

1 RENE L. VALLADARES

Federal Public Defender

2 Nevada State Bar No. 11479

3 KATE BERRY

Assistant Federal Public Defender

4 Nevada State Bar No. 14346

200 S. Virginia Street, Ste 340

5 Reno, Nevada 89501

6 (775) 321-8451/Phone

(702) 388-6261/Fax

7 Kate_Berry@fd.org

8 *Attorney for Petitioner Yusnier Perez Canet

10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 Yusnier Perez Canet,

13 Petitioner,

14 v.

15 John Mattos, NSDC Warden; Michael
16 Bernacke, Field Director, West Valley City
17 Office of ICE ERO; Todd Lyons, ICE
18 Acting Director; Kristi Noem DHS
Secretary; Pam Bondi, U.S. Attorney
General,

19 Respondents.

Case No. 2:26-cv-00223-APG-NJK

First Amended § 2241 Petition

20
21
22
23
24
25
26
27

1 Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28
2 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at
3 Nevada Southern Detention Center.

4 Accordingly, Petitioner's habeas petition is properly before this court.

5 **PARTIES**

6 Yusnier Perez Canet is a citizen of Cuba who was ordered removed on
7 December 17, 2025. He is currently detained at the Nevada Southern Detention
8 Center in Pahrump, Nevada.

9 John Mattos is the warden of Nevada Southern Detention Center. Mattos, in
10 his official capacity, is the immediate custodian of Perez Canet.

11 Michael Bernacke is the Field Director of the West Valley City Office of
12 Immigration and Customs Enforcement (ICE) Enforcement and Removal
13 Operations, which has jurisdiction of enforcement and removal operations over
14 detention facilities in Nevada, including Nevada Southern Detention Center where
15 Perez Canet is detained. Bernacke, in his official capacity, is a legal custodian of
16 Perez Canet.

17 Todd Lyons is the Acting Director of Immigration and Customs Enforcement,
18 which is responsible for administering and enforcing immigration laws, including
19 the detention and removal of immigrants. Lyons, in his official capacity, is a legal
20 custodian of Perez Canet.

21 Kristi Noem is the Secretary of the Department of Homeland Security (DHS),
22 which oversees ICE. Noem, in her official capacity, is the ultimate legal custodian of
23 Perez Canet.

24 Pam Bondi is the Attorney General of the United States. She oversees the
25 immigration court system, which is housed within the Executive Office for
26 Immigration Review (EOIR) and includes all immigration courts and the Board of
27 Immigration Appeals (BIA). She is named in her official capacity.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

STATEMENT OF FACTS

Petitioner Yusnier Perez Canet was born in Cuba. Perez Canet came to the United States with his mother and older brother under refugee status in 2011, when he was 12 years old. His father had preceded them to the United States, and they joined him in Delano, California. The family fled Cuba and came to the United States as political refugees. Mr. Perez Canet became a legal permanent resident on May 11, 2015.¹ That same year, he graduated from high school in Delano. Perez Canet is a fluent in English.

Six years ago, Perez Canet's father and older brother were killed in a car crash. Perez Canet became all his mother had left. He has worked hard to support himself and provide for her. For the past seven years, since 2018, he worked at Carlos'n Charlies at the Flamingo Hotel and Resort in Las Vegas, eventually becoming promoted to bar and events manager. He filed tax returns. He bought a home in Las Vegas and has depleted his 401k during his time in detention order to continue making his mortgage payments. His mother is now living in his Las Vegas home.

Perez Canet has a single criminal conviction for which he received a probationary sentence. He pled guilty in June 2019 in the Northern District of Ohio to one count of Transportation of Aliens not Lawfully in the United States, in violation of 8 U.S.C. § 1324(a)(1)(A)(ii).² He served four months in pretrial custody after his CJA counsel submitted to detention. He ultimately hired a private attorney who successfully filed a motion to reopen detention. This attorney did not, however, advise him that the count of conviction was an aggravated felony that would result in the loss of his legal status in the United States. At sentencing, he

¹ P.Ex. 1, Notice to Appear.

