

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JORGE S. PEREZ-MARRERO,

Petitioner,

v.

Kristi NOEM, Secretary, U.S.
Department of Homeland Security
Garrett J. Ripa, Miami Field Office
Director of Enforcement and Removal
Operations, Miami Field Office,
Immigration and Customs Enforcement;
U.S. DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S.
Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; Warden
of Florida Soft Side South also known
as Alligator Alcatraz Detention Facility,

Respondents.

Case No.

A# 

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Jorge Perez-Marrero, A , respectfully submits
3 this Petition for Writ of Habeas Corpus challenging his continued detention by the
4 United States Department of Homeland Security, Immigration and Customs
5 Enforcement ("ICE").
6

7 2. Petitioner was paroled into the United States on May 9, 1980 as a
8 refugee from Cuba and has resided continuously in the United States since that
9 time.

10 3. Petitioner's spouse suffers from severe medical conditions that
11 require dialysis treatment three times per week. Due to the seriousness of her
12 condition, she relies heavily on Petitioner as her primary caregiver. Petitioner
13 assists with transportation to and from dialysis appointments, provides daily care,
14 and ensures that she is able to manage the significant physical limitations
15 associated with her illness. Petitioner's continued detention has left his spouse
16 without the essential support she depends on for her medical treatment and daily
17 functioning.
18

19 4. After ICE was unable to effectuate removal in approximately 2016,
20 Petitioner was released from custody under an Order of Supervision pursuant to
21 INA § 241(a)(3), 8 U.S.C. § 1231(a)(3), which he has faithfully complied with for
22 nearly ten years.
23
24

1 5. On October 26, 2025, years after his release on supervision, ICE
2 re-detained Petitioner without alleging or establishing any violation of the Order
3 of Supervision.

4 6. Removal is not reasonably foreseeable, and ICE has not demonstrated
5 a significant likelihood of effectuating Petitioner's removal in the reasonably
6 foreseeable future.

7 7. Petitioner's continued detention is therefore unauthorized under INA
8 § 241(a)(6), exceeds statutory authority, and violates the Due Process Clause of the
9 Fifth Amendment to the United States Constitution.

10 8. Petitioner seeks immediate relief from this unlawful detention,
11 including release under the existing Order of Supervision or under reasonable
12 conditions of supervision.

13 9. Petitioner suffers from serious medical and mental health conditions that
14 place him at significant risk while in immigration detention. Specifically,
15 Petitioner has been diagnosed with schizophrenia, a severe psychiatric disorder
16 that requires consistent medical monitoring, medication management, and stable
17 treatment conditions. In addition, Petitioner suffers from hypertension (high
18 blood pressure), which requires ongoing medical supervision to prevent serious
19 complications such as stroke or heart attack. Petitioner also suffers from a
20 documented back injury that causes chronic pain and significantly limits his
21
22
23
24

1 mobility. The conditions of immigration detention have exacerbated these medical
2 issues, as Petitioner has limited access to consistent and adequate medical and
3 mental health care. Prolonged detention under these circumstances places
4 Petitioner at substantial risk of further deterioration of his mental and physical
5 health and constitutes an unreasonable and punitive deprivation of liberty in
6 violation of the Due Process Clause.
7

8 9 JURISDICTION

10 10. Petitioner is in the physical custody of Respondents. Petitioner is
11 detained at the Florida Soft Side South Detention Facility in Ochopee, Florida.
12

13 11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
14 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the
15 United States Constitution (the Suspension Clause).

16 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
17 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
18 § 1651.
19

20 VENUE

21 13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
22 484, 493- 500 (1973), venue lies in the United States District Court for the Middle
23 District of Florida, the judicial district in which Petitioner currently is detained.
24

1 14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
2 because Respondents are employees, officers, and agencies of the United States,
3 and because a substantial part of the events or omissions giving rise to the claims
4 occurred in the Middle District of Florida.

5
6 **REQUIREMENTS OF 28 U.S.C. § 2243**

7 15. This Petition for Writ of Habeas Corpus is brought pursuant to 28
8 U.S.C. § 2243 to challenge the Respondent's unlawful detention of Petitioner, who
9 has been subject to an Order of Supervision for nearly 3 decades, has complied
10 with all its terms, and whose detention bears no reasonable relation to a likelihood
11 of removal.

12
13 16. Habeas corpus is "perhaps the most important writ known to the
14 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases
15 of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
16 added). "The application for the writ usurps the attention and displaces the
17 calendar of the judge or justice who entertains it and receives prompt action from
18 him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120
19 (9th Cir. 2000) (citation omitted).

20
21 **PARTIES**

22 17. Petitioner Jorge Perez-Marrero is a citizen of Cuba who has been in
23 immigration detention since October 28, 2025.

1 18. Respondent Garrett J. Ripa is the Director of the Miami Field Office
2 of ICE's Enforcement and Removal Operations division. As such, Garrett J. Ripa
3 is Petitioner's immediate custodian and is responsible for Petitioner's detention
4 and removal. He is named in his official capacity.

