

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the

FILED BY McO D.C.

MAR 12 2026

ANGELA E. NOBLE
CLERK U.S. DIST. CT.
S. D. OF FLA. - MIAMI

Yosvany Cabrera
Petitioner

Case No.

(Supplied by Clerk of Court)

Pamela Jo Bondi, U.S. Attorney General, Kristi Noem, Secretary of the Department of Homeland Security, Warden of El Centro Prison, Montana
(name of warden or authorized person having custody of petitioner)
Petition for A writ of Habeas corpus Pursuant to 28 U.S.C. § 2241. By A Person subject in indefinite immigration detention

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

Personal Information

1. (a) Your full name: Yosvany Cabrera Prieto
(b) Other names you have used: _____
2. Place of confinement:
(a) Name of institution: South Florida Detention Facility
(b) Address: 54575 Tamiami Trail E.
Ochopee, FL 34141
(c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
ICE
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
(a) Name and location of court that sentenced you: _____
(b) Docket number of criminal case: _____
(c) Date of sentencing: _____
☒ Being held on an immigration charge
☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

BACKGROUND

PETITIONER, YOSVANY CABRERA PRIETO, hereby petition this Court for a writ of habeas corpus to remedy PETITIONER'S unlawful detention by Respondents, and enjoin PETITIONER'S continued unlawful detention by Respondent. In support of this petition and complaint for injunctive relief, PETITIONER alleges as follows:

CUSTODY

1. PETITIONER is in the physical custody of Respondents and Immigration and Customs Enforcement ("ICE"). PETITIONER is detained at the ERD Camp East Montana. ICE has contracted with this private facility to house Immigration detainees such as PETITIONER. PETITIONER is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. § 1331, as PETITIONER is presently in custody under color of the authority of the United States. See *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that § 2241 habeas corpus proceedings remain available ~~remains~~ as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its historical core. The writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is that context that its protections have been strongest.")' *Clark v. Martinez*, 543 U.S. 391 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

VENUE

3. Venue lies in the Western District of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court at the [ERO CAMP EAST MONTANA]. 28 U.S.C. § 1391.

EXHAUSTION OF REMEDIES

4. Petitioner only remedy is by way of this judicial action. After the Supreme Court decision in *Zadvydas*, The Department of Justice issued regulations governing the custody of aliens removed. See 8 C.F.R. § 241.4. Petitioner received a final order of removal on August 08, 2013. (See Exhibit A) Petitioner was release on Supervision on 2015.

5. No statutory exhaustion requirements apply to Petitioner's Claim of unlawful detention. Petitioner still remains detained without any indication from the governments of The United States or Cuba that Petitioner's repatriation is reasonably foreseeable. This habeas Petition is proper in light of These facts.]

PARTIES

6. Petitioner is a native and citizen of Cuba. Petitioner was first taken into ICE custody on 2013. On September 23, 2025 Petitioner was arrested for possession of methamphetamine "Case Dismissed". ICE take the Petitioner into custody on 11-19-2025 and has remained in ICE custody continuously since that date. Petitioner was ordered on 08-08-2013. Petitioner is currently detained at [ERO CAMP EAST MONTANA, EL PASO, TX.] Petitioner has been continuously detained by ICE since 11-19-2025.

7. Respondent. Pamela Jo Bondi is the Attorney General of The United States and is responsible for the administration of ICE and implementation and enforcement of The Immigration and Naturaliza-

tion Act (INA). As such Pamela Jo Bondi, has ultimate custodial authority over Petitioner.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such She is the legal custodian of Petitioner.

9. Respondent ICE Field Office Director for the Western District of El Paso, Texas, is Petitioner's immediate custodian. See Vasquez v. Reno, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 Ct. 43 (2001).

10. Respondent Warden of Ero Camp East Montana, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

STATEMENT OF THE FACTS

11. Petitioner Yasyany Cabrera Prieto, was born in Cuba on [REDACTED] Petitioner do not agreed with The Government of Cuba and there police on the lack of Freedom of Speech. in 2007 Petitioner Come to The United States to enjoy The Freedom and Protection This Country have to offer. Petitioner never has traveled outside The United States. ICE detained the Petitioner after his case was dismiss on 11-19-2025. ICE charged the Petitioner with being inadmissible or deportable, he was was Ordered. deported to Cuba by The Immigration Judge on 08-08-2013. "Petitioner did not appeal his Order of deportation.