² *United States v. Perez-Canet*, 3:18-cr-00725-JZ (N.D. Ohio), ECF No. 34.

1 received a sentence of two-years-probation.³ There was no ICE hold placed on him
2 at any point and defense counsel has no information indicating he was ever advised
3 the conviction would impact his immigration status.

4 On August 19, 2025, Perez Canet was the subject of a traffic stop by a Las
5 Vegas Metropolitan Police Department officer. The officer accused Perez Canet of
6 speeding and then, subsequent to the stop, having alcohol on his breath. Upon
7 information and belief, Perez Canet passed field sobriety tests but was arrested and
8 taken to the North Las Vegas Detention Center. He was held for several hours and
9 then told he was released and free to leave. Before he could do so, he was
10 handcuffed to a chair until ICE officers picked him up. He has been in continuous
11 ICE detention for more than six months, since August 19, 2025.

12 During his time in ICE detention, Perez Canet sought asylum and
13 withholding of removal.⁴ He detailed the torture his parents endured in Cuba as
14 well as the death threats made against both him and his brother.⁵

15 Perez Canet received a final order of removal on December 17, 2025. He did
16 not appeal that order. ICE has attempted to deport him three times to Mexico, a
17 country to which he has no ties, has never been, and is afraid he will be killed. ICE
18 first attempted to deport him to Mexico on November 2, 2025, a month and a half
19 before he even had a removal order. ICE attempted to deport him to Mexico again
20 On January 25, 2026, and January 27, 2026. Perez Canet refused to consent to
21 being sent to Mexico, despite being repeatedly threatened to induce him to consent.
22 During at least one attempted deportation to Mexico, ICE told Perez Canet he
23 would spend three years in prison if he didn't consent to his deportation. Upon
24

25 ³ *Id.*

26 ⁴ P.Ex. 2.

27 ⁵ P.Ex. 2 pp.5-6 of 12.

1 information and belief, Cuba has informed ICE that it will not issue travel
2 documents for Perez Canet and will not accept him.

3 LEGAL FRAMEWORK

4 I. Third Country Removals

5 A. Statutory guidance on third country removals

6 A noncitizen who cannot be removed to their country of origin can be removed
7 to another country by ICE. This is known as a “third country” because it is a
8 country other than the one designated on the noncitizen’s removal order. 8 C.F.R.
9 § 1208.16(f). Specific criteria for identifying a third country for removal are
10 prescribed by statute. For example, the law provides that a noncitizen with a
11 removal order may be removed to a non-designated country of which the noncitizen
12 is a “subject, national or citizen.” 8 U.S.C. §1231(b)(2)(D). ICE may also remove a
13 noncitizen with a removal order to the country from which they were admitted to
14 the U.S.; the country from which the noncitizen departed for the U.S. or a foreign
15 territory contiguous to the U.S.; a country in which the noncitizen resided before
16 entering the country from which they entered the U.S.; the noncitizen’s country of
17 birth; the country that had sovereignty over the place of birth at the time of birth;
18 the country in which the birthplace is located at the time of the removal order; and,
19 “if impracticable, inadvisable, or impossible to remove the [noncitizen] to each
20 country described [above],” ICE may remove a noncitizen to “another country whose
21 government will accept the [noncitizen] into that country.” 8 U.S.C. §1231(b)(2)(E).

22 Notwithstanding the criteria for removal to a third country, ICE may not
23 remove a noncitizen to a country where the noncitizen’s life or freedom would be
24 threatened on the basis of the five protected grounds. 8 U.S.C. §1231(b)(3)(A). The
25 Supreme Court has emphasized the importance of existing avenues of relief from
26 removal (such as applications for asylum, withholding of removal, and protection
27 under the convention against torture) for providing protection against removal to a

1 third country where a noncitizen would be in danger. *See Jama v. Immigr. &*
2 *Customs Enft*, 543 U.S. 335, 348 (2005) (“If aliens would face persecution or other
3 mistreatment in the country designated under § 1231(b)(2), they have a number of
4 available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A);
5 relief under an international agreement prohibiting torture, see 8 CFR
6 §§ 208.16(c)(4), 208.17(a) (2004); and temporary protected status, 8 U.S.C.
7 § 1254a(a)(1)”; *see also A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1368 (2025) (recently
8 holding that non-citizens “must receive notice” that “they are subject to removal” to
9 a third country and that such notice must be provided “within a reasonable time
10 and in such a manner as will allow the[] [non-citizen] to actually seek . . . relief.”)
11 (quoting *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025)).