5
6 19. Respondent Kristi Noem is the Secretary of the Department of
7 Homeland Security. She is responsible for the implementation and enforcement of
8 the Immigration and Nationality Act (INA), and oversees ICE, which is
9 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority
10 over Petitioner and is sued in her official capacity.

11
12 20. Respondent Department of Homeland Security (DHS) is the federal
13 agency responsible for implementing and enforcing the INA, including the
14 detention and removal of noncitizens.

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

19
20 22. Respondent Executive Office for Immigration Review (EOIR) is the
21 federal agency responsible for implementing and enforcing the INA in removal
22 proceedings, including for custody redeterminations in bond hearings.

1 23. Respondent Warden of Soft Side South also known as Alligator
2 Alcatraz Detention Facility is employed by a private corporation as Warden of
3 Alligator Alcatraz Detention Facility, where Petitioner is detained. He has
4 immediate physical custody of Petitioner. He is sued in his official capacity.
5

6 **CLAIM FOR RELIEF**

7 **COUNT I**

8 **Unlawful Post-Order Immigration Detention in Violation of the Due Process**
9 **Clause and 8 U.S.C. § 1231 (a)(6)**

10 24. Petitioner is in the custody of Respondents pursuant to post-order
11 immigration detention, despite having lived under an Order of Supervision for
12 several years and having fully complied with all terms and conditions imposed by
13 the Department of Homeland Security.

14 25. Petitioner was detained without any allegation or finding that he
15 violated the Order of Supervision, failed to report, or posed a danger to the
16 community or a flight risk.

17 26. Immigration detention following a final order of removal is civil in
18 nature and is constitutionally permissible only so long as it is reasonably related
19 to the government's purpose of effectuating removal.
20

21 27. Petitioner's removal is not significantly likely to occur in the
22 reasonably foreseeable future. Respondents have been unable to effectuate
23
24

1 removal for nearly a decade, and no new facts or developments support a
2 conclusion that removal has become practicable.

3 28. Where removal is not significantly likely in the reasonably foreseeable
4 future, continued detention exceeds the authority granted under the Immigration
5 and Nationality Act and violates the Due Process Clause of the Fifth Amendment.
6

7 29. Respondents' decision to detain Petitioner after decades of
8 supervised liberty, without an individualized determination justifying custody
9 and without evidence of a realistic prospect of removal, is arbitrary and capricious.
10

11 30. Continued detention under these circumstances constitutes unlawful
12 and indefinite civil confinement, which the Constitution does not permit.

13 31. This Court has jurisdiction under 28 U.S.C. § 2243 to grant habeas
14 relief and to order Petitioner's release from custody where detention is no longer
15 authorized by statute or the Constitution.

16 32. Unless the Court grants relief, Petitioner will continue to suffer
17 irreparable harm from unlawful detention that serves no legitimate governmental
18 purpose.
19

20 33. Petitioner is detained pursuant to 8 U.S.C. § 1231(a) following a final
21 order of removal. The 90-day statutory removal period has expired, and Petitioner
22 has now been detained well beyond that period. Continued detention under these
23 circumstances violates the Immigration and Nationality Act as interpreted by the
24

1 United States Supreme Court and violates Petitioner's rights under the Due
2 Process Clause of the Fifth Amendment.

3 34. Under 8 U.S.C. § 1231(a)(1), the government is required to effectuate
4 removal within a 90-day removal period. Although § 1231(a)(6) authorizes
5 continued detention beyond the removal period for certain categories of
6 noncitizens, the United States Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678
7 (2001), held that post-removal-order detention is limited to a period reasonably
8 necessary to bring about removal. The Court established a presumptively
9 reasonable detention period of six months. Once detention exceeds six months,
10 and the noncitizen provides good reason to believe that there is no significant
11 likelihood of removal in the reasonably foreseeable future, the burden shifts to the
12 government to rebut that showing.
13
14

15 35. Petitioner has been detained for more than ninety days. Despite the
16 passage of time, removal has not been effectuated and there is no significant
17 likelihood that removal will occur in the reasonably foreseeable future. The
18 government has been unable to obtain the necessary travel documents and/or
19 secure acceptance from the receiving country. There is no evidence that removal
20 is imminent.
21

22 36. Under *Zadvydas v. Davis*, once removal is no longer reasonably
23 foreseeable, continued detention is no longer authorized by statute and raises
24

1 serious constitutional concerns. Indefinite civil detention without a realistic
2 prospect of removal violates substantive and procedural due process. Civil
3 immigration detention is regulatory, not punitive, and may not continue where its
4 purpose effectuating removal cannot be accomplished.

5
6 37. Because Petitioner's removal is not significantly likely to occur in the
7 reasonably foreseeable future, continued detention exceeds statutory authority
8 under 8 U.S.C. § 1231(a)(6) and violates the Fifth Amendment. Petitioner therefore
9 respectfully requests that this Court grant the Petition for Writ of Habeas Corpus
10 and order his immediate release under reasonable conditions of supervision
11 pursuant to 8 U.S.C. § 1231(a)(3).
12

13 COUNT II

14 Violation of the Administrative Procedures Act, and the Administrative 15 Procedure Act (APA), 5 U.S.C. §§ 701, et seq.