12. November 19, 2025, ICE took Petitioner into custody to await his deportation, ICE informed Petitioner that he would not be released, because Petitioner's deportation was "reasonable foreseeable." ICE did not specify or indicate whether it had contacted The govern-

1. ment of Cuba with respect to Petitioner's case, or mention whether
 2. it had received any information from Cuba regarding the status of
 3. Petitioner's travel documents. Nor did it give an indication of when it
 4. expected Petitioner's travel documents would issue. Indeed, it gave
 5. no information concerning the existence or status of efforts to
 6. deport Petitioner.

7. 13. Since Petitioner arrest ICE has not afforded The Petitioner
 8. a Custody review, or has notified Petitioner of any progress in
 9. Petitioner's repatriation.

10. 14. To Petitioner's knowledge, the Government of Cuba has not
 11. issued Travel documents for him. Indeed, neither ICE nor Cuba
 12. have provided any indication that Cuba would accept Petitioner
 13. in the reasonably foreseeable future. To Petitioner's knowledge
 14. there is no Immigration Agreement between Cuba and The
 15. United States.

16. LEGAL FRAMEWORK FOR RELIEF SOUGHT

17. 15. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), The U.S. Supreme Court
 18. held that 8 U.S.C. § 1231(a)(6), when "read in light of the Constitution's
 19. demands, limits an alien's post-removal-period detention to a period
 20. reasonably necessary to bring about that alien's removal from the
 21. United States." 533 U.S. at 689. A habeas court must [first] ask whether
 22. the detention in question exceeds a period reasonably necessary to
 23. secure removal." *Id.* at 699. If the individual's removal "is not reason-
 24. ably foreseeable, the Court should hold continued detention unreason-
 25. able and no longer authorized by the statute." *Id.* at 699-700.

26. 16. In determining the length of a reasonable removal period, the
 27. Court adopted a "presumptively reasonable period of detention" of six
 28.

1 months. *Id.* at 701. After six months, The government bears the burden
 2 of disproving an alien's "good reason to believe that there is no
 3 significant likelihood of removal in the reasonably foreseeable future."
 4 See *Zhou v. Farguharson*, 2001 U.S. Dist. Lexis 18239, *2-*3 (D. Mass. Oct.
 5 19, 2001) (quoting and summarizing *Zadvydas*). Moreover, "for detention
 6 to remain reasonable, as the period of prior post-removal confinement
 7 grows what count as the 'reasonably foreseeable future' conversely
 8 would have to shrink." *Zadvydas*, 533 U.S. at 701. ICE's administrative
 9 regulations also recognize that the HQPDU has a six month period
 10 for determining whether there is a significant likelihood of an alien's
 11 removal in the reasonably foreseeable future. See 8 C.F.R. § 241.4(k)(2)
 12 (ii). The Court should take notice that the government has been
 13 trying to remove the petitioner since 08-08-2013.

14 17. Evidence showing successful repatriation of other person to
 15 the country at issue is not sufficient to meet the government's
 16 burden to establish that an alien petitioner will be deported in
 17 the reasonably foreseeable future. See *Thompson v. INS*, 2002 U.S. Dist.
 18 Lexis 23936 (E.D. La. September 16, 2002) (government failed to show
 19 that alien's deportation to Guyana was reasonably foreseeable where
 20 the government offered historical statistics of repatriation to Guyana,
 21 but failed to show any response from Guyana on the application for
 22 travel documents that INS and the petitioner had requested). Rather
 23 for the government to meet its burden of showing that an alien's
 24 repatriation is reasonably foreseeable, it must provide some meaning-
 25 ful evidence particular to the individual petitioner's case.

26 18. An alien who has been detained beyond the presumptive six
 27 should be released where the government is unable to present documents
 28 confirmation that the foreign government at issue will agree to accept

1 The particular individual in question. ICE is "unable to present document
2 confirmation that the Cuban government has agreed to Petitioner's
3 repatriation. Because there is no Immigration Agreement between
4 between Cuba and the United States.

5 CLAIM FOR RELIEF

6 COUNT ONE

7 STATUTORY VIOLATION

8 19. Petitioner re-alleges and incorporates by reference paragraphs
9 1 through 18 above.

10 20. Petitioner's continued detention by Respondents is unlawful
11 and contravenes 8 U.S.C. § 1231(a)(2) as interpreted by the U.S.
12 Supreme Court in Zadvydas, because Respondent has been trying
13 to remove the Petitioner since 2013. Petitioner still has not been
14 removed, and for the reason outlined in paragraphs 1 to 14, Petitioner's
15 removal to Cuba is not reasonably foreseeable. The Supreme Court
16 held in Zadvydas and Martinez that ICE's continued detention of
17 someone after six months where deportation is not reasonably
18 foreseeable is unreasonable and in violation of 8 U.S.C. § 1231(a)-533
19 at 701.

