKGROUND

Petitioner is a Citizen of CUBA. Detained and in the Custody of DHS/ICE in the United States, but has been **ordered removed** to CUBA by an Immigration Judge on **4-29-2025**. Petitioners removal order is Final, but the Petitioner cannot be removed to CUBA, thus Petitioner remains detained in DHS/ICE custody, and has been confined for a period far longer than the law mandates AS HE HAS NOW BEEN DETAINED OVER 180-DAYS AFTER A FINAL ORDER OF REMOVAL.

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia where DHS/ICE has contracted the institution to house Immigration detainees such as Petitioner. Petitioner is in the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. §2241 (c)(1), and to the Immigration and Nationality Act ("INA"), 8 U.S.C. §1101 et seq. This Court has subject matter Jurisdiction under 28 U.S.C. §2241, Art IS9, 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. *See* **Zadvydas v. Davis, 533 U.S. 678, 688 (2001)** (We conclude that §2241 Habeas Corpus proceedings remain available as a form for statutory and constitutional challenges to post-removal-period detention.") INS v. St. Cyr, 533 U.S. 289, 301 (2001) **("at it's historical core, the writ of Habeas Corpus has served as a means of reviewing the legality of executive detention, and it is in that context that it's protections have been strongest.") Clark v. Martinez, 543 U.S. 371 (2005)** (holding that **Zadvydas** applies to aliens found inadmissible as well as removable.)

VENUE

3. Venue lies in the Middle District of Georgia as the Petitioner is currently detained in the territorial jurisdiction of this Court, at the Stewart Detention Center in Lumpkin, Georgia. 28 U.S.C. §1391.

EXHAUSTION OF REMEDIES

4. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. After the Supreme Court decision in **Zadvydas**, the Department of Justice issued regulations governing the custody of aliens removed. *See* 8 C.F.R. §241.4. Petitioner received a final order of removal on **4-29-2025,** and was supposed to have a 90-day custody review after being detained on **7-28-2025** where DHS/ICE has decided to continue his detention without his presence or knowledge.**"NO DECISION WAS EVER MADE TO PETITIONER"**. DHS/ICE has never informed the petitioner of anything **or/why** it decided to continue his detention.

Like **Zavvar v. Scott,** 2025 U.S. Dist LEXIS 175897 Respondents have not been able to obtain any travel documents or find a country to accept him, not to mention that he has never been given notice of which Country they have tried to get to accept him. He is entitled to **"Seek Fear based relief from that Country"**, which would require additional proceedings as well. **CF. Guzman Chavez,** 594 U.S. At 537. ICE's Headquarters Post-order Detention Unit ("HQPDU") **has not** informed Petitioner that it would release or continue to keep him in custody even after Cuba has *Denied to accept him back* to Cuba.

The custody review regulations do not provide for appeal from a HQPDU custody review decision. See8 C.F.R. §241.4(d). **Especially when it has never been made or given to the Petitioner.**

5. No statutory exhaustion requirements apply to Petitioner claim of unlawful detention. Petitioner remains detained without any indication from the United States Government or the Government of Cuba that the Petitioner's repatriation is reasonably foreseeable. A Habeas Corpus petition is proper in light of these facts.

PARTIES

6. Petitioner is a Citizen of Cuba, detained and in the custody of DHS/ICE in the United States, But has been ordered removed to Cuba on **4-29-2025** by an Immigration Judge. It is known that Cuba will not accept Petitioner nor will it agree to repatriation in the reasonable foreseeable future.

7. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Naturalization Act(INA). As such, Ms. Bondi has ultimate custodial authority over the petitioner.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the (INA), as such Ms, Noem is the legal custodian of the Petitioner.

9. Respondent Homer Bryson is the ICE field office director for the Middle District of Georgia for the Stewart Detention center in Lumpkin, Georgia field office of ICE and is Petitioner's immediate custodian, *See* **Vasquez v. Reno**, 233F.3d 688, 690 (1st Cir. 2000), cert. Denied, 122 S. Ct. 43 (2001).

10. Respondent Streeval Warden at the Stewart Detention Center in Lumpkin, Ga where the Petitioner is currently detained under the authority of ICE, alternatively may be considered to be petitioner's immediate custodian.

STATEMENT OF FACTS

11. Petitioner was born in Cuba o[redacted]and fled the country to the United States and arrived on 5-17-2016 as a Political Refugee.

12.Petitioner agreed to the charges of Poss. of Meth Amphetamine w/intent which ultimately caused an order of removal to be lodged against him.

13. Petitioner should be released on supervision with this Habeas Corpus petition and is recognized by various Court's decision's and the instant case dated **October 2, 2025** under **Perez v. Noem**, 2025 U.S. Dist. LEXIS 195132. **11TH CIRCUIT** As the Respondents have not and will not obtain travel documents for him to go to Cuba or another Country in the reasonable foreseeable future, and this now becomes cruel and unusual punishment just for the sake of detention!

14. Petitioner was detained by DHS/ICE and brought to Stewart Detention Center where he has remained detained over 180-days after a final order has been issued.