12 The government itself has previously acknowledged this limitation on
13 removal to a third country. In oral argument before the Supreme Court in the case
14 *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021) the following exchange took place
15 between the then-Assistant to the Solicitor General, Vivek Suri, and Justice Kagan:

16 JUSTICE KAGAN: ...suppose you had a third
17 country that, for whatever reason, was willing to accept [a
18 noncitizen]. If...that [noncitizen] was currently in
19 withholding proceed--proceedings, you couldn't put him on
20 a plane to that third country, could you?

21 MR. SURI: We could after we provide the
22 [noncitizen] notice that we were going to do that.

23 JUSTICE KAGAN: Right.

24 MR. SURI: But, without notice –

25 JUSTICE KAGAN: So that's what it would depend
26 on, right? That – that you would have to provide him
27 notice, and if he had a fear of persecution or torture in
that country, he would be given an opportunity to contest
his removal to that country. Isn't that right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

MR. SURI: Yes, that's right.

JUSTICE KAGAN: So, in this situation, as to these [noncitizens] who are currently in withholding proceedings, you can't put them on a plane to anywhere right now, isn't that right?

MR. SURI: Certainly, I agree with that, yes.

JUSTICE KAGAN: Okay. And that's not as a practical matter. That really is, as -- as you put it, in the eyes of the law. In the eyes of the law, you cannot put one of these [noncitizens] on a plane to any place, either the -- either the country that's referenced in the removal order or any other country, isn't that right?

MR. SURI: Yes, that's right.

See Transcript of Oral Argument at 20–21, *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021).

B. Trump Administration policies on third country removal.

On March 30, 2025, Respondent Kristi Noem, the Secretary of the Department of Homeland Security, issued guidance to ICE and other DHS agencies regarding third country removals. This memo states that, prior to a noncitizen's removal to a third country, "DHS must determine whether that country has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured."⁶ The memo continues that, where a country has provided such assurances and the U.S. government believes them to be credible, a noncitizen may be removed to that country "without the need for further procedures." In other words, an individual may be removed without providing notice or an opportunity to contest removal to that third country.

⁶ P.Ex. 3 at 1.

1 The March 30th memo also states that DHS will remove noncitizens even to
2 third countries that have not provided diplomatic assurances that noncitizens
3 deported from the U.S. will not be persecuted or tortured.⁷ In such cases, DHS will
4 inform the noncitizen of removal to the intended country but will not affirmatively
5 ask the noncitizen if they fear being removed to that country.⁸ DHS will refer any
6 noncitizen that affirmatively states a fear of removal to a third country to USCIS
7 for a screening for eligibility for withholding of removal and/or CAT protection as to
8 the intended third country.⁹ USCIS will then make a determination about whether
9 the noncitizen has established that they will “more likely than not be persecuted on
10 a statutorily protected ground or tortured in the country of removal.”¹⁰

11 If USCIS determines that the noncitizen did not meet that burden, they will
12 be removed.¹¹ If the noncitizen does make a showing to the satisfaction of USCIS,
13 USCIS will notify ICE and the ICE Office of the Principal Legal Advisor (OPLA)
14 may reopen immigration court proceedings for the noncitizen to seek withholding or
15 CAT protection from removal to the third country.¹² “Alternatively, ICE may choose
16 to designate another country for removal.”¹³ The memo provides no limitation on
17 how many times ICE could designate a new third country for removal upon a
18 noncitizen’s showing of a well-founded fear of removal to a particular country.
19
20
21

22 ⁷ P.Ex. 3 at 1-2.

