

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
PETITION FOR WRIT OF HABEAS CORPUS – 28 U.S.C. § 2241.**

JAVIER ABREU LEDON,
Petitioner,

v.

**Warden, Alligator Alcatraz Detention Facility;
Kristi Noem, Secretary of Homeland Security;
Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement;
Field Office Director, ICE Enforcement and Removal Operations, Miami Field Office,
Respondents.**

Civil Action No. _____

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Petitioner, JAVIER ABREU LEDON ("Petitioner" or "Mr. Abreu"), by and through undersigned counsel, of The LemUS Law Firm, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 and for related declaratory and injunctive relief. Petitioner challenges the legality and constitutionality of his continued civil immigration detention by U.S. Immigration and Customs Enforcement ("ICE") and seeks an order directing his immediate release from custody, or at minimum release under reasonable conditions of supervision, because his detention has become unconstitutionally prolonged and unlawful as applied.

In support, Petitioner alleges as follows:

I. NATURE OF THE CASE

1. This is a petition for a writ of habeas corpus under 28 U.S.C. § 2241 brought by a long-time United States resident, a documented cooperating witness in multiple federal law enforcement investigations, a crime victim, and a U nonimmigrant status applicant who has been detained by ICE under a final order of removal issued on June 16, 2005.
2. Petitioner is a native and citizen of Cuba who entered the United States on or about February 29, 2000, and has resided in this country for more than twenty-five years. He has built his life, family, and livelihood in Ocala, Florida, where he resides with his wife, Mercedes Gonzalez, and has been employed as a flooring installer since 2017.
3. Petitioner was convicted of federal marijuana offenses in the United States District Court for the Middle District of Florida, Case No. 5:11-cr-5-Oc-10TBS, and sentenced on September 14, 2011, to sixty months of imprisonment. He has fully served that sentence.

Critically, on June 28, 2013, the United States Attorney for the Middle District of Florida filed a Motion for Reduction in Sentence Pursuant to Federal Rule of Criminal Procedure 35(b), formally recognizing Petitioner's substantial assistance to federal law enforcement, which led to three arrests and the seizure of over 200 marijuana plants from multiple grow houses. On July 1, 2013, the federal district court granted that motion and reduced Petitioner's sentence to concurrent terms of 41 months.

4. In addition to his cooperation in the federal marijuana investigation, Petitioner [REDACTED] [REDACTED], at great personal risk. Counsel has submitted a U visa certification request (Form I-918 Supplement B) to the relevant prosecuting authority based on that cooperation, and a full Form I-918 Petition for U Nonimmigrant Status is being prepared for filing with USCIS.

5. On December 3, 2025, Petitioner filed a Form I-246 Application for a Stay of Deportation or Removal with ICE, requesting a stay to pursue bond and permanent relief. ICE denied that request on December 19, 2025.
6. On December 23, 2025, Petitioner, through counsel, filed a Motion to Reopen Removal Proceedings, Request for Stay of Removal, and Conditional Request for Custody Redetermination with the Miami Krome Immigration Court, based on his extraordinary post-order law enforcement cooperation and pending U visa certification request.
7. On January 29, 2026, the Immigration Judge addressed a custody redetermination request under 8 C.F.R. § 1236, resulting in “no action,” with both parties waiving their right to appeal. However, since the Petitioner was relocated out of state without notice in the early morning on the day of the hearing, the court lacked jurisdiction to hear the case.
8. On February 4, 2026, Immigration Judge Christina Martyak denied the Motion to Reopen because the fee waiver request was denied. The Immigration Judge found that the fee waiver was not signed by Petitioner, noting only the word "detained" appeared on the signature line, and that Petitioner failed to provide sufficient information regarding the duration of his detention and his financial circumstances. The Immigration Judge also noted that the court lacks jurisdiction over U visa adjudications and U visa-based adjustment of status, citing 8 C.F.R. § 245.24(f).
9. The Immigration Judge's February 4, 2026 order did not provide any constitutionally adequate individualized custody hearing. It treated the fee waiver denial as a threshold procedural bar without engaging with the merits of Petitioner's extraordinary law enforcement cooperation, his U visa claim, or his humanitarian equities.
10. Petitioner's detention is now prolonged and indefinite in practice. He has been detained since at least December 2025 under a 2005 final order of removal to Cuba, a country that historically presents significant obstacles to removal. There is no mechanism within the immigration system to obtain a meaningful custody

redetermination. Under the Fifth Amendment Due Process Clause, continued detention in these circumstances is unconstitutional and unlawful.

