

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

IRVING CADENA CARRILLO,

Petitioner,

v.

MARY DE ANDA-YBARRA, Field Office
Director of Enforcement and Removal
Operations, El Paso Field Office, Immigration
and Customs Enforcement; KRISTI NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; PAMELA BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; WARDEN
OF EL PASO PROCESSING CENTER,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner, IRVING CADENA CARRILLO, a citizen of Mexico, has been
3 unlawfully detained at the El Paso Processing Center since February 17, 2025, where his
4 continued detention has become unreasonably prolonged and constitutionally excessive.
5 Although Petitioner's initial bond hearing was scheduled for April 23, 2025, it was rescheduled
6 to May 6, 2025, at which bond was denied. Since that denial, Petitioner's case has been
7 repeatedly continued and reset by the Immigration Court, including six master calendar hearings
8 on May 13, 2025, July 2, 2025, July 16, 2025, July 23, 2025, August 27, 2025, and October 16,
9 2025, and four individual hearings on December 1, 2025, January 15, 2026, January 29, 2026,
10 February 17, 2026.

11 2. After ten hearings, Petitioner remains detained without resolution of his
12 removability or eligibility for relief. Immigration detention must remain reasonably related to its
13 nonpunitive purpose, and when detention becomes prolonged without adequate procedural
14 safeguards, it violates due process. *Demore v. Kim*, 538 U.S. 510 (2003).

15 3. While the Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), rejected
16 imposing automatic bond-hearing requirements as a matter of statutory interpretation, it
17 reaffirmed that detainees may still pursue constitutional challenges to prolonged detention
18 through habeas. Moreover, the Supreme Court has made clear that immigration detention cannot
19 become indefinite or arbitrary when it no longer serves its limited civil purpose. *Zadvydas v.*
20 *Davis*, 533 U.S. 678 (2001). Accordingly, because Petitioner's detention has grown unreasonably
21 prolonged due to repeated court resets and delays, and because continued incarceration without
22 constitutionally adequate protections violates due process, habeas relief is warranted, including
23 release from custody.
24

JURISDICTION

4. Petitioner is detained in civil immigration custody at El Paso Processing Center in El Paso, Texas. He has been detained since on or about February 17, 2025. He has not received an individualized bond hearing before an immigration judge (IJ).

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

7. 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 Western District of Texas, because Petitioner is detained at the El Paso Processing Center in El Paso, Texas, which is within the jurisdiction of this District.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to her claims occurred in this district, and no real property is involved in this action.

PARTIES

9. Petitioner, IRVING CADENA CARRILLO, is a citizen of Mexico. He has been detained since February 17, 2025, and is currently detained at the El Paso Processing Center in

1 El Paso, Texas. He is in the custody, and under the direct control, of Respondents and their
2 agents.

3 10. Petitioner, MARY DE ANDA-YBARRA, is the Director of the El Paso Field
4 Office of ICE's Enforcement and Removal Operations division. As such, MARY DE ANDA-
5 YBARRA is Petitioner's immediate custodian and is responsible for Petitioner's detention and
6 removal. She is named in her official capacity.

7 11. Respondent, KRISTI NOEM, is the Secretary of the Department of Homeland
8 Security. She is responsible for the implementation and enforcement of the Immigration and
9 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
10 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

11 12. Respondent, THE DEPARTMENT OF HOMELAND SECURITY (DHS), is the
12 federal agency responsible for implementing and enforcing the INA, including the detention and
13 removal of noncitizens. DHS oversees ICE and the detention of noncitizens. DHS is a legal
14 custodian of Petitioner.

15 13. Respondent, PAMELA BONDI, is the Attorney General of the United States. She
16 is responsible for the Department of Justice, of which the Executive Office for Immigration
17 Review and the immigration court system it operates is a component agency. She is sued in her
18 official capacity.

19 14. Respondent, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR), is
20 the federal agency responsible for implementing and enforcing the INA in removal proceedings,
21 including for custody redeterminations in bond hearings.

22 15. Respondent, WARDEN OF THE EL PASO PROCESSING CENTER, has
23 immediate physical custody of Petitioner. He is sued in his official capacity.
24

LEGAL FRAMEWORK

16. 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).

17. “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).

18. 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.

19. 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.”

20. 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

1 Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme
2 Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s]
3 post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s]
4 removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably
5 foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

6 21. In determining the reasonableness of detention, the Supreme Court recognized
7 that, if a person has been detained for longer than six months following the initiation of their
8 removal period, their detention is presumptively unreasonable unless deportation is reasonably
9 foreseeable; otherwise, it violates that noncitizen’s due process right to liberty. 533 U.S. at 701.
10 In this circumstance, if the noncitizen “provides good reason to believe that there is no
11 significant likelihood of removal in the reasonably foreseeable future, the Government must
12 respond with evidence sufficient to rebut that showing.” *Id.*

13 22. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there
14 be “adequate procedural protections” to ensure that the government’s asserted justification for a
15 noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest
16 in avoiding physical restraint.’” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356
17 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil
18 detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533
19 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any
20 other justification.

21 23. The first justification of preventing flight, however, is “by definition . . . weak or
22 nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where
23 removal is not reasonably foreseeable and the flight prevention justification for detention
24

1 accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation
2 to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406
3 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive
4 detention based on dangerousness” is permitted “only when limited to especially dangerous
5 individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

6 24. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should
7 hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If
8 removal is reasonably foreseeable, “the habeas court should consider the risk of the
9 [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within
10 that reasonable removal period.” *Id.* at 700.

11 25. At a minimum, detention is unconstitutional and not authorized by statute when it
12 exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701
13 (stating that “Congress previously doubted the constitutionality of detention for more than six
14 months” and, therefore, requiring the opportunity for release when deportation is not reasonably
15 foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386
16 (2005).

17 **CLAIMS FOR RELIEF**

18 **COUNT ONE**

19 **Violation of Fifth Amendment Right to Due Process**

20 26. Petitioner re-alleges and incorporates by reference the paragraphs above as though
21 fully set forth herein.

22 27. The Due Process Clause of the Fifth Amendment forbids the government from
23 depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.
24

28. After ten hearings, Petitioner remains detained without resolution of his removability or eligibility for relief. Immigration detention must remain reasonably related to its nonpunitive purpose, and when detention becomes prolonged without adequate procedural safeguards, it violates due process. *Demore v. Kim*, 538 U.S. 510 (2003).

29. For these reasons, Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

Violation of 8 U.S.C. § 1231(a)

30. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

31. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention “beyond the removal period” only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 (“[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.”). Because Petitioner’s removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;

- (4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (5) Grant any further relief this Court deems just and proper.

DATED this 26th day of January 2026.

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