15. As of today ICE has been unable to remove the petitioner to Cuba or any other Country. Petitioner knows for sure that Cuba will deny and has denied any and all request for travel documents. **(This has even been stated by his deportation officer, "That Cuba did not accept Petitioner").**

16. Petitioner has cooperated fully with all efforts of ICE to remove Petitioner from the United States, even though all parties acknowledge that Cuba did not accept him back to Cuba.

17. Petitioner's most recent 90-day custody review under the Cuban review plan, 8 C.F.R. §212.12 took place on **7-28-2025** and the 180-day review took place on **10-26-2025** with-out his presence or knowledge at which point the Petitioner still remains detained. **(Allegedly pending a reply from Washington H.Q.P.D.U. to be released on supervision.)**

LEGAL FRAMEWORK FOR RELIEF SOUGHT

18 . In **Zadvydas v. Davis**, 533 U.S. 678(2001), the U.S. Supreme Court held that 8.U.S.C.§1231(a)(6), when **"read in light of the Constitution's demands, limits an alien's post-order removal period detention to a period reasonably necessary to bring about the alien's removal from the United States."** 533 U.S. At 689. a **"Habeas Court must[first] ask whether the detention in question exceeds a period reasonably necessary to secure removal."** Id. at 699 if the individual's removal **"is not reasonably foreseeable, the Court should hold continued detention *unreasonable and no longer authorized by the statute.*"** *Id.* at 699-700. In **Clark v. Martinez**, 543 U.S. 371(2005), the U.S. Supreme Court held that **Zadvydas** applies to aliens found inadmissible as well as removable.

19. In determining the length of a reasonable removal period, the Court adopted a "preemptively reasonable period of detention." **After 90 days**, DHS has the discretion to release the detainee under reasonable conditions of supervision which they have not. The Government bears the Burden of disproving an alien's **"good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future."** *See* **Zhou v. Farquharson**, 2001 U.S. Dist. LEXIS 18239, 2-3 (D. Mass. Oct. 19, 2001) (quoting and summarizing **Zadvydas**). Moreover, "for detention to remain reasonable, as the period of prior post-order removal grows, what counts as the reasonably foreseeable future' conversely have to shrink." **Zadvydas**, 533 U.S. At 701. ICE's administration regulations also recognize that the HQPDU has a maximum six-month period for determining whether there is a significant likelihood of a alien's removal in the reasonable foreseeable future. *See* 8 C.F.R. §241.4(k)(2)(ii).

20. An alien who has been detained beyond the presumptive period should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. *See* **Agbada v, Hohn Ashcroft**, 2002 U.S. Dist. LEXIS 15797(D. Mass. August 22, 2002) (court **"will likely grant"** after ICE is **"unable to present document confirmation that the government has agreed to [petitioner's] repatriation."** ; **Zhou,** 2001 U.S. Dist. LEXIS 19050 at *7(W.D. Wash February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there is no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention is unlawful and contravenes 8 U.S.C.§1231(a)(6) as interpreted by the Supreme Court in **Zadvydas**. Petitioner's 90-day statutory period of detention for continued removal efforts have passed as this is now his **2nd** time going through a 90-day custody review process after being ordered removed by an Immigration Court and Judge on **4-29-2025, MAKING IT OVER 180-DAYS DETAINED AFTER A FINAL ORDER OF REMOVAL.** Respondent's are unable to remove the Petitioner to Cuba, because there is no repatriation agreement between the United States and Cuba for Political Refugees such as the Petitioner. In the instance of **Martinez**, the Supreme Court held that the continued indefinite detention of someone like the petitioner under such circumstances is unreasonable and not authorized by U.S.C. §1231(a)(6).

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

24. Petitioner re-alleges and incorporates by reference paragraphs 1 through 23 above.

25. Petitioner's continued detention violates his right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. *See* e.g., **Tam v. INS**, 14 F. Supp. 2d. 1184(E.D. Cal 1998)**(Alien's retain substantive due process rights).**

26. The due process clause of the Fifth Amendment require that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner's in order to effectuate removal, that interest does not justify the

indefinite detention of petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The United States Supreme Court in **Zadvydas** thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interests to effect the alien's removal. *See* **Kay v. Reno**, 94 F. Supp. 2d. 546, 551 (M.D. Pa. 2000) (granting writ of Habeas Corpus, because petitioner's due process rights were violated, and noting that **"If deportation can never occur, the government's primary legitimate purpose in detention-executing removal-is nonsensical.").** Because Petitioner is unlikely to be removed to Cuba, his continued indefinite detention violates substantive due process.