11. Petitioner therefore seeks an order from this Court directing his immediate release from ICE custody, or at minimum release under conditions of supervision, and declaratory relief that his continued detention without a constitutionally adequate hearing violates due process.

II. JURISDICTION AND VENUE

12. This Court has jurisdiction under 28 U.S.C. § 2241, because Petitioner is in federal immigration custody at Port Isabel Service Processing Center in Los Fresnos, Texas, within this District, and challenges the fact and duration of that custody.
13. This Court also has jurisdiction under 28 U.S.C. § 1331, because this action arises under the U.S. Constitution and federal immigration statutes and regulations.
14. This Court may grant declaratory relief pursuant to 28 U.S.C. §§ 2201-2202 and equitable injunctive relief under its inherent powers.
15. Venue is proper in the Southern District of Florida because Petitioner is detained at the Alligator Alcatraz Detention Facility in Florida, which lies within this District's territorial jurisdiction. The proper Respondent is the Warden of the Alligator Alcatraz Detention Facility, as Petitioner's immediate custodian, who is located within this District.

III. PARTIES

16. Petitioner JAVIER ABREU LEDON is a native and citizen of Cuba, identified by Alien Registration Number A [REDACTED], currently detained by ICE at Port Isabel Service Processing Center, 27991 Buena Vista Blvd., Los Fresnos, Texas 78566. He previously resided at [REDACTED]
17. Respondent Warden, Port Isabel Service Processing Center, is Petitioner's immediate custodian and has physical custody over him. The Warden is a proper

respondent in this habeas action. See *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004).

18. Respondent Secretary of the U.S. Department of Homeland Security is the official charged with the administration and enforcement of the immigration laws, including detention and removal.
19. Respondent Director of U.S. Immigration and Customs Enforcement oversees ICE operations, including detention decisions with respect to Petitioner.

IV. STATEMENT OF FACTS

A. Petitioner's Identity, Background, and Entry into the United States

20. Petitioner Javier Abreu Ledon was born on  in Quemado de Guines, Villa Clara, Cuba, as reflected in his Cuban civil registry birth certificate issued September 18, 2025.
21. Petitioner departed Cuba on or about February 29, 2000, via unauthorized departure ("salida ilegal"), as reflected in Cuban consular records dated August 18, 2025.
22. Petitioner has resided in the United States for more than twenty-five years. Prior to his current detention, he lived with his wife, Mercedes Gonzalez, at 25 Pine Course Loop, Ocala, Florida 34472.
23. Petitioner has been employed as a flooring installer with Ocala Floors and More since 2017, as confirmed by the employer's letter dated December 1, 2025, from owner Andriel Sanciprian.
24. Petitioner also operated his own business, JD Tile and More, as reflected in Cuban consular records listing his occupation as "Dueno" (owner) and profession as "Empresario" (entrepreneur).

B. Prior Immigration Proceedings and 2005 Final Order of Removal

25. On or about June 16, 2005, an Immigration Judge sitting at Krome North Service Processing Center, Miami, Florida, issued an order of removal to Cuba in

Petitioner's case. That order became administratively final. Petitioner has been subject to that final order since 2005.

26. ICE is currently detaining Petitioner and seeking to execute that June 16, 2005 removal order. Cuba has historically been a country that does not readily accept the return of its nationals, raising serious questions about the likelihood of removal in the reasonably foreseeable future.