23 ⁸ P.Ex. 3 at 2.

24 ⁹ P.Ex. 3 at 2.

25 ¹⁰ P.Ex. 3 at 2.

26 ¹¹ P.Ex. 3 at 2.

27 ¹² P.Ex. 3 at 2.

¹³ P.Ex. 3 at 2.

1 On July 9, 2025, Respondent Todd Lyons sent additional guidance to ICE
2 employees regarding third country removals (“July 9 Directive”).¹⁴ The directive
3 was issued in light of the Supreme Court’s decision to stay the injunction in the case
4 *D.V.D. v. Department of Homeland Security*, No. 25-10676 (D. Mass.). It reiterated
5 the procedures from the March 30 memo and provided additional details regarding
6 how to deal with third country removals to countries that have not provided credible
7 assurances that U.S. deportees will not be persecuted or tortured. It added that, in
8 such cases, an ICE officer will serve the noncitizen with a Notice of Removal
9 including the intended country and that the notice must be read in a language the
10 noncitizen understands.¹⁵ ICE “will generally wait at least 24 hours following
11 service of the Notice of Removal before effectuating removal” but that in “exigent
12 circumstances” ICE may remove a noncitizen to a possible-torture third country in
13 as little as six hours after service of the Notice of Removal “as long as the
14 [noncitizen] is provided reasonable means and opportunity to speak with an
15 attorney prior to removal.”¹⁶ Generally, if a noncitizen does not affirmatively state a
16 fear of persecution or torture within 24 hours of service of the Notice of Removal,
17 ICE may proceed with removal to the identified third country.¹⁷

18 **II. Detention of Noncitizens after a Final Order of Removal**

19 **A. Statutory framework**

20 Section 1231 of the INA governs the detention of noncitizens during and
21 beyond the “removal period.” The removal period begins once a noncitizen’s removal
22 order becomes administratively final and lasts for 90 days, during which ICE “shall
23

24
25 ¹⁴ P.Ex. 4.

26 ¹⁵ P.Ex. 4.

27 ¹⁶ P.Ex. 4.

¹⁷ P.Ex. 4.

1 remove the [noncitizen] from the United States” and “shall detain the [noncitizen]”
2 as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the
3 noncitizen within the 90-day removal period, the noncitizen “*may* be detained
4 beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).

5 The Supreme Court considered the issue of indefinite detention under 8
6 U.S.C. §1231(a)(6) in the case *Zadvydas v. Davis*, 533 U.S. 678 (2001). In that case,
7 the Court acknowledged that allowing a noncitizen to be detained indefinitely after
8 the statutory removal period would raise “serious constitutional concerns” and, as a
9 result, held that 8 U.S.C. §1231(a)(6) contains an implicit time limit. *Id.* at 682. The
10 Court further held that 8 U.S.C. §1231(a)(6) authorizes detention only for “a period
11 reasonably necessary to bring about the [noncitizen]’s removal from the United
12 States” and that six months of detention after the removal order is final is
13 “presumptively reasonable.” *Id.* at 689, 701.

14 Importantly, the *Zadvydas* court did not say the presumption is irrebuttable,
15 and a variety of courts across the country that have considered the issue have found
16 the presumption of reasonableness during the first six months of post-removal order
17 detention can be rebutted. *See Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO),
18 2025 WL 1750346, at *5 (D.N.J. June 24, 2025) (analyzing the issue and collecting
19 cases). “Within the six-month window,” the noncitizen bears the burden of
20 “prov[ing] the unreasonableness of detention.” *Cesar v. Achim*, 542 F. Supp. 2d 897,
21 903 (E.D. Wis. 2008). After six months, there is “good reason to believe that there is
22 no significant likelihood of removal in the reasonably foreseeable future,” and the
23 burden shifts to the government to justify continued detention. *Zadvydas*, 533 U.S.
24 at 701. “Whether detention is ‘reasonably necessary to secure removal is
25 determinative of whether the detention is, or is not, pursuant to statutory
26 authority...The basic federal habeas corpus statute grants the federal courts
27 authority to answer that question.” *Medina v. Noem, et al., Respondents*, No. 25-

