

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YOSVANIS CASTILLO PANEQUE,)	
)	
Petitioner,)	
)	PETITION FOR WRIT OF
v.)	HABEAS CORPUS
)	
MATTHEW MORDANT, Warden of the South)	
Florida Detention Facility; (ICE) TODD LYONS, in)	
His official capacity as Acting Director of)	
Immigration and Customs Enforcement; GARRET)	
RIPA, in his official capacity as the Miami Field)	
Office Director ICE; (DHS) KRISTI NOEM, in her)	
official capacity as Secretary of Department of)	
Homeland Security; PAMELA BONDI, in her)	
official capacity as Attorney General of the United)	
States.)	
)	
Respondents.)	
_____)	

PETITION FOR WRIT OF HABEAS CORPUS

This is a petition for a writ of habeas corpus filed on behalf of Yosvanis Castillo Paneque (henceforth “Mr. Castillo Paneque”) seeking relief to remedy his unlawful detention pursuant to 28 U.S.C. § 2241. Respondents are detaining Mr. Castillo Paneque pending the execution of his final removal order. Mr. Castillo Paneque has fully cooperated with Respondents in their efforts to remove him. Since his final order of removal to date, Respondents have been unable or unwilling to remove Mr. Castillo Paneque. He has now been detained for a

prolonged period following his re-detention, with no concrete plan for removal and no indication that removal is likely in the foreseeable future. Mr. Castillo Paneque is not a flight risk or a danger to the community. Prior to his detention, he was reporting regularly with U.S. Immigration and Customs Enforcement. His continued detention is no longer justified under the Constitution or the Immigration and Nationality Act (“INA”).

Mr. Castillo Paneque was ordered removed on January 30, 2008. Following the entry of his final order of removal, he was taken into ICE custody for a period exceeding 180 days. Because Respondents were unable to effectuate his removal within a reasonable period of time, Mr. Castillo Paneque was released from custody and placed under an Order of Supervision on October 30, 2020.

Mr. Castillo Paneque complied with all conditions of supervision and continued to report to ICE as required. However, on October 29, 2025, during a routine supervision check-in, Respondents took Mr. Castillo Paneque into custody where he has remained detained since that date.

To date, Respondents have not secured travel documents or otherwise demonstrated that Mr. Castillo Paneque’s removal is likely in the reasonably foreseeable future. Mr. Castillo Paneque has fully cooperated with Respondents’ requests and has not delayed or obstructed removal in any way. Respondents, however, have been unable to effectuate his removal.

Mr. Castillo Paneque submits that his continued detention violates his constitutional rights. His prolonged detention is no longer justified under the Constitution or the Immigration and Nationality Act. Petitioner seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release Mr. Castillo Paneque from their custody.

CUSTODY

1. Mr. Castillo Paneque is in the physical custody of Respondent Matthew Mordant, Warden of the Florida Soft Side South Detention Center (colloquially “Alligator Alcatraz”); Petitioner is also in the legal custody of Respondent Todd Lyons, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (“ICE”); Respondent Kristi Noem, in her official capacity as Secretary of the Department of Homeland Security (“DHS”); and Respondent Pamela Bondi, in her official capacity as Attorney General of the United States. Mr. Castillo Paneque is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq., as amended by the Illegal

Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

3. Venue lies in the United States District Court for the Middle District of Florida, the judicial district where Petitioner is detained. 28 U.S.C. § 1391(e).

PARTIES

4. Petitioner Yosvanis Castillo Paneque is a native and citizen of Cuba who was ordered removed from the United States on January 30, 2008. He is currently detained by Respondents pursuant to 8 U.S.C. § 1231(a)(6), which governs detention following a final order of removal.
5. Respondent Matthew Mordant is the Warden of the Florida Soft Side South Detention Center, where Petitioner is currently detained. Respondent Mordant is Petitioner’s immediate physical custodian.

6. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”), sued in his official capacity. Respondent Lyons is responsible for the administration, supervision, and enforcement of immigration detention policies that govern Petitioner’s custody.
7. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”), sued in her official capacity. Respondent Noem has ultimate authority over ICE and the detention of noncitizens, including Petitioner.
8. Respondent Pamela Bondi is the Attorney General of the United States, sued in her official capacity. Respondent Bondi is the chief legal officer of the United States and is named as a Respondent because Petitioner is detained under federal authority.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Mr. Castillo Paneque has exhausted his administrative remedies to the extent required by law.
10. He has fully cooperated with Respondents and has not delayed or obstructed his removal.
11. Mr. Castillo Paneque’s only remedy is by way of this judicial action.

STATEMENT OF FACTS

12. Yosvanis Castillo Paneque is a native and citizen of Cuba who was ordered removed in *absentia* from the United States on January 30, 2008. **See Exhibit A - Order of Removal.**
13. Following the entry of his final order of removal, Mr. Castillo Paneque was placed under an Order of Supervision (“OSUP”) with U.S. Immigration and Customs Enforcement (“ICE”).
14. On or about May 15, 2020, after completing a term of imprisonment for a criminal conviction, Mr. Castillo Paneque was taken into ICE custody.
15. Mr. Castillo Paneque remained in ICE custody until October 30, 2020, 169 days. During that time, ICE was unable to effectuate his removal.
16. On October 30, 2020, after more than 180 days post removal and 169 days in ICE custody, because his removal could not be carried out in the reasonably foreseeable future, ICE released Mr. Castillo Paneque under an Order of Supervision. **See Exhibit B - Post Order Custody Review Checklist.**
17. Following his release in October 2020, Mr. Castillo Paneque remained under an Order of Supervision and complied with all reporting and supervision requirements.
18. As part of his supervision obligations, Mr. Castillo Paneque reported to ICE for a routine check-in at the ICE Field Office in Miramar, Florida on October 29, 2025.

19. During that check-in, Respondents took Mr. Castillo Paneque into ICE custody once again for the stated purpose of executing his removal order.

20. Mr. Castillo Paneque has remained detained since October 29, 2025. **See Exhibit C - ICE Detainee Locator**

21. As of today, Respondents have not provided Mr. Castillo Paneque with any concrete plan or timeline for removal, nor have they demonstrated that his removal is likely in the reasonably foreseeable future.

22. Mr. Castillo Paneque has fully complied with all ICE requirements and has not delayed or obstructed removal in any way.

23. Mr. Castillo Paneque is not a danger to the community or a flight risk. He has no pending criminal cases and has complied with ICE supervision for many years.

24. Mr. Castillo Paneque has deep roots in the United States. He is married to a United States citizen and has a United States citizen child. Prior to his detention, he was working, paying taxes, and supporting his family, including complying with a child support order.

25. Respondents' continued detention of Mr. Castillo Paneque, despite their prior determination that removal was not feasible and absent any material change in circumstances, is no longer legally justifiable.

LEGAL FRAMEWORK

26. 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).
27. “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. Flores*, 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).
28. 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.
29. 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.”

30. 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.

31. 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.*

32. 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.

33. 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.

34. 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.

35. 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

CONSTITUTIONAL CLAIM

36. Petitioner alleges and incorporates by reference paragraphs 1 through 35 above.

37. Petitioners' detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO

STATUTORY CLAIM

38. Petitioner alleges and incorporates by reference paragraphs 1 through 37 above.

39. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

COUNT THREE

40. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;

2. Issue an order directing Respondents to show cause why the writ should not be granted;
3. Enjoin respondents from transferring Mr. Castillo Paneque outside of the jurisdiction of this court pending the adjudication of this matter.
4. Issue a writ of habeas corpus ordering Respondents to release Mr. Castillo Paneque on his own recognizance or reasonable conditions of supervision;
5. Award Petitioner reasonable costs and attorney's fees; and,
6. Grant any other relief which this Court deems just and proper.

Respectfully Submitted,

s/ Johan Gutierrez

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

I represent Petitioner, Yosvanis Castillo Paneque, 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 16 day of December, 2025.

s/ Johan Gutierrez

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