UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

GASPAR MANUEL SEBASTIAN,
Petitioner,

Civil Case No. 2:26-cv-731

v.

MARCOS CHARLES, Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Acting Executive Associate Director.
JUAN AGUDELO, Interim Miami Field Office Director.
CHARLES WALL, Principal Legal Advisor for ICE's Office of the Principal Legal Advisor.
PAMELA BONDI, U.S. Attorney General,
KRISTI NOEM, U.S. Secretary of the Department of Homeland Security,
TODD M. LYONS, Senior Official Performing the Duties of the Director of US Immigration and Customs Enforcement;
DAVID HARDIN, in his official capacity as Sheriff of Glades County and custodian of Petitioner; and
JOHN DOE, Custodian.
Respondents.
_____/

PETITION FOR A WRIT OF *HABEAS CORPUS* UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Gaspar Manuel Sebastian (hereinafter, "Petitioner" or "Mr. Manuel Sebastian"), A-Number [redacted], *see* **Exhibit "1"**, brings this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge his continued civil immigration detention in violation of the Constitution and federal law.
2. Mr. Sebastian has been detained by ICE first at Alligator Alcatraz and subsequently at the Glades County Detention Center in Moore Haven, Florida, since **December 6, 2025**. Although he is subject to an outstanding *in absentia* removal order entered on **November 16, 2017**, his removal is not presently executable in any meaningful sense while multiple motions to reopen remain pending before the Immigration Court and the Board of Immigration Appeals, and while he has requested emergency stay relief.
3. Petitioner is not a recent entrant. He entered the United States in or about 2013 as a minor and has resided continuously in this country for more than thirteen (13) years. He is the father of a United States citizen child born in Florida on [redacted] *see* **Exhibit "2."** He has also pursued lawful immigration relief, including asylum-based relief see **Exhibit "3,"** Violence Against Women Act [hereinafter, "VAWA"] based relief see **Exhibit "4,"** and multiple Motions to Reopen challenging the *in absentia* removal order.
4. Civil immigration detention must bear a reasonable relationship to the Government's legitimate purpose of effectuating removal. Where removal is not reasonably foreseeable, continued detention becomes constitutionally impermissible. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
5. Because Petitioner's removal is not presently reasonably foreseeable while his motions to reopen and related proceedings remain unresolved, his continued detention violates the Due Process Clause of the Fifth Amendment.
6. Because Petitioner remains subject to immediate removal or transfer by DHS while this habeas petition is pending, Petitioner respectfully requests that this Court issue a Temporary Restraining Order prohibiting Respondents from removing Petitioner from the United States or transferring him outside the jurisdiction of this Court while this Petition is under consideration.

7. Accordingly, this Court should grant the Petition and order Petitioner's immediate release.

JURISDICTION

8. The petitioner is in the physical custody of Respondents. He is detained at the Glades County Detention Center in Moore Haven, Florida.
9. This Court has jurisdiction pursuant to 28 U.S.C. § 2241(c)(3), 28 U.S.C. § 1331, and Article I, Section 9, Clause 2 of the United States Constitution.
10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
11. Jurisdiction is proper under 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the lawfulness of his detention. Federal courts retain jurisdiction to review immigration detention claims that raise constitutional and statutory challenges to custody. See Zadvydas v. Davis, 533 U.S. 678, 687 (2001).

VENUE

12. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 1391 because Petitioner is physically detained at Glades County Detention Center, in Moore Haven, Florida. He has remained in immigration custody continuously since **December 6, 2025**.
13. Venue is also proper pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is detained within this judicial district.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court should grant the petition for writ of *habeas corpus* "forthwith," because Petitioner remains in civil immigration detention in violation of the Constitution and federal law.

15. *Habeas corpus* is "perhaps the most important writ known to the constitutional law … affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).
16. Petitioner remains detained despite the absence of a reasonably foreseeable removal while his motions to reopen and related proceedings remain pending. Continued detention under these circumstances raises serious constitutional concerns and warrants immediate judicial review.

PARTIES

17. Petitioner Mr. Manuel Sebastian is a citizen of Guatemala who has been in immigration detention since **December 6, 2025**.
18. Respondents are currently detaining Mr. Manuel Sebastian at Glades County Detention Center, in Moore Haven, Florida. While in Respondents' custody, Mr. Manuel Sebastian is subject to the authority, control, and detention policies implemented and enforced by Respondents.
19. Respondent **Kristi Noem** is the Secretary of the United States DHS and is responsible for the administration of immigration laws, 8 U.S.C. § 1103(a). Secretary Noem is a legal custodian of Petitioner and is named in her official capacity.
20. Respondent **Todd M. Lyons** is the ICE Director, responsible for the overall administration of all ICE detention facilities.
21. Respondent **Juan Agudelo** is the Interim Field Office Director for the Miami ICE Field Office and has administrative jurisdiction over Petitioner's case.
22. Respondent **Pamela Bondi** is the Attorney General of the United States and the senior official in the DOJ. She delegates authority over removal cases to the Executive Office for Immigration Review (hereinafter, "EOIR"), which administers the Immigration

Courts and the Board of Immigration Appeals (hereinafter, "BIA"). She is named in her official capacity.