1 CV-1768-ABA, 2025 WL 2306274, at *6 (D. Md. Aug. 11, 2025) (citing *Zadvydas*,
2 533 U.S. at 699).

3 **B. DHS Regulations**

4 DHS regulations provide that, before the end of the 90-day removal period,
5 the local ICE field office with jurisdiction over the noncitizen's detention must
6 conduct a custody review to determine whether the noncitizen should remain
7 detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released
8 at the end of the removal period or in the three months that follow, jurisdiction
9 transfers to ICE headquarters (ICE HQ), which must conduct a custody review
10 before or at 180 days. 8 C.F.R. §241.4(c)(2), (k)(2)(ii).

11 To comply with *Zadvydas*, DHS issued additional regulations in 2001 that
12 established “special review procedures” to determine whether detained noncitizens
13 with final removal orders are likely to be removed in the reasonably foreseeable
14 future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66
15 Fed. Reg. 56, 967 (Nov. 14, 2001). Subsection (i)(7) was added to 8 C.F.R. §241.4,
16 which added a supplemental review procedure that ICE HQ must initiate when “the
17 [noncitizen] submits, or the record contains, information providing a substantial
18 reason to believe that removal of a detained [noncitizen] is not significantly likely in
19 the reasonably foreseeable future.” 8 C.F.R. §241.4(i)(7). Under this procedure, ICE
20 HQ evaluates the foreseeability of removal by analyzing factors such as the history
21 of ICE's removal efforts to third countries. *See* 8 C.F.R. §241.13(f). If ICE HQ
22 determines that removal is not reasonably foreseeable but nonetheless seeks to
23 continue detention based on “special circumstances,” it must justify the detention
24 based on narrow grounds such as national security or public health concerns or by
25 demonstrating by clear and convincing evidence before an immigration judge (IJ)
26 that the noncitizen is “specially dangerous.” 8 C.F.R. §241.14(b)-(d), (f).

27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

GROUNDS FOR RELIEF

I. **Ground One: ICE’s policy to remove noncitizens to a third country with no notice or opportunity to seek fear-based protection violates his Fifth Amendment right to due process and constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706.**

Petitioner incorporates the above paragraphs by reference as if fully set forth herein.

The APA entitles “a person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action . . . to judicial review.” 5 U.S.C. § 702. Further, the APA compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary [or] capricious, . . . otherwise not in accordance with law,” *id.* § 706(2)(A), or “short of statutory right,” *id.* § 706(2)(C). The APA also compels a reviewing court to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D).

As explained above, Perez Canet has a due process right to meaningful notice and opportunity to present a fear-based claim to an immigration judge before DHS deports him to a third country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Perez Canet also has a due process right to implementation of a process or procedure to afford these protections. *See, e.g., McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 491 (1991). Respondents, however, have adopted a policy—set forth in the March 30 memo and July 9 directive—that is arbitrary and capricious and deprives Perez Canet of meaningful notice and an opportunity to present a fear-based claim to an immigration judge prior to his deportation to a third country. Moreover, Respondents’ policy also violates the INA and implementing regulations which mandate that Respondents refrain from removing Perez Canet, and similarly

1 situated individuals, to a third country where they will likely be persecuted or
2 tortured, thus requiring Respondents to provide meaningful notice of deportation to
3 a third country and the opportunity to present a fear-based claim to an immigration
4 judge before deporting an individual to a third country. In this case, the March 30
5 memo and July 9 directive demonstrate Respondents do not intend to observe those
6 protections.¹⁸

7 The APA empowers federal courts to “compel agency action unlawfully
8 withheld or unreasonably delayed.” 5 U.S.C. § 706(1). The Court should hold that
9 Respondents’ actions and policy are unlawful and compel that—before any attempt
10 is made to deport him to a third country—Petitioner be provided with meaningful
11 notice and opportunity to present a fear-based claim to an immigration judge.