C. Federal Criminal Conviction and Extraordinary Post-Sentencing Cooperation

27. Petitioner was prosecuted in the United States District Court for the Middle District of Florida, Ocala Division, in Case No. 5:11-cr-5-Oc-10TBS, for federal marijuana offenses including conspiracy and manufacturing and possession with intent to distribute 100 or more marijuana plants.
28. On June 30, 2011, a jury returned a guilty verdict. On September 14, 2011, Petitioner was sentenced to sixty months of imprisonment, the applicable mandatory minimum. Judgment was entered on September 16, 2011.
29. Following sentencing, Petitioner provided substantial assistance to federal law enforcement. On June 28, 2013, the United States Attorney for the Middle District of Florida filed a Motion for Reduction in Sentence Pursuant to Federal Rule of Criminal Procedure 35(b) and 18 U.S.C. § 3553(e) on Petitioner's behalf. The government's motion, filed as an officer of the court, formally established that:
 - a. Petitioner provided information leading to three arrests and the seizure of over 200 marijuana plants from three grow houses in the Middle District of Florida, including locations in Orlando, Deltona, and Marion County;
 - b. Federal and state authorities executed search warrants and made arrests as a direct result of Petitioner's information;
 - c. Petitioner admitted his role in marijuana cultivation, agreed to testify

against his co-defendant, and cooperated on an ongoing basis until his co-defendant's appeal was dismissed in 2013; and

d. The DEA viewed Petitioner's cooperation as "ongoing and unfinished" through 2013.

30. On July 1, 2013, the United States District Court for the Middle District of Florida granted the Rule 35(b) motion and reduced Petitioner's sentence to concurrent terms of 41 months on Counts I and II. This sentence reduction, granted at the government's request, is formal judicial recognition of Petitioner's substantial assistance to law enforcement.
31. Petitioner has fully served his federal sentence. He has no criminal charges or convictions since completing his sentence and has demonstrated rehabilitation, as attested by multiple community members, his employer, his wife, and his brother in letters dated December 1, 2025.

D. Cooperation in Prison Homicide Case and Basis for U Visa Claim

32. While incarcerated in a correctional facility, Petitioner witnessed a violent assault and the murder of an undercover officer by another inmate. Despite the significant danger of retaliation inherent in the prison environment, Petitioner cooperated with investigators and prosecutors by providing detailed information about the attack and the perpetrator.
33. Petitioner's information and anticipated testimony were critical to securing a conviction of the inmate responsible for the assault and homicide of the undercover officer. Petitioner suffered substantial psychological trauma as a result of witnessing the killing and the threats associated with cooperating against a violent inmate within the prison system.
34. On December 22, 2025, counsel submitted a U visa certification request letter to the relevant prosecuting authority, requesting execution of Form I-918 Supplement B, U Nonimmigrant Status Certification, confirming that: (a) Petitioner was a

victim of qualifying criminal activity, including felonious assault and murder under 8 C.F.R. § 214.14(a)(9); (b) he possesses information regarding that criminal activity; and (c) he has been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution.

35. As of the filing of this petition, the certification request remains pending. No executed Form I-918 Supplement B has yet been issued. Once received, counsel intends to promptly file Form I-918, Petition for U Nonimmigrant Status, with USCIS pursuant to 8 C.F.R. § 214.14(c)(1) and (c)(2).
36. Petitioner thus presents a compelling prima facie case for U nonimmigrant status under 8 U.S.C. § 1101(a)(15)(U) and 8 C.F.R. § 214.14, consistent with Congress's intent to protect and encourage the cooperation of crime victims and witnesses.

E. ICE Stay Request and Denial

37. On December 1, 2025, The LemUS Law Firm submitted a cover letter to ICE's Enforcement and Removal Operations Field Office requesting a stay of removal pursuant to 8 C.F.R. § 241.6, based on Petitioner's substantial law enforcement cooperation and pending U visa certification request.
38. On December 1, 2025, Petitioner executed Form I-246, Application for a Stay of Deportation or Removal, requesting a stay to allow him to pursue bond and permanent relief before the Immigration Court. The form was filed with ICE on December 3, 2025, accompanied by a \$155.00 money order payable to the Department of Homeland Security.
39. On December 19, 2025, Acting Field Office Director Kelei B. Walker of the ICE Miami Field Office, Enforcement and Removal Operations, denied the Form I-246 stay request. The denial letter provided no individualized analysis of Petitioner's law enforcement cooperation, U visa claim, or humanitarian equities. Under 8 C.F.R. § 241.6(b), that denial is not administratively appealable within DHS, but expressly preserves the Immigration Court's authority to grant a stay in connection with a motion to reopen.

