

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT, MYERS DIVISION**

Gonzalez, Maique,

Petitioner,

v.

Case No.: 2:26-cv-127-KCD-NPM

PAMELA BONDI, Attorney General
of the United States; KRISTI NOEM,
Secretary of the Department of
Homeland Security; TODD LYONS,
Acting Director, U.S. Immigration and
Customs Enforcement; GARRET RIPA,
Field Office Director, ICE Enforcement
and Removal Operations, Miami Field
Office; ASSISTANT FIELD OFFICE
DIRECTOR, ICE Enforcement and
Removal Operations; WARDEN,
Florida Soft Side South,

Respondents,

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

This Petition is brought by Dolly Bello as Next friend of Petitioner, Gonzalez, Maique, who is unable to sign for file this Petition on his own behalf due to detention conditions and lack of access to legal materials and mail.

Next friend is the spouse of Petitioner and has a significant personal relationship with him. Petitioner is unable to litigate this action on his own behalf due to detention conditions and limited access to legal resources. Next friend is dedicated to Petitioner's best interests and therefore has standing to bring this Petition.

I. JURISDICTION

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody within this District.

2. Petitioner challenges only the lawfulness of continued detention, not the validity of the underlying removal order.

II. PARTIES

3. Petitioner is a native and citizen of Cuba currently detained by U.S. Immigration and Customs Enforcement ("ICE") at Florida Soft Side South, 54575 Tamiami Trail East Na Ochopee, Fl 34141.
4. Respondents are the federal officials who exercise legal custody over Petitioner.

III. FACTUAL BACKGROUND

5. Petitioner entered the United States from Cuba on October 6, 2003 and has lived in the United States for 22 years.
6. Petitioner lost his immigration status following a criminal conviction and has completed all criminal penalties imposed by the criminal court, including probation; Petitioner was sentenced to probation and successfully completed it.
7. Following completion of his sentence, Petitioner was detained by ICE and later released under an Order of Supervision, see Exhibit A.
8. After release, Petitioner lived in the community for many years without any new criminal incidents, complied with all ICE supervision requirements, and maintained a known address.
9. Petitioner never missed a check-in, never absconded, and fully complied with all conditions of supervision.
10. Petitioner is not alleged to have committed any new crimes or violated any condition of supervision.
11. Despite full compliance and no change in circumstances, ICE re-detained Petitioner on November 2, 2025, without any pre-deprivation hearing or explanation of changed circumstances.
12. Petitioner has been in a long-term domestic partnership for over twenty years and is also married to a United States citizen. Petitioner also has three United States citizen children, with whom he maintains close and ongoing family relationships, see Exhibit B.
13. Petitioner is subject to a final order of removal.

14. Petitioner's removal is not reasonably foreseeable. Cuba has consistently refused repatriation, ICE lacks travel documents, and no removal timeline has been provided.

15. Petitioner's detention therefore has no foreseeable end.

IV. LEGAL ARGUMENT

Although Petitioner is currently detained under 8 U.S.C. § 1231(a)(6), the principles governing re-detention without changed circumstances under § 1226(a) apply with equal force because ICE previously determined Petitioner was neither a flight risk nor a danger.

A. Indefinite Post-Removal-Order Detention Violates Due Process

16. Immigration detention is civil and may not be punitive.

17. Detention is constitutional only when it bears a reasonable relation to its purpose.

18. When removal is not reasonably foreseeable, continued detention loses its justification.

19. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that indefinite post-removal-order detention violates due process.

20. "The Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

B. 8 U.S.C. § 1231(a)(6) Does Not Authorize Indefinite Detention

21. Petitioner is detained under 8 U.S.C. § 1231(a)(6).

22. *Zadvydas* held that this statute contains an implicit temporal limitation.