12 **II. Ground Two: Petitioner’s detention in immigration custody pursuant**
13 **to recent ICE policy regarding third country removal violates the**
14 **Due Process Clause of the Fifth Amendment.**

15 To the extent that Perez Canet’s continued detention is meant to facilitate his
16 removal to a third country, his detention is unlawful because, as argued in Ground
17 One (incorporated here by reference), ICE’s procedure for third country removal is
18 arbitrary and capricious and does not comply with due process. Any such future
19 removal would be accomplished in violation of his due process rights, rendering his
20 detention on that basis unlawful. Accordingly, this Court should order Perez Canet’s
21 immediate release.
22
23
24

25 ¹⁸ See also Gerald Imray, 3 deported by U.S. held in African prison despite
26 completing sentences, lawyers say, PBS NEWS (Sept. 2, 2025),
27 <https://www.pbs.org/newshour/amp/nation/3-deported-by-u-s-held-in-african-prison-despite-completing-sentences-lawyers-say>.

1 **III. Ground Three: The continued indefinite detention of Perez Canet**
2 **violates his Fifth Amendment right to due process because his**
3 **removal is not reasonably foreseeable.**

4 Petitioner incorporates the above paragraphs by reference as if fully set forth
5 herein.

6 The INA requires mandatory detention of individuals with final removal
7 orders only during the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen
8 who is not removed within that period “shall be subject to supervision under
9 regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3). If ICE does
10 not remove the noncitizen within the 90-day removal period, the noncitizen “*may* be
11 detained beyond the removal period.” 8 U.S.C. § 1231(a)(6) (emphasis added).
12 However, in *Zadvydas*, the Supreme Court concluded that due process imposes an
13 “implicit limitation” upon 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 689.
14 Specifically, the Court held that 8 U.S.C. §1231(a)(6) authorizes detention only for
15 “a period reasonably necessary to bring about the [noncitizen]’s removal from the
16 United States” and that six months of detention after the removal order is final is
17 “presumptively reasonable.” *Id.* at 701. The Court further determined that “once the
18 alien provides good reason to believe that there is no significant likelihood of
19 removal in the reasonably foreseeable future, the Government must respond with
20 evidence sufficient to rebut that showing.” *Id.*

21 To the extent this Court deems the 90-day removal period mandatory, it will
22 run during or close to the conclusion of the litigation in this case. Judicial economy
23 favors consideration of this claim in conjunction with Perez Canet’s claims related
24 to his removal to a third country.

25 Doing so is particularly critical here where there can be no dispute that Perez
26 Canet’s removal is not reasonably foreseeable. Perez Canet cannot be removed to
27 Cuba. Upon information and belief, Cuba has informed ICE that it will not issue
travel documents for him and will not receive him into Cuba. That conclusion is

1 consistent with the position of Cuba in relation to tens of thousands of Cuban
2 nationals in the United States with final orders of removal, particularly those with
3 criminal convictions. In fiscal year 2025, for example, while ICE arrested 419
4 Cuban citizens, only 138 Cubans were removed and only 32 of those had criminal
5 convictions. *Veiga v. Bondi*, No. 2:25-CV-02168-TMC, 2025 WL 3526067, at *1 (W.D.
6 Wash. Dec. 9, 2025). As of late 2025, there were at least 34,000 Cubans with final
7 orders of removal in the United States who were not removed to Cuba. *Id.* This
8 backlog is due in large part to the fact these Cuban nationals have criminal
9 convictions. *Id.* (citing Lindsay Daniels, *The End of Special Treatment for Cubans in*
10 *the U.S. Immigration System: Consequences and Solutions for Cubans with Final*
11 *Orders of Removal*, 122 Dick. L. R. 2, 707 (2018)).