F. Immigration Court Filings and Denial of Motion to Reopen

40. On December 23, 2025, Petitioner, through counsel Yoel Lemus, Esq., filed a Motion to Reopen Removal Proceedings, Request for Stay of Removal, and Conditional Request for Custody Redetermination with the Miami Krome Immigration Court. The motion requested: (a) reopening of the June 16, 2005 removal order and vacation of that order; (b) a stay of removal while the motion was pending and while Petitioner pursued U nonimmigrant status; and (c) upon reopening, either administrative closure or continuance consistent with *Matter of Sanchez Sosa*, 25 I&N Dec. 807 (BIA 2012), *Matter of Avetisyan*, 25 I&N Dec. 688 (BIA 2012), and *Matter of Cruz-Valdez*, 28 I&N Dec. 326 (A.G. 2021), or, in the alternative, a custody redetermination hearing if the Court determined Petitioner was detained under INA § 236(a).
41. The motion was supported by: the government's Rule 35(b) motion and the district court's order granting sentence reduction; a U visa certification request letter; character and support letters from Petitioner's wife, employer, brother, and community members; Cuban civil registry and consular documents; and the ICE denial of the Form I-246.
42. On January 29, 2026, Immigration Judge Christina Martyak addressed a custody redetermination request under 8 C.F.R. § 1236, resulting in "Other: no action." Both DHS and Petitioner waived appeal of that order.
43. On February 4, 2026, Immigration Judge Martyak issued two orders. First, the Immigration Judge denied the Motion to Reopen because the "Fee waiver request was denied." The order also noted that Petitioner provided no evidence of a U visa certification and that the court lacks jurisdiction over U visas or adjustment of status based on a U visa, citing 8 C.F.R. § 245.24(f). Second, the Immigration Judge denied the fee waiver request (Form EOIR-26A) on the grounds that: (a) the fee waiver was not signed by Petitioner, as the signature line contained only the word "detained"; (b) Petitioner failed to indicate how long he had been detained; and (c)

the order cited *Matter of Garcia Martinez*, 29 I&N Dec. 169 (BIA 2025), regarding the presumption of ability to pay for represented non-detained aliens.

44. The Immigration Judge's February 4, 2026 orders are procedurally and substantively deficient in ways that deprive Petitioner of due process and confirm that further resort to the immigration courts would be futile:

a. The fee waiver denial applied an inapposite legal standard. *Matter of Garcia Martinez*, 29 I&N Dec. 169 (BIA 2025), addresses the presumption of ability to pay for represented non-detained aliens. Petitioner is detained. The Immigration Judge failed to apply the correct standard for detained, incarcerated individuals who, by definition, have no current income and no ability to pay filing fees from custody.

b. The Immigration Judge failed to acknowledge or apply the governing fee waiver regulations for detained, indigent noncitizens under 8 C.F.R. § 1103.7(c) and related EOIR authority, which authorize waiver of filing fees upon a sufficient showing of inability to pay. Petitioner's detention itself is strong evidence of indigency.

c. The Immigration Judge's characterization of the signature line as insufficient, because it contained the word "detained" rather than a handwritten signature, elevates form over substance in a manner that is arbitrary and contrary to the purpose of fee waiver provisions, which exist precisely to protect detained individuals who cannot access normal resources.

d. The Immigration Judge did not provide any individualized custody assessment, did not weigh Petitioner's extraordinary law enforcement cooperation, rehabilitation, family ties, or victim status, and did not analyze whether continued detention remains reasonably related to any legitimate governmental purpose.

G. Current Posture and Absence of Administrative Remedies

45. Petitioner has been detained in ICE custody since at least December 2025, under a final order of removal issued in 2005, a period now exceeding three months and continuing to grow. He has received no bond hearing, no individualized custody redetermination, and no meaningful administrative review of his continued detention.
46. Cuba has historically been a country that does not readily accept the return of its nationals. The practical likelihood of removal in the reasonably foreseeable future is uncertain at best, raising serious *Zadvydas* concerns regarding the constitutionality of continued post-order detention.
47. Because the Immigration Judge denied reopening and the fee waiver, and because EOIR has no jurisdiction over U visa petitions or U visa-based adjustment of status, there is no administrative process available to provide a constitutionally adequate custody hearing.
48. Any additional motion to reopen would be barred by the time and number limits of 8 C.F.R. § 1003.23(b)(1) and would be futile given the Immigration Judge's stated reasons for denying the prior motion.
49. Petitioner has thus exhausted any available administrative remedies, or, in the alternative, exhaustion is excused because no effective remedy exists to redress the unlawful detention he now challenges.