23. Respondent **Marcos Charles** is the Acting Executive Associate Director of ICE ERO. In this capacity, he leads the division responsible for the identification, arrest, detention, and removal of noncitizens. He has direct authority over the ERO policies that govern Petitioner's detention and is a legal custodian of the Petitioner;
24. Respondent **Charles Wall** is the Principal Legal Advisor for ICE. In this capacity, he leads the Office of the Principal Legal Advisor (hereinafter, "OPLA"), which serves as the exclusive representative of DHS in immigration court proceedings. He has final authority over the legal positions taken by ICE attorneys regarding Petitioner's custody and removal. He is a legal custodian of the Petitioner and is named in his official capacity.
25. Respondent **David Hardin** is the Sheriff of Glades County and the immediate physical custodian of Petitioner. He is named in his official capacity.
26. Respondent **John Doe** is the warden or facility administrator of the Glades County Detention Center and is named in his official capacity as Petitioner's immediate custodian.

FACTUAL AND PROCEDURAL HISTORY

27. Petitioner is a native and citizen of Guatemala, born on [redacted] See **Exhibit "1."**
28. Petitioner entered the United States in or about 2013 when he was approximately sixteen (16) years old and was processed as an unaccompanied minor (hereinafter, "UAC.") He was thereafter released to a sponsor and has resided continuously in the United States for more than thirteen (13) years.
29. Since entering the United States, Petitioner has established substantial ties to this country. He has long-term residence in Florida, a fixed address, a Florida driver's license, an Employment Authorization Document (hereinafter, "EAD"), economic ties through a Florida-registered business owned by his spouse, and immediate family ties in the United States.

30. On **November 16, 2017**, an Immigration Judge (hereinafter, "IJ") in Miami entered an *in absentia* removal order after Petitioner failed to appear at a hearing while represented by prior counsel, who did not tell him about the hearing until about fifteen (15) minutes before the hearing, where Petitioner resided at least three (3) hours driving time from the Court location, making it impossible for Petitioner to physically appear at the hearing.
31. As such, Petitioner contends that he did not receive effective notice of the hearing and relied on prior counsel for updates regarding his case. Petitioner also contends that Counsel was ineffective as a matter of law for failing to advise him of his hearing date and time in a timely fashion.
32. On **August 27, 2025**, Petitioner was again granted employment authorization under category C8, valid through August 26, 2030. See **Exhibit "5"**.
33. On **December 6, 2025**, Petitioner was stopped by local law enforcement while driving to work. During the stop, officers requested his driver's license and discovered through a records check that Petitioner had an outstanding *in absentia* removal order issued in **2017**. As a result, immigration authorities were notified, and Petitioner was subsequently taken into the custody of the Department of Homeland Security (hereinafter, "DHS") and transferred first to Alligator Alcatraz and subsequently to the Glades County Detention Center, where he remains detained.
34. Following his detention on **December 6, 2025**, Petitioner filed a Motion to Reopen and Rescind the *in absentia* removal order on **December 18, 2025**. See **Exhibit "6"**.
35. After reviewing DHS's opposition and the procedural history of his case, Petitioner and undersigned counsel determined that Petitioner had potentially been subjected to ineffective assistance of counsel by prior attorneys.
36. On **February 24, 2026**, Petitioner filed a second Motion to Reopen before the Board of Immigration Appeals based on ineffective assistance of counsel pursuant to *Matter of Lozada* and in connection with his VAWA-based relief. That filing included an Emergency Motion for Stay of Removal. *See* **Exhibit "7"**.
37. Petitioner remains detained by DHS and ICE. His removal is not presently imminent or reasonably certain while the pending Motions to Reopen, requested stay relief, and pending VAWA petition remain unresolved.

38. Petitioner does not seek adjudication in this *habeas* action of the merits of his underlying immigration proceedings. Rather, he challenges only the lawfulness of his continued detention.
39. Absent immediate injunctive relief, Petitioner remains subject to removal or transfer by DHS at any time. Such action would irreparably harm Petitioner by risking his removal from the United States before this Court has the opportunity to adjudicate the legality of his detention and before meaningful habeas relief can be granted. Petitioner therefore seeks a Temporary Restraining Order preventing Respondents from removing him from the United States or transferring him outside the jurisdiction of this Court while this habeas petition is pending.