12 The Due Process Clause of the Fifth Amendment forbids the government
13 from depriving any “person” of liberty “without due process of law.” U.S. Const.
14 Amend. V. Perez Canet has a liberty interest in remaining free from physical
15 confinement where removal is not reasonably foreseeable. Respondents have
16 violated the Due Process Clause of the Fifth Amendment because Perez Canet’s
17 removal is not reasonably foreseeable. As provided above, *Zadvyd* requires that
18 Perez Canet be immediately released. *See* 533 U.S. at 700-01 (describing release as
19 an appropriate remedy); 8 U.S.C. § 1231(a)(6) (authorizing release “subject to . . .
20 terms of supervision”).

21 **IV. Ground Four: Perez Canet’s continued detention violates the**
22 **Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6).**

23 Petitioner incorporates the above paragraphs by reference as if fully set forth
24 herein.

25 As provided in Ground Three, above, Perez Canet’s detention is governed by 8
26 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvyd*, *supra*. Perez
27 Canet’s continued detention violates 8 U.S.C. § 1231(a)(6) because it is both

1 unreasonable and because removal is not reasonably foreseeable. Rather, his
2 continued detention under 8 U.S.C. § 1231(a)(6) is driven by sweeping and arbitrary
3 DHS policies. Moreover, and as discussed in Ground Three, Perez Canet's removal
4 is not reasonably foreseeable. This Court should order that Perez-Canet be released.

5 **PRAYER FOR RELIEF**

6 Accordingly, Yusnier Perez Canet respectfully requests that this Court:

7 1. Prohibit Respondents from removing petitioner to a third country
8 without providing Petitioner and Petitioner's counsel with adequate notice of intent
9 to seek removal to a third country and due process in the form of an opportunity to
10 seek to reopen Petitioner's immigration court proceedings to seek fear-based relief
11 from removal;

12 2. Declare that Petitioner's continued detention violates the Immigration
13 and Nationality Act, 8 U.S.C. §1231(a)(6); the Administrative Procedure Act, 5
14 U.S.C. §706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the
15 U.S. Constitution;

16 3. Order Petitioner's immediate release;

17 4. Prohibit Respondent's from re-detaining Petitioner in the future
18 absent proof of changed circumstancing making his removal reasonably foreseeable;

19 5. Grant such other and further relief as, in the interests of justice, may
20 be appropriate.

21 Dated March 2, 2026.

22
23 Respectfully submitted,

24 Rene L. Valladares
25 Federal Public Defender

26 /s/ Kate Berry

27 Kate Berry
Assistant Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been filed on March 2, 2026. I personally served a true and correct copy of the foregoing index and exhibits in support of the first amended petition by CM/ECF to the following individuals:

Virginia T. Tomova
 US Attorney's Office, District of Nevada
 501 Las Vegas Blvd. South
 Las Vegas, NV 89101
 Email: virginia.tomova@usdoj.gov

I further certify that some of the participants in the case are not registered electronic filing system users. I have mailed the foregoing document by First-Class Mail, postage pre-paid, or have dispatched it to a third-party commercial carrier for delivery within three calendar days, to the following people:

| | |
|---|---|
| Yusnier Perez Canet AXXXXX7520 Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060 | John Mattos, Warden Nevada Southern Detention Center 2190 E Mesquite Avenue Pahrump, NV 89060 |
| Pam Bondi Attorney General U.S. Department of Justice 950 Pennsylvania Ave, NW, Washington, DC, 20530 | Todd Lyons ICE Acting Director 500 12th St SW Washington, DC 20536 |
| Kristi Noem Secretary of the Department of Homeland Security 2707 Martin Luther King Jr. Ave SE, Washington, DC 20528 | Michael Bernanke Salt Lake City ICE Field Office Director 2975 Decker Lake Drive, Ste 100 West Valley City, UT 84119 |
| Sigal Chattah First Assistant, District of Nevada 501 Las Vegas Blvd, Ste 1100 Las Vegas, NV 89101 Email: Sigal.Chattah@usdoj.gov | |

/s/ Katrina Burden
 Employee of the Federal Public Defender