23. Detention is permitted only for a period reasonably necessary to secure removal.

24. Six months is the presumptively reasonable period.

C. Removal to Cuba Is Not Reasonably Foreseeable

- 25. Cuba has a long-documented history of refusing repatriation.
- 26. ICE has no travel documents and no concrete removal plan.
- 27. Petitioner has shown good reason to believe removal is not reasonably foreseeable.
- 28. The Government cannot rebut this showing.

D. Re-Detention Without Changed Circumstances Is Arbitrary and Unlawful

- 29. Petitioner was previously released and complied with supervision for years.
- 30. Nothing about Petitioner's circumstances has changed.
- 31. Re-detention without new facts is arbitrary, capricious, and unconstitutional
- 32. Courts have held that re-detention under such circumstances is arbitrary and unlawful.

See *Fanfan v. Noem*, No. 3:25-cv-03291-DMS-BJW (S.D. Cal. Dec. 12, 2025).

- 33. Immigration detention “has two regulatory goals: ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community.” *Zadvydas*, 533 U.S. at 678 (internal citations omitted); see also 8 U.S.C. 1226(a), (b); 8 C.F.R. 1236.1(c)(8).
- 34. Those previously released by DHS, like Petitioners, have necessarily been deemed neither a flight risk nor a danger. 8 C.F.R. 1236.1(c)(8) (authorizing release of noncitizens under 1226(a) if they “would not pose a danger to property or persons,” and are “likely to appear for any future proceeding”); 8 C.F.R. 212.5(b) (authorizing parole from custody of noncitizens deemed “neither a security risk nor a risk of absconding”).

35. In cases of individuals previously released by DHS, re-detention under section 1226(a) requires an individualized determination of a material change in circumstances relating to flight risk or danger. See *Ortega*, 415 F.Supp.3d at 968 (“DHS re-arrests individuals only after a ‘material’ change in circumstances.” (citing *Saravia*, 280 F.Supp.3d at 1197)); see also *Matter of Sugay*, 171 I&N Dec. 637, 640 (B.I.A. 1981) (“[W]here a previous bond determination has been made by an immigration judge, no change should be made by [DHS] absent a change of circumstance.”)
36. Absent a material change in circumstances, the re-detention of noncitizens previously released by DHS violates the INA because it does not serve the purpose of the statute.

E. Petitioner Is Not a Flight Risk or Danger

37. Although Petitioner is detained under 8 U.S.C. § 1231(a)(6), the Due Process Clause prohibits arbitrary re-detention where the government has previously determined that an individual posed no flight risk or danger to the community.
38. Here, DHS previously released Petitioner under an Order of Supervision after determining that continued detention was unnecessary. Petitioner complied with all reporting requirements for years and committed no new violations.
39. In the absence of any material change in circumstances, ICE’s decision to re-detain Petitioner constitutes arbitrary government action in violation of the Fifth Amendment’s Due Process Clause.
40. Years of compliance demonstrate Petitioner is not a flight risk.
41. Petitioner poses no danger to the community. The Government has previously decided to release a noncitizen and there is no evidence in the record of any changed circumstance

that might have caused the Government to reconsider its initial decision to release the noncitizen, courts have recognized the Government's interest in re-detention is low. *Doe v. Chestnut*, No. 1:25-cv-01372CDB (HC), 2025 WL 3295154, at *10 (E.D. Cal. Nov. 26, 2025) (citations omitted). This factor, too, weighs in favor of the Petitioner.

42. Less restrictive alternatives are sufficient.

F. Less Restrictive Alternatives Exist

43. ICE has already determined supervision is sufficient.

44. Continued detention serves no legitimate governmental purpose.

V. RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests that the Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Petitioner's immediate release under reasonable conditions of supervision;
3. Alternatively, Order Respondents to show cause why Petitioner should not be released;
4. Grant any additional relief this Court deems just and proper.

Executed on January 20 2026.

Respectfully submitted,



Next friend for Petitioner

Gonzalez, Maique

Petitioner,

Florida Soft Side South

