

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA**

**AUGUSTO LAZA CUESTA,**  
Petitioner,

v. Case No. 2:26-cv-675-KCD-DNF

**WARDEN, et al.,**  
Respondents.

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FILED - USDC - FLMD - FTM

**\*\*EMERGENCY MOTION FOR IMMEDIATE RELEASE**

**PENDING HABEAS CORPUS REVIEW\*\***

**I. INTRODUCTION**

Petitioner Augusto Laza Cuesta respectfully moves this Court for **immediate release from immigration detention** pending adjudication of his Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241.

This motion is warranted due to:

- **Prolonged detention exceeding six months**
- **No significant likelihood of removal in the reasonably foreseeable future**
- **Serious constitutional violations, including abuse, coercion, and inhumane conditions**
- **Petitioner's demonstrated history of compliance and lack of flight risk**

Absent immediate intervention, Petitioner will continue to suffer **irreparable harm** in violation of the Fifth Amendment.

**II. LEGAL STANDARD**

Federal courts have authority to grant **release pending habeas review** where:

1. The petitioner raises substantial constitutional claims, and
2. Extraordinary circumstances require immediate relief

*Zadvydas v. Davis*, 533 U.S. 678, 701–02 (2001).

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### III. ARGUMENT

#### A. Petitioner's Continued Detention Is Unconstitutional

Petitioner has been detained beyond the **six-month presumptively reasonable period** under *Zadvydas*, 533 U.S. at 701.

The Government has failed to show:

- A confirmed removal date
- Valid travel documents
- Acceptance by any receiving country

Continued detention is therefore **unlawful**.

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#### B. Removal Is Not Reasonably Foreseeable

Removal remains speculative and unsupported by evidence.

##### 1. Cuba Is Not a Viable Option

Petitioner faces:

- Risk of imprisonment as a perceived defector
  - Lack of reliable repatriation processes
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##### 2. Mexico Attempt Demonstrates Failure and Coercion

Respondents rely on a prior removal attempt to Mexico. However, the facts demonstrate the opposite.

Petitioner and others initially **refused to exit the transport vehicle**, but ultimately did so **only after being threatened by officers**.

Upon arrival:

- Petitioner clearly informed Mexican authorities that he is **Cuban, not Mexican**
- Mexican officials advised that **if they did not wish to remain, they would not be forced to stay**

- As a result, Petitioner was **not accepted into Mexico**

This demonstrates:

- No agreement exists for third-country removal
  - Removal is **not realistically achievable**
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### **3. Serious Concerns Regarding Third-Country Transfers**

Petitioner is informed and believes that financial arrangements may exist between governments related to the acceptance of migrants, though details are unclear and unconfirmed.

Regardless, the forced transfer of noncitizens to countries where they have no ties, face potential harm, or do not consent raises serious **constitutional and humanitarian concerns**, including potential violations of due process.

Such practices further underscore the lack of a lawful and reliable removal pathway.

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### **C. Petitioner Is Not a Flight Risk or Danger**

Petitioner:

- Reported to ICE for over **20 years**
- Appeared voluntarily at his appointment
- Has strong family ties

There is no evidence supporting continued detention.

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### **D. Extraordinary Circumstances: Abuse and Inhumane Conditions**

Petitioner has been subjected to **disturbing and unconstitutional treatment** while detained.

#### **1. Physical Abuse**

Petitioner was:

- Thrown to the ground
- Punched and kicked while restrained

See Exh. 1.

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## 2. Coercion and Threats

Petitioner was **threatened by officers** during the attempted removal process, contributing to fear and lack of genuine compliance.

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## 3. Inhumane Food Conditions

Petitioner witnessed and experienced degrading treatment involving food, including an incident where a guard stated that detainees would only receive leftover food **if they were willing to eat it after it had been spit on.**

Such conduct reflects **deliberate humiliation and abuse**, inconsistent with civil detention standards.

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## 4. Medical Neglect

Petitioner required medical attention following abuse but experienced:

- Delayed care
  - Lack of communication with family
  - Punitive treatment after seeking help
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## E. Continued Detention Causes Irreparable Harm

Petitioner continues to suffer:

- Physical harm
- Psychological trauma
- Loss of liberty

These harms are **ongoing and irreparable**, warranting immediate relief.

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## IV. RELIEF REQUESTED

Petitioner respectfully requests that this Court:

1. **Order immediate release from ICE custody;**
2. Alternatively, order an **expedited bond hearing;**

3. Grant any additional relief deemed just and proper.

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## **V. CONCLUSION**

Petitioner's detention is:

- **Prolonged**
- **Unsupported by a realistic removal plan**
- **Accompanied by constitutional violations and abuse**

Immediate release is necessary to prevent further violations of Petitioner's rights.

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**Respectfully submitted,**

**Augusto Laza Cuesta**  
Petitioner, Pro Se