20 COUNT TWO

21 SUBSTANTIVE DUE PROCESS VIOLATION

22 21. Petitioner re-alleges and incorporate by reference paragraphs
23 1 through 20 above.

24 22. Petitioner's continued detention violates Petitioner's right to
25 substantive due process through a deprivation of the core liberty interest
26 in freedom from bodily restraint. See e.g., Tam v. INS, 14 F. Supp. 2d
27 1184 (E.D. Cal. 1998) (aliens retain substantive due process rights).

28 23. The Due Process Clause of the Fifth Amendment requires that The

1 deprivation of Petitioner's liberty be narrowly tailored to serve
 2 a compelling government interest. While Respondents would have
 3 an interest in detaining Petitioner in order to effectuate removal,
 4 that interest does not justify the indefinite detention of
 5 Petitioner, who is not significantly likely to be removed in the
 6 reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas*
 7 thus interpreted 8 U.S.C. § 1231(a) to allow continued detention only
 8 for a period reasonably necessary to secure the alien's removal
 9 because any other reading would go beyond the government's
 10 articulated interest to effect the alien's removal. See *Kay v. Reno*, 94
 11 F. Supp. 2d 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus,
 12 because petitioner's substantive due process rights were violated, and
 13 noting that "if deportation can never occur, the government's
 14 primary legitimate purpose in detention - executing removal - is
 15 nonsensical.")

16 COUNT THREE

17 PROCEDURAL DUE PROCESS VIOLATION

18
 19 24. Petitioner re-alleges and incorporates by reference
 20 paragraphs 1 through 23 above.

21 25. Under the Due Process Clause of the Fifth Amendment, an alien
 22 is entitled to a timely and meaningful opportunity to demonstrate
 23 that he should not be detained. Petitioner in this case has
 24 been denied that opportunity. ICE does not make decisions
 25 concerning alien's custody status in a neutral and impartial
 26 manner. The failure of Respondents to provide a neutral decision-
 27 maker to review the continued custody of Petitioner violates
 28 Petitioner's right to procedural due process. Further, Respondents

1 HAVE FAILED TO ACKNOWLEDGE OR ACT UPON THE PETITIONER'S
2 ADMINISTRATIVE REQUEST FOR RELEASE IN A TIMELY MANNER. THERE
3 IS NO ADMINISTRATIVE MECHANISM IN PLACE FOR PETITIONER TO
4 DEMAND A DECISION, ENSURE THAT A DECISION WILL EVER BE
5 MADE, OR APPEAL A CUSTODY DECISION THAT VIOLATES [ADYDAS.]
6

7 PRAYER FOR RELIEF
8

9 WHEREFORE, PETITIONER PRAY THAT THIS COURT GRANT THE
10 FOLLOWING RELIEF:

- 11 1) ASSUME JURISDICTION OVER THIS MATTER;
12 2) GRANT PETITIONER A WRIT OF HABEAS CORPUS DIRECTING
13 THE RESPONDENTS TO IMMEDIATELY RELEASE PETITIONER FROM CUSTODY,
14 UNDER REASONABLY CONDITIONS OF SUPERVISION;
15 3) ORDER RESPONDENTS TO REFRAIN FROM TRANSFERRING THE
16 PETITIONER OUT OF THE JURISDICTION OF THE ICE WESTERN DISTRICT
17 OF EL PASO TX. DURING THE PENDENCY OF THESE PROCEEDING AND
18 WHILE THE PETITIONER REMAINS IN RESPONDENTS' CUSTODY; AND
19 4) IF THE COURT APPOINT COUNSEL, AWARD ATTORNEY'S FEES
20 AND COSTS UNDER THE EQUAL ACCESS TO JUSTICE ACT ("EAJA"), AS
21 AMENDED, 5 U.S.C. § 504 AND 28 U.S.C. § 2412.
22

23 I AFFIRM, UNDER PENALTY OF PERJURY, THAT THE FOREGOING IS TRUE
24 AND CORRECT. RESPECTFULLY SUBMITTED

25 x 
26 YOSVANY CABRERA PRIETO, PRO SE

27 ERD CAMP EAST MONTANA
28 6920 DIGITAL ROAD, EL PASO, TX 79936