27. **"Detention is now not driven by legitimate interest of removal at all, but rather detention for the sake of detention, motivated by animus towards, or ill will against the individual, or even a desire to inflict suffering." C.F. Riverside, 500 U.S. At 56**

28. If the non-citizen satisfies the initial burden **"which he clearly has,"** then the Government **"must respond with evidence sufficient to rebut that showing."** Id. If the Government fails to meet its burden, then the non-citizen must be released from detention. *See* **Jennings v. Rodriguez**, 583 U.S. 281, 299 (2018)

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

29. Petitioner re-alleges and incorporates by reference paragraphs 1 through 28.

30. Under the Due process clause of the **Fifth Amendment**, an alien is entitled to a timely and meaningful opportunity to demonstrate that he/she should not be detained. Petitioner in this case has been denied that opportunity. **There is no administrative mechanism in place for the petitioner to obtain a decision from a neutral arbiter or appeal a custody decision and that violates Martinez. *See* generally 8 C.F.R. §212.12 The custody review procedures for Cubans are Constitutionally insufficient both as written and as applied.** A number of courts have identified a substantial bias within ICE towards the continued detention of aliens, raising the risk or erroneous deprivation to constitutionally 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 petitioner's status.")**; **St. John v. McElroy**, 917 F. Supp. 243, 251(S.D.N.Y. 1996) ("Due to community and political pressure, INS, an executive agency, has though they have served their sentences, on the suspicion that they may continue to pose a danger to the community."); *See* also **Rivera v. Demore**, No. C99-3042 THE, 199WL521177, (N.D. Cal. Jul. 13, 1999)(**Procedural due process requires that aliens release determination be**

made by impartial adjudicator due to policy bias.)

COUNT FOUR

PROCEDURAL DUE PROCESS VIOLATION

31. Petitioner re-alleges and incorporates by reference paragraphs 1 through 30.

Respondent's failure to provide him with notice and an opportunity to be heard to contest his removal to a nation that is not his country of origin violates the Due process Clause, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 551-559, 701-706, and the INA and its implementing regulations.

Like **Zavvar v. Scott**, 2025 U.S. Dist. LEXIS 175897 the petitioner in this case seeks an order directing Respondents to provide him with notice and an opportunity to contest removal to a third country on the basis of fear or likelihood of persecution in such a third country. Petitioner fled from a Communist country given asylum and C.A.T. comparable to that sought in D.V.D. *See* D.V.D., 2025 WL 1142968, at *24 (enjoining the Government from removing non-citizens to third-party countries without providing various procedural safeguards, including a "meaningful opportunity for the alien to raise a fear of return for eligibility for [Convention Against Torture ("CAT")] protections"). If granted the Habeas relief petitioner asks that it be ordered just as the case of **Alic v. Dept of Homeland Security**, 2025 U.S. Dist. LEXIS 193793 that Respondents and all their officers, agents, employees, attorneys, and persons acting on their behalf or in concert with them be prohibited from removing Petitioner to a third country without a meaningful opportunity to be heard in reopened removal proceedings with hearing before an immigration Judge.

The question as to whether Petitioner's detention is in violation of the Laws of the United States and the 4th and 5th Amendment is one for a Federal Habeas Court to hear. 28 U.S.C. §2241. Accordingly, Petitioner files the accompanying petition for appointment of Counsel and request that this Court order his immediate release from detention/confinement at Stewart Detention Center located at 146 CCA Rd. Lumpkin, GA 31815.

Therefore, Petitioner request that this Court appoint Counsel to represent Petitioner in this Habeas action if he is not immediately released.

PRAYER FOR RELIEF

THEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over the matter;
2. Grant the Petitioner a Habeas Corpus directing the respondent to immediately release petitioner *from custody, under reasonable conditions of supervision;*
3. Order respondent to refrain from transferring the petitioner out of the jurisdiction of ICE Director's Jurisdiction for the Middle District of Georgia while the petitioner remains in the Respondent's custody; and
4. Order Respondents and all their officers, agents, employees, attorneys, and persons acting on their behalf or in concert with them be prohibited from removing Petitioner to a third country without a meaningful opportunity to be heard in reopened removal proceedings with hearing before an immigration Judge *especially once released on* supervision.
5. Award Petitioner's Attorney fees and cost under the Equal Access to Justice Act("EAJA"), as amended, 5 U.S.C. §2412, and on other basis justified under law; and
6. Grant any other form of relief this court deems proper.

X _____

October- 28 -2025

ANGEL ALIPIO BAYAR

DETAINED A# [redacted]

Stewart Detention Center

146 CCA Rd.

Lumpkin, GA 31815

CERTIFICATE OF SERVICE

I Swear, that a true and correct copy of the following Motion has been placed in the hands of an institution official to be furnished and forwarded by first class mail to the following parties listed below on October 28, 2025

1. **U.S. DISTRICT COURT**
   For the Middle District of Georgia
   Columbus Division
   P.O. BOX 124
   Columbus, GA 31902

2. **Office Of Chief Counsel DHS/ICE**
   Stewart Detention Center
   146 CCA Rd.
   Lumpkin, GA 31815

3. **H.Q.P.D.U.**
   500 12th Street SW
   Washington, DC 20536

x _____

October-28-2025

ANGEL ALIPIO BAYAR

DETAINED A# [redacted]

Stewart Detention Center

146 CCA Rd.

Lumpkin, GA 31815