16 38. To prevail on a § 2241 habeas petition challenging immigration
17 detention, Petitioner must show by a preponderance of the evidence that he is "in
18 custody in violation of the Constitution or laws or treaties of the United States." 28
19 U.S.C. § 2241(c)(3); *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *4
20 (S.D. Tex. Sept. 26, 2025) (quoting 28 U.S.C. § 2241(c)(3)).

21 39. Because habeas proceedings are civil in nature, Petitioner bears this
22 burden. *Id.* (quoting *Skarfour v. United States*, 667 F.3d 145, 158 (2d Cir. 2011)); see
23 also *Braden v. 30th Judicial Dist. Court*, 410 U.S. 484, 489-90 (1973). "A court
24

1 considering a habeas petition must 'determine the facts, and the issue of...justice
2 require.'" Id. (quoting 28 U.S.C. § 2243).

3 40. As in *Salgar v. Noem*, Petitioner challenges his detention on two
4 principal grounds: (1) ICE violated due process by failing to follow its own
5 procedures and regulations in revoking her OSUP; and (2) the detention
6 violates *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L.Ed.2d 653 (2001), and
7 the Immigration and Nationality Act because he is held indefinitely without a
8 reasonably foreseeable removal date.
9

10 41. Petitioner's detention violates due process because ICE failed to follow
11 the procedural requirements in its own regulations when revoking his OSUP.
12

13 42. Petitioner has been on supervised release since approximately 2016,
14 following a determination that he was nonviolent, posed no danger, was unlikely
15 to violate release conditions, and did not present a flight risk. See 8 C.F.R. §
16 241.4(d)(1), (e).

17 43. Under governing regulations, an OSUP may be revoked if the
18 noncitizen violates its conditions. See 8 C.F.R. § 241.4(d)(1), (2)(i).
19

20 44. In addition, an OSUP "may be revoked when it is appropriate to
21 enforce a removal order or [if] the conduct of the alien, or any other circumstance,
22 indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(d)(2)(ii),
23 (iii).
24

1 45. Revocation authority is limited to the Executive Associate
2 Commissioner of ICE or, when referral to that official is impracticable, a district
3 director of ICE. 8 C.F.R. § 241.4(c)(2).

4 46. Upon revocation, the noncitizen must "be notified of the reasons for
5 revocation of his or her release" and afforded a "prompt 'initial informal
6 interview'" to allow the noncitizen an opportunity to respond to and contest the
7 reasons for revocation. 8 C.F.R. § 241.4(d)(1)(iii)(A), (iv).

8 47. These procedures and safeguards provide protection "where the
9 detention or re-detention of noncitizens is necessarily an action that results in the
10 loss of personal liberty that requires due process protections." *Santamaria Orellana*
11 *v. Baker*, No. CV-25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025).
12

13 48. Here, Petitioner contends he was given no explanation for his re-
14 detention and no opportunity to contest the grounds for revoking his supervision
15 as the regulations expressly require.
16

17 49. Respondents failed to consider less restrictive alternatives to detention,
18 such as reinstating the Order of Supervision or imposing additional reporting
19 conditions.
20

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 23 a. Assume jurisdiction over this matter;
24

- 1 b. Issue a writ of habeas corpus requiring that within one day,
- 2 Respondents release Petitioner;
- 3 c. Award Petitioner attorney's fees and costs under the Equal Access to
- 4 Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other
- 5 basis justified under law; and
- 6 d. Grant any other and further relief that this Court deems just and
- 7 proper.

8 DATED this 10th of March, 2026.

9
10 *Yaritssa Plasencia*
11 Yaritssa Plasencia, Esq.
12 Florida Bar No.: 1021659
13 Great American Law Firm PLLC
14 100 Frandorson Cir., Ste. 202C
15 Apollo Beach, FL 33572
16 Phone: (407) 929-9292
17 greatamericanlaw@gmail.com
18 *Attorney for Petitioner*
19
20
21
22
23
24

1
2 **VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF**
3 **PURSUANT TO 28 U.S.C. § 2242**

4 I, Yaritssa Plasencia, am submitting this verification on behalf of the
5 petitioner because I am the petitioner's attorney. I am acting on behalf of the
6 petitioner, Jorge Perez-Marrero, based on discussions with his attorney. On the
7 basis of these discussions and reviewing the record, I hereby verify that the
8 statements made in the foregoing Petition for Writ of Habeas Corpus are true and
9 correct to the best of my knowledge.
10

11
12 DATED this 10th of March, 2026.
13

14 *Yaritssa Plasencia*
15 Yaritssa Plasencia, Esq.
16 Florida Bar No.: 1021659
17 Great American Law Firm PLLC
18 100 Frandorson Cir., Ste. 202C
19 Apollo Beach, FL 33572
20 Phone: (407) 929-9292
21 greatamericanlaw@gmail.com
22 *Attorney for Petitioner*
23
24