LEGAL ARGUMENTS: RESPONDENT IS BEING UNLAWFULLY DETAINED

A. Petitioner's Continued Detention Violates the Constitutional Limits Established in *Zadvydas v. Davis*.

Civil immigration detention following a final order of removal is governed by 8 U.S.C. §1231. However, the Supreme Court has made clear that such detention is subject to important constitutional limitations. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that post-removal-order detention is permissible only for a period reasonably necessary to effectuate removal. The Supreme Court later confirmed that the statutory limitations recognized in *Zadvydas* apply broadly to post-removal-order detention. *Clark v. Martinez*, 543 U.S. 371 (2005). Courts have consistently recognized that detention cannot continue where removal is not reasonably foreseeable. *See* also *Benitez v. Wallis*, 337 F.3d 1289, 1295–96 (11th Cir. 2003).

The Court explained that civil detention must remain regulatory rather than punitive and must bear a reasonable relationship to the Government's legitimate purpose of executing removal.

Although *Zadvydas* recognized a presumptively reasonable six-month period of detention, the constitutional inquiry ultimately focuses on whether removal is reasonably

foreseeable under the particular circumstances of the case. Where removal is not significantly likely in the reasonably foreseeable future, continued detention violates the Due Process Clause. *Id.* at 701. Here, Petitioner's removal is not presently foreseeable. Petitioner has filed multiple Motions to Reopen, including a pending motion before the Board of Immigration Appeals based on ineffective assistance of counsel pursuant to *Matter of Lozada*. He has also requested an emergency stay of removal. In addition, Petitioner has a pending VAWA self-petition that may affect his eligibility for relief from removal. While these proceedings remain pending, removal cannot be considered reasonably certain or imminent. Accordingly, Petitioner's continued detention no longer bears a reasonable relationship to effectuating removal. Under *Zadvydas*, continued detention under these circumstances raises serious constitutional concerns and warrants habeas relief.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF – Violation of Fifth Amendment Procedural Due Process

40. Petitioner repeats, realleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
41. Petitioner Mr. Manuel Sebastian has been subjected to prolonged civil immigration detention without a meaningful and individualized bond hearing, in violation of the Due Process Clause of the Fifth Amendment. Petitioner has not received any individualized custody determination before an Immigration Judge. The absence of a meaningful custody determination violates Petitioner's procedural due process rights and renders his continued detention unconstitutional.

SECOND CLAIM FOR RELIEF – Violation of Fifth Amendment Substantive Due Process

42. Petitioner repeats, realleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
43. Petitioner's continued detention is excessive, arbitrary, and punitive in effect, and bears no reasonable relationship to any legitimate governmental purpose. Immigration

detention is civil in nature, yet Respondents have imposed prolonged confinement without individualized justification. Such detention violates Petitioner's substantive due process rights under the Fifth Amendment..

THIRD CLAIM FOR RELIEF – Attorney's Fees Under the Equal Access to Justice Act

44. If Petitioner prevails in this action, he respectfully requests an award of reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, as amended, as Petitioner is the prevailing party and the Government's position would not be substantially justified.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Mr. Manuel Sebastian respectfully requests that this Honorable Court:

1. Exercise jurisdiction over this Petition pursuant to 28 U.S.C. § 2241;
2. Issue a Temporary Restraining Order prohibiting Respondents from removing Petitioner from the United States or transferring Petitioner outside the jurisdiction of this Court while this habeas petition is pending;
3. Declare that Petitioner's continued detention violates the Constitution and federal law;
4. Order Respondents to immediately release Petitioner from DHS custody under appropriate conditions of supervision;
5. Retain jurisdiction to ensure compliance with the Court's order; and
6. Grant such other and further relief as the Court deems just and proper.

EXHIBITS

Exhibit 1 - Copy of Petitioner's Passport;

Exhibit 2 - Birth certificate of Petitioner's U.S. citizen daughter;

Exhibit 3 - Copy of Form I-589 Receipt Notice of Petitioner;

Exhibit 4 -- Copy of Form I-360 Receipt Notice;

Exhibit 5 - Copy of Employment Authorization Document (EAD), Category C08, valid through August 26, 2030;

Exhibit 6 -Copy of the first Motion to Reopen filing;

Exhibit 7 -Copy of the second Motion to Reopen and proof of filing based on Vawa and Matter of Lozada.

Dated: March 13, 2026

Respectfully submitted,

By: /s/ Matthew P. Meyers, Esq.
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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of *Habeas Corpus* are true and correct to the best of my knowledge, information, and belief.

/s/Gaspar Manuel Sebastian
Gaspar Manuel Sebastian

Dated: March 13, 2026

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct copy of the foregoing was filed via the CM/ECF portal on this 13th day of March, 2026.

Respectfully submitted,

/s/ Matthew P. Meyers, Esq.
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