

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

FILED
2026 JAN 20 10 51 AM
CLERK OF COURT

MISAEEL DIAZ

Petitioner,

Civil Action No: _____

v.

A# [REDACTED]

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 Warden JASON STREEVAL

at Stewart Detention Center,

Respondent(s)

MOTION FOR JUDICIAL NOTICE AND MEMORANDUM
OF LAW IN SUPPORT OF CONSTRUCTIVE CUSTODY
HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241,
UNDISPUTED CASES AND FACTS

COMES NOW Petitioner, MISAEEL DIAZ, pro se and pursuant to Rule 201 of the federal Rules of Evidence and 28 U.S.C. § 2241, respectfully presents this Motion for Judicial Notice and Memorandum of Law, requesting that this Honorable Court recognize and declare Petitioner's ongoing subjection to significant restraints on liberty, both through physical detention and ICE-supervised probation, as satisfying the "In Custody" requirement for federal Habeas Corpus jurisdiction.

I. STATEMENT OF CUSTODIAL HISTORY

Petitioner has been subject to multiple periods of physical detention by U.S. Immigration and Customs Enforcement (ICE), separated by extended periods of ICE-supervision pursuant to formal Orders of Supervision. During those periods, Petitioner was:

- Compelled to report regularly to ICE;
- Restricted from travel without permission;
- Subject to ongoing threat of re-detention;
- Bound by conditions that restrained liberty and prohibited employment freedom.

These restraints imposed continuous governmental control over Petitioner's liberty.

II. JUDICIAL NOTICE REQUESTED

Judicial notice under Rule 201(b) is warranted where facts are not subject to reasonable dispute and are capable of ready determination. Petitioner respectfully asks this Honorable Court to take notice that:

1. Petitioner has been subject to ICE supervision between periods of detention;
2. Said supervision imposed significant legal restrictions on movement, freedom, and conduct;
3. These restraints have not been lifted or meaningfully reviewed;
4. Such restraints constitute “custody” under 28 U.S.C. §2241.

III. MEMORANDUM OF LAW

A. “CUSTODY” INCLUDES ICE SUPERVISION

The United States Supreme Court in Jones v. Cunningham, 371 U.S. 236 (1963), held that: “Custody is not limited to physical confinement. A petitioner on parole is ‘in custody’ if he is subject to restraints not shared by the public generally.”

In Hensley v. Municipal Court, 411 U.S. 345 (1973), the Court extended this further:

“A petitioner released on recognizance, but under court orders and threat of re-arrest, remains ‘in custody’.”

Petitioner, while under ICE supervision, was not free in the constitutional sense.

The Eleventh Circuit has recognized that:

“Supervised release, parole, and probation impose enough restrictions on liberty to constitute custody for Habeas purposes.”

Mederos v. United States, 218 F. 3d 1252 (11th Cir. 2000)).

Thus, ICE supervision qualifies as “custody” under §2241, as it involves significant legal restraints on freedom.

B. NON-CONTINUOUS CONFINEMENT DOES NOT DEFEAT HABEAS JURISDICTION

The Eleventh Circuit has affirmed that interruptions in detention **do not break jurisdiction** if the petitioner remains under legal restraint from the same proceedings:

“Even where a sentence has expired, habeas may be pursued if custody flows from the same conviction or legal authority.”

Means v. Alabama, 209 F. 3d 1241 (11th Cir. 2000)).

“The habeas statute requires custody, not incarceration.”

Duvallon v. Florida, 691 F.2d 483 (11th Cir. 1982)).

Perez v. Noem, 2025 U.S. Dist. “**an imaginary detention clock**” is not started every time ICE detains an individual.

The continuity of legal control by ICE, from initial detention to probationary supervision to re-detention, supports a finding of uninterrupted custody.

C. ICE SUPERVISION CASE LAW

Federal courts specifically addressing ICE detainees confirm that:

“ICE Orders of Supervision, with mandatory reporting, travel restrictions, and threat of arrest, impose sufficient restraint to constitute custody.”