V. GOVERNING LAW

A. Habeas Jurisdiction Over Immigration Detention

50. Federal courts retain habeas corpus jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678 (2001) (post-order detention); *Demore v. Kim*, 538 U.S. 510 (2003) (pre-final-order mandatory detention).

51. Habeas relief is appropriate when, as here, a noncitizen challenges the length and constitutionality of civil detention and the absence of a meaningful process to justify continued confinement.

B. Due Process Limits on Civil Immigration Detention

52. Immigration detention is civil in nature, not punitive. See *Zadvydas*, 533 U.S. at 690. Due process requires that civil detention be reasonably related to its purpose, ensuring appearance and protecting the public, and not excessive in relation to those goals.
53. The Fifth Amendment Due Process Clause applies to all "persons" in the United States, including noncitizens, and prohibits arbitrary or indefinite detention without adequate procedural safeguards.
54. In *Zadvydas*, interpreting the post-order detention statute, 8 U.S.C. § 1231(a)(6), the Supreme Court read a reasonableness limitation into the statute to avoid serious constitutional questions arising from indefinite detention. 533 U.S. at 701. The Court established a six-month presumptive period of reasonable detention, after which the Government must demonstrate that removal is significantly likely in the reasonably foreseeable future. *Id.* at 701. Petitioner has been detained under a 2005 final order, and Cuba's historical non-cooperation with removals raises serious questions about whether removal is significantly likely in the reasonably foreseeable future.
55. Even if Petitioner's detention is analyzed under INA § 236(c) rather than § 1231, the Supreme Court in *Demore v. Kim* upheld mandatory detention only on the understanding that such detention is of limited duration and typically brief. 538 U.S. at 529-31. The Court did not sanction prolonged or open-ended detention without individualized review. Petitioner's detention has now extended well beyond any period that could be characterized as brief.
56. The Fifth Circuit has recognized that immigration detention statutes must be applied in a manner consistent with due process. See *Flores-Powell v. Chadbourne*,

677 F. Supp. 2d 455 (D. Mass. 2010); see also *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011). Other federal circuits have held that when detention becomes prolonged, due process requires an individualized custody hearing at which the Government bears the burden of justifying continued detention by clear and convincing evidence, and the adjudicator must consider less restrictive alternatives. See, e.g., *Guerrero-Sanchez v. Warden*, 905 F.3d 208 (3d Cir. 2018); *Reid v. Donelan*, 819 F.3d 486 (1st Cir. 2016); *Rodriguez v. Robbins*, 715 F.3d 1127 (9th Cir. 2013).

57. While not all of these authorities are binding in this Circuit, they underscore the constitutional principle that prolonged civil detention must be justified through robust procedures, including a meaningful individualized hearing and a heightened burden of proof on the Government.

C. Statutory and Regulatory Framework

58. INA § 236(a), 8 U.S.C. § 1226(a), generally authorizes arrest and detention of noncitizens pending decision on removal and allows for release on bond or conditional parole.
59. INA § 241(a)(6), 8 U.S.C. § 1231(a)(6), governs post-order detention and has been construed by the Supreme Court to contain an implicit reasonableness limitation. *Zadvydas*, 533 U.S. at 699-701.
60. 8 C.F.R. § 1003.23(b)(1) and (3) authorize Immigration Judges to reopen removal proceedings based on new facts that are material and were not available and could not have been discovered or presented at the former hearing.
61. 8 C.F.R. § 245.24(f) vests primary jurisdiction over U visa adjudications and U visa-based adjustment of status in USCIS, expressly limiting Immigration Judges' authority to adjudicate such applications.

62. 8 C.F.R. § 214.14 governs U nonimmigrant status, including the definition of qualifying crimes, cooperation requirements, and bona fide determinations. This regulatory framework reflects Congress's intent to protect victims and encourage cooperation with law enforcement, including by affording immigration stability to victims during the pendency of U visa petitions.
63. 8 C.F.R. § 214.14(c)(5)(i) expressly provides that, when USCIS approves Form I-918 for a petitioner subject to a final order of removal, the petitioner may seek cancellation of that order by filing a motion to reopen and terminate removal proceedings, and that ICE counsel may agree to join such a motion to overcome time and number limitations. This regulatory structure confirms that a final removal order does not bar U visa eligibility and that motions to reopen in light of a granted U visa are anticipated and encouraged.
64. 8 C.F.R. § 241.6(b) expressly provides that denial of a Form I-246 stay by DHS shall not preclude an Immigration Judge or the Board from granting a stay in connection with a previously filed motion to reopen or a motion to reconsider.

