

JUDGE KATHLEEN CARDONE

FILED

January 24, 2026

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: Elizabeth Y. Martinez
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WESTERN DISTRICT OF TEXAS
BY: Elizabeth Y. Martinez
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In the United States District Court
for the Western District of Texas
El Paso Division

EP 26CV0144

Dermo Raul Romero Hidalgo



PETITIONER.

V.

Pam Bondi, Attorney General of the United States; Kristi Noem, Secretary of the Department of Homeland Security; Mary de Anda Ybarra, U.S. ICE field office Director for El Paso field office, and Michael Watkins, warden of Immigration Camp Montana East Detention Center in El Paso, Texas.
RESPONDENTS.

Civil Action No:

Petition for a writ of Habeas Corpus pursuant to 28 U.S.C. §2241, by a person subject to indefinite immigration detention.

Background

Petitioner(Dermo Raul Romero Hidalgo), hereby petitions this Court for a writ of Habeas Corpus to remedy petitioner's unlawful detention by the Respondent. 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 the Camp Montana East in El Paso, Tx. Petitioner is under 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 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.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, see *Zadvydas v. Davis*, 533 U.S. 678 (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).

Venue

3- Venue lies in the Western District of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Camp Montan East Detention Center, located at 6920 Digital Rd. Tx. 79936.

Exhaustation of Remedies

4- Petitioner has exhausted his administrative remedies to the required by law, and his only remedy is by way of this Judicial Acton. After the Supreme Court decision in *Zadvydas*, the Department of Justice issue regulations governing the custody of aliens removed. see 8C.F.R. §241.4. Petitioner received a final order of removal on or about May, 1995.

Parties

5- Petitioner is a native and citizen of CUBA, Petitioner was taken into ICE custody on July 11, 2025 and has remained in ICE custody continuously since that date. Petitioner was ordered removed on or about May, 1995. Petitioner is currently detained at Camp Montana East Detention Center in El Paso, Tx. Petitioner has been continuously detained by ICE for over 6 months.

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

7- Respondent Kristi Noem is the Secretary of the Department of Homeland Security, he is responsible for the administration on ICE and the implementation and enforcement of the INA. As such Ms. Noem is the legal custodian of Petitioner.

8- Respondent Mary de Anda Ybarra is the field Office Director of El Paso field office of ICE and is Petitioner's immediate custodian. see *Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S.Ct. 43 (2001).

9- Respondent Michael Watkins, warden of Camp Montana East Detention Center, located at 6920 Digital Rd. El Paso, Tx. 79936, where Petitioner is currently detained under the authority of ICE, alternatively maybe considered to be Petitioner's immediate custodian.

Statement of the Facts

10- Petitioner(Dermo Raul Romero Hidalgo), born in Camaguey, Cuba on [REDACTED]. On July 10, 1980, at the age of 25, the Castro regime in Cuba forced him to leave the country for fighting against the government's policies.

11- Petitioner first arrived the U.S in 1980 as part of the Mariel boat lift, upon his arrival in the U.S, he received an I-94 parole, during his time in the U.S, he had two children, both U.S citizens, who currently live in Chicago.

12- In 1993, he was sentenced to 84 months of imprisonment for drug possession, after serving his sentence, ICE arrested and took him to a detention center in Texas, where he was held for two months in detention, during that time an immigration Judge issue a final deportation order. Petitioner was released on probation since they were unable to remove it to Cuba.

13- For the past 30 years, he was periodically signing in at ICE office without any negative incidents, until July 11, 2025, when ICE officers proceeded to arrest and take him to ICE facilities, where he remains under arrest to this day.

14- To date, the petitioner has never received a custody review under the Cuban review plan, despite having requested it repeatedly during the time he has remained in ICE custody.

15- However, ICE has been unable to remove the Petitioner to Cuba, It is Petitioner's understanding that Cuba will deny any and all requests for travel documents, as there is no formal or informal repatriation agreement between Cuba and the United States.

16- Petitioner has cooperate fully with all efforts by ICE to remove Petitioner from the United States, he provided ICE deportation office with information about when and where he was born, photographs, and fingerprints.

Legal framework for relief sought

17- 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-removal-period detention to a period reasonably necessary to bring about that 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.

18- 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 *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 '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-MONHT 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).

19. 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 *Agbada v. 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**

20. Petitioner re-alleges and incorporates by reference paragraphs 1 through 22 above.

21. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. §1231(9)(6) as interpreted by the U.S. Supreme Court in *Zadvydas*. Petitioner's ninety day statutory removal period and six-month presumptively reasonable period for continued removal efforts have both passed. Respondents are unable to remove Petitioner to Cuba, because there is no repatriation agreement between the United States and Cuba will not accept its citizens who have been ordered removed from the United States. In *Martinez* the U.S. Supreme Court held that the continued indefinite detention of some one like Petitioner under such circumstances is unreasonable and not authorized by 8 U.S.C. § 1231(a)(6).

**Count two
Substantive Due Process Violation**

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

23. 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 *Tam v. INS*, 14 F. Supp. 2d 1184 (E.D. Cal. 1998) (Aliens retain substantive due process rights).

24. 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 Respondent's 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 a continue 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*, 94F.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"). Because Petitioner is unlikely to be remove to Cuba, her continued indefinite detention violates substantive due process.

Count three Procedural Due Process Violation

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

26. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/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 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 toward the continued detention of aliens, raising the risk of an erroneous deprivation to constitutionally high levels, see, eg. *Phan v. Reno*, 56F.Supp.2d 1149,1157(W.D.Wash,1999)("INS does not meaningfully and impartially review the Petitioner's status"). *St. John v. McElroy*, 917F.Supp.243,251(S.D.N.Y.1996)("Due to political and community pressure, INS an executive agency, has ever incentive to continue to detain aliens with aggravated felony convictions, even though they have serve their sentences, on the suspicion that they may continue to pose a danger to the community"); see also *Rivera v. Demore*, no, C99-3042THE, 199WL521177*, 7(N.D.Cal.jul.13,1999)(procedural due process requires that aliens 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, under reasonably conditions of supervision;
- 3- Order Respondents to refrain from transferring Petitioner out the jurisdiction of the ICE El Paso Director during the pendency of these proceedings and while the petitioner remains in Respondent's custody; and
- 4- Award Petitioner attorney's fees and costs under the Equal acces to Justice Act ("EAJA"), as amended,

5-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 20 of January, 2026.

Dermo Raul Romero Hidalgo

Dermo Raul Romero Hidalgo. Pro se



Camp Montana East Detention Center
6920 Digital Rd.
El Paso, Tx. 79936.