Santos v. Warden, Pike County Corr. Facility, 965 F. Supp. 2D 233 (M.D. Pa. 2013)).

And in the **Northern District of Georgia**, a sister court to this one:

“Even release from detention, while under ICE supervision, satisfies custody for habeas jurisdiction.”

Chakravarty v. DHS, 2020 WL 4582714 (N.D. Ga. 2020)).

Thus, federal law is uniform in holding that **ICE-supervised release is not freedom**, and **custody continues** for habeas purposes.

IV. MAXIMS OF LAW IN SUPPORT

- *Ubi jus ibi remedium* - Where there is a right, there is a remedy.
- *Lex non cogit ad impossibilia* – The law does not compel the impossible.
- *Lex semper dabit remedium* – The law always gives a remedy.
- *Fiat justitia ruat caelum* – Let justice be done through the heavens fall.

- *Justicia est constans et perpetua voluntas jus suum cuique tribuendi* – Justice is constant and perpetual will to give to each their own.
- *In favorem vitae libertatis et innocentiae omnia praesumuntur* – All presumptions favor life, liberty, and innocence.
- *Ex diuturnitate temporis omnia preasumuntur esse solemniter acta* – That which has long existed is presumed done lawfully.

V. CONCLUSION

Petitioner has been continuously restrained by ICE under the same removal proceeding, whether by detention or enforced supervision. These legally enforceable conditions are sufficient to satisfy the “**In Custody**” requirement for habeas corpus under 28 U.S.C. §2241, consistent with both the Supreme Court and the Eleventh Circuit precedent.

Because Petitioner is unlikely to be removed to Cuba, his continued indefinite detention violates substantive due process.

“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

WHEREFORE, Petitioner respectfully prays this Court:

1. Take judicial notice of Petitioner's legal custody status through ICE supervision and incarceration;
2. Recognize that Petitioner satisfies the jurisdictional requirements for habeas relief;
3. Grant any further relief this Court deems just and proper under the circumstances.

X _____

Print name: MISAEAL DIAZ

A# 

Stewart Detention Center
146 CCA Rd.
Lumpkin, GA 31815

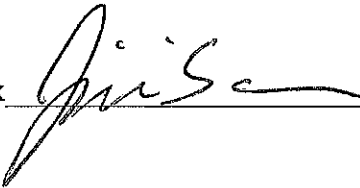
CERTIFICATE OF OATH

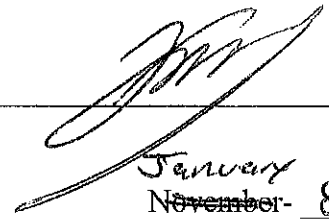
I Swear under Penalty of Perjury from the United States of America if this Motion is found to be false, frivolous, or made in bad faith. I also swear that this motion is true to the best of my knowledge.

I further state that this motion is not a copy of a motion that has been ruled on nor has it been deposited of by this Court.

I Swear that this motion has been prepared by **me/or** read to me in a language that I understand and everything that is said in the following motion is true.

Person who assisted petitioner in preparing Motion:

x  Jidier Saavedra of Immigration Connection ^{January} ~~November~~ 8, 2026

x  ^{January} ~~November~~ 8, 2026

Print name: _____

A#



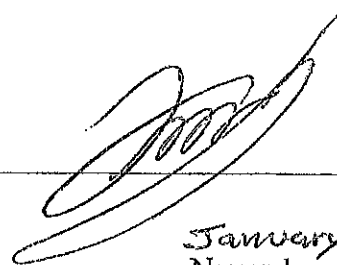
Stewart Detention Center
146 CCA Rd.
Lumpkin, GA 31815

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 ~~November~~ ^{January} 8, 2026

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

x _____

January
November 8, 2026

Print name: Misael Diaz

A# 

Stewart Detention Center
146 CCA Rd.
Lumpkin, GA 31815