VI. CUSTODY AND EXHAUSTION

65. Petitioner is in federal custody at Port Isabel Service Processing Center under color of immigration law and is therefore "in custody" for purposes of 28 U.S.C. § 2241.
66. Petitioner has no adequate administrative remedy to challenge the legality or length of his current detention:
 - a. The Immigration Judge denied the Motion to Reopen on February 4, 2026, based on a procedurally deficient fee waiver denial that applied an inapposite legal standard and failed to engage with the merits of Petitioner's extraordinary law enforcement cooperation and U visa claim;
 - b. EOIR lacks jurisdiction to adjudicate U visa petitions or to grant U visa-based adjustment of status, as confirmed by the Immigration Judge's own order citing 8 C.F.R. § 245.24(f); and

c. No regulatory mechanism provides for a bond hearing in Petitioner's current posture as a post-order detainee under a 2005 final order.

67. Any further motion to reopen would be untimely and numerically barred under 8 C.F.R. § 1003.23(b)(1) and would be futile given the Immigration Judge's explicit reasoning.
68. Under these circumstances, Petitioner has exhausted any available administrative avenues, or in the alternative, exhaustion is not required because no effective administrative remedy exists to address his constitutional claims regarding prolonged detention.

VII. CLAIMS FOR RELIEF

COUNT I

FIFTH AMENDMENT DUE PROCESS VIOLATION: PROLONGED CIVIL IMMIGRATION DETENTION WITHOUT A CONSTITUTIONALLY ADEQUATE CUSTODY HEARING

(As-Applied Challenge to Post-Order Detention Under INA § 241 and/or § 236(c))

69. Petitioner incorporates paragraphs 1 through 68 as if fully set forth herein.
70. Petitioner has been detained by ICE since at least December 2025, under a final order of removal issued in 2005, with no bond hearing or individualized custody redetermination at which the Government must justify continued detention.
71. The Immigration Judge's February 4, 2026 orders are not constitutionally adequate custody hearings, because they: (a) denied the Motion to Reopen on a procedural fee waiver ground without engaging with the merits of Petitioner's law enforcement cooperation, U visa claim, or humanitarian equities; (b) applied an inapposite legal standard from *Matter of Garcia Martinez*, 29 I&N Dec. 169 (BIA 2025), which addresses non-detained aliens, to a detained individual; (c) failed to analyze Petitioner's ability to pay or apply the correct fee waiver standard for detained,

incarcerated individuals; and (d) failed to assess Petitioner's current risk of flight or danger, or to consider alternatives to detention.

72. Petitioner's detention has now become prolonged. He has been held under a 2005 final order of removal to Cuba, a country that historically presents significant obstacles to removal. There is no defined end point to his detention given the pending U visa certification request and the historical difficulties associated with Cuban removals.
73. Under the Due Process Clause, prolonged civil detention requires robust procedural protections, including: (a) a meaningful, individualized hearing before a neutral decisionmaker; (b) placement of the burden of proof on the Government; and (c) a heightened standard of proof, such as clear and convincing evidence of current dangerousness or significant flight risk.
74. Petitioner's more than twenty-five years of residence in the United States, his completion of his federal criminal sentence, his extraordinary law enforcement cooperation formally recognized by the United States Attorney and the federal district court, his lack of criminal charges or convictions since completing his sentence, his strong family and community ties in Ocala, Florida, his employment history, his status as a crime victim and cooperating witness, and his pending U visa certification request all weigh heavily against any conclusion that he is a danger or serious flight risk.
75. Less restrictive alternatives, including supervised release, reporting requirements, electronic monitoring, or other non-custodial conditions, are readily available and capable of addressing any legitimate governmental concerns.
76. The Immigration Judge's failure to apply the correct fee waiver standard for detained individuals, combined with the refusal to provide any individualized custody assessment, demonstrates that the administrative process did not provide Petitioner with a meaningful opportunity to be heard regarding his liberty interest.

