

1. Petitioner, JOSE PEREZ-ROSA, hereby petitions this Court for his amended writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition, Petitioner alleges as follows:

INTRODUCTION

2. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the EL PASO PROCESSING CENTER in El Paso, TX. Petitioner is under the direct control of Respondents and their agents.
3. Petitioner has been subject to a prior order of removal entered on November 30th, 2018.
4. Petitioner reentered in the country on March 27th, 2019, at or near Sonora, Arizona.
5. Petitioner has been detained since June 26, 2025. He has now been in custody for approximately eight months, beginning on the date he appeared for his ICE check-in

JURISDICTION

6. This action arises under the Constitution of the United States, 28 U.S.C. §2241(c)(1), and 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. 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 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 forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its 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 its protections have been strongest.”)’ *Clark v. Martinez*, 543 U.S.371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241(a), which grants federal district courts authority to issue writs of habeas corpus within their respective jurisdictions. The Constitution's Suspension Clause, Article I, Section 9, Clause 2, provides that [t]he privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it USCS Const. Art. I, § 9, Cl 2.

VENUE

8. Venue lies in the Western District of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the EL PASO PROCESSING CENTER. Under 28 U.S.C.S. § 2241 habeas petitions must be filed in the jurisdiction where the federal petitioner is detained

EXHAUSTION OF REMEDIES

9. 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 November 30th, 2018, at Eloy, Arizona. It has passed over his “90-day” custody review, and ICE decided still to continue his detention.
10. No statutory exhaustion requirements apply to Petitioner’s claim of unlawful detention.

PARTIES

11. Petitioner is a native and citizen of Honduras. He has been in ICE custody since June 26, 2025, when he appeared for an ICE check-in, and he has remained in ICE custody continuously since that date. Petitioner was previously ordered removed on November 30, 2018, and reentered the country on March 27, 2019. He is currently detained at the El Paso Processing Center. Petitioner has now been continuously detained by ICE for over eight months.
12. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. She is responsible for the administration of the Executive Office for Immigration Review (“EOIR”), including policies that bear on immigration judges’ jurisdiction over custody.
13. Respondent Kristi Noem is named in her official capacity as Secretary of the U.S. Department of Homeland Security (“DHS”). DHS is the department charged with administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for the actions of U.S. Immigration and Customs Enforcement (“ICE”) and is a legal custodian of Petitioner.
14. Respondent Todd M. Lyons is named in his official capacity as Acting Director of ICE. He oversees ICE operations, including detention and removal, and is a legal custodian of Petitioner.
15. Respondent Sylvester Ortega is named in his official capacity as Field Office Director of the San Antonio ICE Field Office. He is responsible for ICE enforcement in this District and is a legal custodian of Petitioner.

STATEMENT OF THE FACTS

16. Mr. Perez-Rosa fled Honduras due to persecution and threats he suffered as a result of his political views and activities. Specifically, he was targeted because of his opposition to certain political groups in Honduras and fears returning due to the risk of harm, which forms the basis of his currently pending withholding of removal claim. When he first entered the United States, he did so without lawful immigration status. Prior to being ordered removed, he remained in the United States without lawful status but was pursuing protection-based relief. He currently has a pending application for withholding of removal.

a. Before being taken into ICE custody, Mr. Perez-Rosa resided in Salinas, CA, where he lived with his two minor U.S. citizen children. He is the father of two American-born children, both of whom are under the age of 18 and are United States citizens. He has been actively involved in their upbringing and financial support.

b. Mr. Perez-Rosa does not have lawful permanent resident status, nor has he ever been granted lawful permanent residence. He has not applied for U.S. citizenship. To his knowledge, no immediate family member has obtained lawful permanent resident status through him. He did possess a Honduran passport when he entered the United States. He did not reside in any other country prior to coming to the United States.

17. Mr. Perez-Rosa has consistently complied with all of his orders of supervision. As documented in Exhibit B, he has attended every ICE appointment without fail and has maintained regular communication with immigration authorities. He is in continued prolonged detention is unnecessary.

18. Months have passed since Petitioner's last custody review; ICE has not notified Petitioner of any progress in Petitioner's repatriation.
19. Petitioner has cooperated fully with all efforts by ICE to remove Petitioner from the United States. Petitioner has provided his Deportation Office with information about when and where he was born.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

20. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that 8 U.S.C.
 - a. §1231(a)(6), when “read in light of the Constitution’s demands, limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” 533U.S.at689.A“habeas court must[first] ask whether the detention in question exceeds a period reasonably necessary to secure removal.”*Id.*at699. 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.
21. In determining the length of a reasonable removal period, the Court adopted a “presumptively reasonable period of detention” of six months. *Id.* at 701. After six months, 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 Zhouv. 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-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701. ICE’s administrative regulations also recognize that the HQPDU has a six-month period for determining whether

there is a significant likelihood of an alien's removal in the reasonably foreseeable future.

See 8 C.F.R. §241.4 (k)(2)(ii).

22. Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government's burden to establish that an alien petitioner will be deported in the reasonably foreseeable future. *See Thompson v. INS*, 2002 U.S. Dist. LEXIS 23936 (E.D. La. September 16, 2002) (government failed to show that alien's deportation to Guyana was reasonably foreseeable where the government offered historical statistics of repatriation to Guyana but failed to show any response from Guyana on the application for travel documents that INS and the petitioner had requested). Rather for the government to meet its burden of showing that an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual petitioner's case.

23. An alien who has been detained beyond the presumptive six months 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 Agbadav. John Ashcroft*, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August 22, 2002) (court "will likely grant" habeas petition after fourteen months if ICE is "unable to present document confirmation that the Nigerian 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 was no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

24. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the U.S. Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for continued removal efforts has expired. Petitioner still has not been removed, and for the reasons outlined above in paragraphs 1 to 20, Petitioner's removal to [country of citizenship] is not reasonably foreseeable. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone after six months where deportation is not reasonably foreseeable is unreasonable and in violation of 8 U.S.C. §1231(a). 533 U.S. at 701. The government bears the burden of proving that removal is reasonably foreseeable, and evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government's burden

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

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

26. The Due Process Clause applies to all persons within the United States, including non-citizens USCS Const. Amend. 14. The government's interest in effectuating removal cannot justify indefinite detention when removal is not reasonably foreseeable. The Due Process Clause of the Fifth Amendment requires 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 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 U.S. 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 interest – 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 substantive 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.")

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

27. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. In the Petitioner's case, there is: The lack of a neutral decision-maker in custody determinations; the absence of periodic review with meaningful opportunity to be heard; the failure to provide timely decisions on custody reviews; the lack of adequate procedural safeguards for prolonged detention cases

PRAYER FOR RELIEF

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

28. Assume jurisdiction over this matter.

29. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody, under reasonably conditions of supervision.
30. Order Respondents to refrain from transferring the Petitioner out of the jurisdiction of the ICE El Paso Processing Center during the pendency of these proceedings and while the Petitioner remains in Respondent's custody; and
31. Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct. Respectfully submitted
this February 9th, 2026.

/s/ Gracilene Brooks
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Attorney for Petitioner

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Dated: February 9th., 2026

/s/Gracilene Brooks
Attorney
101 E Park Blvd, suite 600, room 10 A,
Plano, TX 75074

CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of February 2026, a copy of the foregoing was filed electronically with the Court. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated this 9th day of February 2026.

/s/Gracilene Brooks

Gracilene Brooks