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UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF FLORIDA, JACKSONVILLE DIVISION

3:26-Cv-78-JEP-LLL

Rivero-Cuervo, Jose

A#

Petitioner,

Civil Action No.:

v.

PAMELA BONDI,
Attorney General;
KRISTI NOEM,
Secretary of the Department of Homeland
Security;
ALBERTO CORNAVACA,
SDDO Jacksonville ICE-ERO Field Office;
SCOTTY RHODEN,
Sheriff of Baker County Detention Center;

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

Petitioner, Rivero-Cuervo, Jose Pro se, hereby petitions this Court for a writ
of habeas corpus to remedy Petitioner's unlawful detention by Respondents. In support of
this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at Baker County Detention Center in MacClenny, Florida. ICE has contracted with Baker County Detention Center to house immigration detainees such as Petitioner. Petitioner is in direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. as amended by Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 -208, 110 Stat. 1570, and Administrative Procedure Act ("APA"), 5 U.S.C § 701 et seq.
3. This Court has jurisdiction under 28 U.S.C § 2241; art. 1 § 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. This Court may grant relief pursuant to 28 U.S.C § 2241, 5 U.S.C § 702, and the All Writs Act, 28 U.S.C § 1651.

VENUE

4. Pursuant to Braden v. 30th Judicial Circuit Court of Kentucky, 410 U. S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Florida, Jacksonville Division, the judicial district in which Petitioner resides.

PARTIES

5. Petitioner is a native and citizen of Cuba. Petitioner has been in ICE custody since 7/14/2025, and has remained in custody continuously since that date.
6. Respondent PAMELA BONDI is the Attorney General of United States and is responsible for the administration of ICE and implementation and enforcement of the INA. As such, U.S. Attorney General has ultimate custodial authority over Petitioner.
7. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and implementation and enforcement of the INA. As such, Secretary of the Department of Homeland Security is the legal custodian of Petitioner.
8. Respondent ALBERTO CORNAVACA is the Supervisory Detention and Deportation Officer (SDDO) of the Jacksonville ICE - ERO (Enforcement Removal Operations) Field Office and is Petitioner's immediate custodian. See Vasquez v. Reno, 223 F. 3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001).

9. Respondent SCOTTY RHODEN is the Sheriff of Baker County Detention Center where petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

10. Petitioner, Rivero, Cuervo, Jose is a native and citizen of Cuba.
11. Petitioner first arrived in United States on or about 03/31/1996 and was paroled in United States. Petitioner adjusted his status in 03/31/1996 as a CU-6 Lawful Permanent Resident.
12. Petitioner was in 8/97 convicted in the Miami Dade Florida for the offenses of ...
and was sentenced to 6 months Jail time
13. ICE took Petitioner's custody after completing his 6 months Jail time in 1997
14. An Immigration Judge ordered the Petitioner removed in or about 9/1997 Petitioner waived his appeal from the order of deportation, thereby making it final on that same day. Petitioner was then led out on supervision by ICE in 11/2001 after filing Habeas Corpus.

15. An Immigration Judge ordered the Petitioner removed on 07/14/2025 Petitioner waived his appeal from the order of deportation, thereby making it final on that same day.
16. To date, ICE has unable to remove the Petitioner to Cuba. It is Petitioner's understanding that Cuba will deny any and all requests for Petitioner's travel document as there are currently no formal diplomatic relations between Cuba and the United States, nor is there any formal or informal agreement.
17. Petitioner has co-operated fully with all efforts by ICE to remove him from United States.
18. Petitioner was informed by ICE that he would b provided with a decision regarding his detention in his ninety-day custody review, but he never received such decision nor he has received any further communications from Respondent.
19. In Zadvydas v. Davis, 533 U.S. 678 (2001), Supreme Court held that six months is the presumptively reasonable period during which ICE may detain aliens in order to effectuate removal.
20. Portioner was ordered removed on 07/14/2025 and the removal order became final on 07/14/2025
- Therefore, the six months presumptively reasonable removal period for Petitioner ended on 01/14/2026

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re-alleges and incorporates by reference paragraphs 1 to 20 above.
22. Petitioner's continued detention by the Respondent violates 8 U.S.C § 1231(a)(6), as interpreted in Zadvydas. Petitioner's ninety-day statutory removal period and six-month presumptively reasonable period for continued removal efforts both have passed. Respondents are unable to remove Petitioner to Cuba because there is no repatriation agreement between United States and Cuba, and Cuba will not accept its citizens who have been ordered removed from United States. Under such circumstances Petitioner's continued infinite detention is unreasonable and not authorized by 8 U.S.C § 1231(a)(6).

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

23. Petitioner re-alleges and incorporates by reference paragraphs 1 to 22 above.

24. There is no significant likelihood that Petitioner will be removed in the reasonable foreseeable future.
25. The Petitioner's continued detention violates his right to substantive due process by depriving him of his core liberty interest to be free from bodily restraint. The Due Process Clause of the Fifth Amendment requires that the deprivation of the Petitioner's liberty be narrowly tailored to serve a compelling government interest in assuring Petitioner's presence at the time of deportation, that interest does not justify Petitioner's indefinite detention where he is unlikely to be removed to Cuba, his continued indefinite detention violates substantive due process.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

26. Petitioner re-alleges and incorporates by reference paragraphs 1 to 25 above.
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. 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. The custody review procedure are constitutionally insufficient both as written or applied. A number of courts have identified a substantial bias within ICE toward the

continued detention of aliens, raising the risk of an erroneous deprivation to unconstitutionally 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 Petitioners' custody status."); St. John v. McElroy, 917 F. Supp. 243, 251 (S.D.N.Y. 1996) ("Due to political and community pressure, INS, an executive agency, has every incentive to continue detain aliens with aggravated felony convictions, even though they have served their sentences, on suspicion that they may continue to pose a danger to the community."); see also Rivera v. Demore, No. C99-3042 THE, 1999 WL 521177, *7 (N.D. Cal. Jul 13, 1999) (procedural due process requires that alien release determination be made by impartial adjudicator due to agency bias).

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of Habeas Corpus directing the respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) 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 to the best of my knowledge.

/s/ JOSE RIVERO CUervo

Rivero-Cuervo, Jose

Petitioner Pro Se

A No.:

Baker County Detention Center,
1 Sheriff's Office Drive,
MacClenny, FL -32063

1/13/26
Date Executed