77. As applied to Petitioner, continued detention without a constitutionally adequate individualized hearing violates substantive and procedural due process under the Fifth Amendment.
78. Petitioner is therefore entitled to habeas relief and immediate release or, at minimum, release unless and until the Government provides a constitutionally compliant custody hearing.

COUNT II

UNLAWFUL POST-ORDER DETENTION UNDER ZADVYDAS v. DAVIS: REMOVAL NOT SIGNIFICANTLY LIKELY IN THE REASONABLY FORESEEABLE FUTURE

79. Petitioner incorporates paragraphs 1 through 78 as if fully set forth herein.
80. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), once a noncitizen has been detained for six months under a final order of removal, continued detention is presumptively unreasonable unless the Government can demonstrate that removal is significantly likely in the reasonably foreseeable future.
81. Petitioner is detained under a final order of removal to Cuba. Cuba has historically been a country that does not readily accept the return of its nationals, and there is no indication that a travel document or removal flight has been arranged or is imminent.
82. Petitioner's pending U visa certification request and the anticipated filing of Form I-918 with USCIS further complicate and delay any removal, as the regulatory framework of 8 C.F.R. § 214.14(c)(5)(i) contemplates that a U visa approval would lead to termination of the removal order.
83. Under these circumstances, removal is not significantly likely in the reasonably foreseeable future, and continued detention is presumptively unreasonable under *Zadvydas*.

84. Petitioner is therefore entitled to release from custody pursuant to Zadvydas and the Due Process Clause of the Fifth Amendment.

COUNT III

UNLAWFUL DETENTION IN LIGHT OF U VISA STATUS, EXTRAORDINARY LAW ENFORCEMENT COOPERATION, AND ENFORCEMENT PRIORITIES

85. Petitioner incorporates paragraphs 1 through 84 as if fully set forth herein.
86. Congress created the U nonimmigrant classification in 8 U.S.C. § 1101(a)(15)(U) to protect noncitizen victims of certain crimes who have suffered substantial harm and have been, are being, or are likely to be helpful to law enforcement. The implementing regulations at 8 C.F.R. § 214.14 emphasize the humanitarian and law enforcement goals of the U visa program, including promoting cooperation with law enforcement by alleviating fear of removal and providing a measure of immigration stability for victims.
87. Petitioner squarely fits this framework. He is a documented cooperating witness in a federal marijuana investigation, formally recognized by the United States Attorney and the federal district court through the Rule 35(b) process. He is also a cooperating witness in the assault and murder of an undercover officer inside a correctional facility, and a U visa certification request has been submitted on his behalf.
88. DHS and USCIS, consistent with the U visa statute and regulations and with enforcement priority guidance, have recognized that individuals with bona fide U visa applications and victim status are appropriate candidates for favorable prosecutorial discretion, including release from detention.
89. Petitioner does not fit within DHS's highest enforcement priorities. His federal conviction is from 2011, more than fourteen years ago. He has fully served his sentence. He has not reoffended. He has cooperated extensively with law enforcement at personal risk. He has strong family and community ties and stable employment.

90. Continuing to detain a cooperating witness and crime victim with a pending U visa certification request, where less restrictive alternatives are available, is inconsistent with: (a) the statutory purpose of the U visa program under 8 U.S.C. § 1101(a)(15)(U); (b) the regulatory framework of 8 C.F.R. § 214.14; and (c) DHS's own enforcement priority and victim protection policies.
91. As applied to Petitioner, DHS's maintenance of detention without regard to his extraordinary law enforcement cooperation, U visa status, humanitarian equities, and non-priority profile renders his confinement arbitrary, unreasonable, and contrary to law.
92. Petitioner's ongoing detention is therefore unlawful under the INA and its implementing regulations, and inconsistent with the Due Process Clause. Petitioner is entitled to habeas relief and immediate release, or at minimum conditional release under reasonable supervision.

VIII. CHRONOLOGICAL TIMELINE OF KEY EVENTS

The following timeline is provided for the Court's reference and is supported by the exhibits attached hereto:



Petitioner born in Quemado de Guines, Villa Clara, Cuba. (Cuban birth certificate.

June 16, 2005: Immigration Judge at Krome North Service Processing Center issued final order of removal to Cuba.

June 30, 2011: Jury returned guilty verdict in United States v. Abreau, Case No. 5:11-cr-5-Oc-10TBS, M.D. Fla.

September 14, 2011: Petitioner sentenced to 60 months mandatory minimum in federal criminal case.

September 16, 2011: Judgment entered in federal criminal case.

June 28, 2013: United States Attorney filed Rule 35(b) motion formally recognizing Petitioner's substantial assistance to law enforcement, leading to three arrests and seizure of over 200 marijuana plants.

July 1, 2013: Federal district court granted Rule 35(b) motion and reduced Petitioner's sentence to concurrent 41 months.

2017 (approximate): Petitioner began employment as flooring installer with Ocala Floors and More.

December 23, 2024: Counsel Yoel Lemus filed Form EOIR-28 Notice of Entry of Appearance.

August 18, 2025: Cuban consular passport service request filed; payment receipt issued.

September 18, 2025: Cuban civil registry issued birth certificate certification for Petitioner.

December 1, 2025: LemUS Law Firm cover letter prepared supporting ICE stay request under 8 C.F.R. § 241.6; Form I-246 executed by Petitioner.

December 3, 2025: Form I-246 filed with ICE; \$155.00 money order submitted.

December 19, 2025: ICE Miami Field Office ERO denied Form I-246 stay request.

December 22, 2025: Counsel submitted U visa certification request letter to prosecuting authority requesting execution of Form I-918 Supplement B.

December 23, 2025: Motion to Reopen Removal Proceedings, Request for Stay of Removal, and Conditional Request for Custody Redetermination filed with Miami Krome Immigration Court.

January 29, 2026: Immigration Judge addressed custody redetermination request under 8 C.F.R. § 1236; resulted in 'Other: no action.' Both parties waived appeal.

February 4, 2026: Immigration Judge denied Motion to Reopen because fee waiver request was denied; also denied fee waiver request citing lack of signature and insufficient financial/detention information; cited Matter of Garcia Martinez, 29 I&N Dec. 169 (BIA 2025).

Present: Petitioner remains detained at Port Isabel Service Processing Center, Texas, under 2005 final order of removal, with no bond hearing, no individualized custody review, and no executed U visa certification.

IX. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this petition pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331;

B. Declare that Petitioner's continued civil immigration detention without a constitutionally adequate individualized custody hearing violates the Fifth Amendment and is unlawful as applied to him;

C. Declare that Petitioner's continued detention under a 2005 final order of removal to Cuba, where removal is not significantly likely in the reasonably foreseeable future, violates the Due Process Clause under *Zadvydas v. Davis*, 533 U.S. 678 (2001);

D. Order Petitioner's immediate release from ICE custody at Port Isabel Service Processing Center, subject to any reasonable conditions of supervision that the Court deems appropriate, such as periodic ICE reporting, residence verification, electronic monitoring, or other non-custodial measures;

E. In the alternative, order Respondents to provide Petitioner with a constitutionally adequate individualized bond hearing before a neutral decisionmaker, at which the Government bears the burden of justifying continued detention by clear and convincing evidence, within fourteen days of this Court's order;

F. Enjoin Respondents from removing Petitioner from the United States during the pendency of this action absent prior notice to the Court and counsel and an opportunity to be heard;

G. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action absent prior notice to the Court and counsel and an opportunity to be heard;

H. Award Petitioner costs and any other relief the Court deems just and proper.

Respectfully submitted,

March 4, 2026.

Counsel for Petitioner Javier Abreu Ledon

By: /s/ Yoel Lemus, Esq.

YOEL LEMUS, ESQ.

Fl. Bar No.: 1027720

Counsel for Petitioner Dennis Gutierrez

P.O. Box 970628

Coconut Creek, FL 33097

954-800-0393

Yoel@thelemuslawfirm.com

Certificate of Service

I hereby certify that the Defendants in the above-captioned matter were served electronically on March 5, 2026, via CM/ECF electronic filing system. The electronic service was completed in accordance with the applicable rules governing electronic filing and service.

Respectfully submitted,

March 4, 2026.

Counsel for Petitioner Javier Abreu Ledon

By: /s/ Yoel Lemus, Esq.

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