

FLORENCE CORRECTIONAL COMPLEX

P.O BOX 6300

FLORENCE, AZ 85132

☒ FILED	☐ LODGED
☐ RECEIVED	☐ COPY
MAR 23 2026	
CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
BY _____	DEPUTY _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Petitioner,

Vs.

Luis Rosa Jr, Warden, Central Arizona Florence
Correctional Complex;
John Cantu, Director, ICE Enforcement and Removal
Operations, Phoenix Field Office;
A. Nordstrom, Deportation Officer, United States
Immigration and Custom Enforcement, Florence,
Arizona;
ICE Field Office, Phoenix, Arizona;
Todd M. Lyons, Acting Director, United States
Immigration and Customs Enforcement;
Chadd Wolf, Secretary, U.S. Department of
Homeland Security;
Pamela Bondi, Attorney General, U.S. Department of
Justice; and The U.S. Attorney for the District of
Arizona,.

Respondents.

CV26-02001-PHX-DWL--CDB

COSTA DA SILVA ROSARIO

A# [REDACTED]
FLORENCE CORRECTIONAL COMPLEX
P.O BOX 6300
FLORENCE, AZ 85132

PRO SE

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Costa Da Silva Rosario

Petitioner,

Vs.

Luis Rosa Jr, Warden, Central Arizona Florence
Correctional Complex;
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Chadd Wolf, Secretary, U.S. Department of
Homeland Security;
Pamela Bondi, Attorney General, U.S. Department of
Justice; and The U.S. Attorney for the District of
Arizona,.

Respondents.

Case No.

A# [REDACTED]

PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241

DETAINED

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION AND SUMMARY OF RELIEF SOUGHT

I. INTRUDUCTION

1. Petitioner, (COSTA DA SILVA ROSARIO), a native of Angola and citizen of Netherlander, currently detained by U.S. immigration and Customs Enforcement (ICE) at C.A.F.C.C. in Florence Arizona, respectfully petition this Court for a writ of Habeas corpus under 28 U.S.C § 2241.

2. Petitioner has been in post- final order immigration detention for over six months pursuant to 8 U.S.C. § 1231(a), despite Ice's inability to execute the removal order due to refusal or failure to accept repatriation.

3. Petitioner seeks immediate release from detention on the grounds that continued detention violate the Due Process Clause of the Fifth Amendment and the Supreme Court's ruling in *Zadvydas V Davis*, 533 U.S. 678 (2001).

On October 30th, 2025, an Immigration Judge ordered Petitioner removed to Netherlands and alternative to Angola. Petitioner did not reserve right to appeal, and the order became administratively final that day.

More than ninety days have passed since ordered removed, but he remains detained despite the statutory removal period having expired. The continued detention violates both the Immigration and Nationality Act, 8 U.S.C. § 1231, and the Due Process Clause of the Fifth Amendment. Petitioner seeks release under supervision pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001).

JURISDICTION AND VENUE

1
2 1. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and 28 U.S.C. §
3 1331. Venue is proper in the District of Arizona because Petitioner is detained in Florence, Arizona,
4 within this District. This petition challenges only the legality of continued detention, not the underlying
5 removal order. See *Zadvydas*, 533 U.S. At 688.

6
7 2. This Court has subject matter jurisdiction and may grant relief under 28 U.S.C. §
8 2241 (Habeas Corpus), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 1331 (federal question). This
9 Court also has jurisdiction to hear this case under the Suspension Clause of Article I of the United States
10 Constitution. *INS v. St Cyr*, 533 U.S. 289 (2001).

11
12 3. Because Petitioner challenges his custody, jurisdiction is proper in this court. While
13 the courts of appeals have jurisdiction to review removal orders through petitions for review, *see* 8 U.S.C.
14 §§ 1252(a)(1) and (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear
15 petitions by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533
16 U.S. 678, 687-88 (2001); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1075-76 (9TH Cir. 2006).

17
18 4. Venue is proper in the District of Arizona pursuant to 28 U.S.C §§ 1391(b) and (e)
19 because a substantial part of the events or omissions giving rise to these claims occurred in this district.
20 All material decisions have been made at the Phoenix Field Office of Immigration and Customs
21 Enforcement (ICE), which is located in this judicial district.

22
23 5. The Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et
24 seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

25
26 6. Venue is proper in this District under 28 U.S.C. 1391 and 28 U.S.C, 2242 because
27 at least one Respondent is in this District, Petitioner has been taken into custody and is being detained in
28 this District, Petitioner's immediate physical custodian is located in this District, and a substantial part of

1 the events giving rise to the claims in this action took place in this District. See generally *Rumsfeld v.*
2 *Padilla*, 542 U.S. 426, 434 (2004) (“the proper respondent to a habeas petition is ‘the person who has
3 custody over the petitioner’”) (citing 28 U.S.C. 2242).

4
5 7. Importantly, if venue is proper at the time of filing, the District Court will retain
6 jurisdiction even if ICE transfers a petitioner to another district. See *Ex Parte Endo*, 323 U.S. 283, 304-05
7 (1944) (rejecting mootness after transfer because “there is no suggestion that there is no one within the
8 jurisdiction of the District Court who is responsible for the detention of appellant and who would be an
9 appropriate respondent.”); *Anariba v. Dir. Hudson City Corr. Ctr.*, 17 F.4th 434, 446 (3d Cir. 2021)
10 (*[T]he District Court retained jurisdiction following Argueta’s transfer out of New Jersey because it
11 already had acquired jurisdiction over Argueta’s properly filed habeas petition that named his then-
12 immediate custodian.”).

13
14 8. This action arises under the Constitution of the United States and the INA, 8 U.S.C.
15 § 1101 et seq.

16
17 9. Petitioner has exhausted any and all administrative remedies to the extent required
18 by law.

19
20 **REQUIREMENTS OF 28 U.S.C § 2243**

21 10. The Court must grant the petition for writ of habeas corpus or issue an order to
22 show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. §
23 2243. If an order to show cause is issued, the Court must require Respondents to file a return “within
24 three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis
25 added).

26
27 11. Courts have long recognized the significance of the habeas statute in protecting
28 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important

1 writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all
2 cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

3
4 **PARTIES**

5 12. Petitioner is a noncitizen who is currently detained by Immigration and Customs
6 Enforcement (ICE) at the Florence Correctional Complex. He is in the custody, and under the direct
7 control, of Respondents and their agents.

8 13. Respondent Luis Rosa Jr is the Warden of the Central Arizona of the Florence
9 Correctional Complex, where on information and belief, Petitioner is currently detained. He is a legal
10 custodian of Petitioner and is named in his official capacity.

11 14. Respondent John Cantu, Director of ICE Enforcement and Removal Operations, is
12 responsible for Phoenix Field Office of ICE with administrative jurisdiction over Petitioner's immigration
13 case. He is a legal custodian of Petitioner and is named in his official capacity.

14 15. Respondent A. Nordstrom, Deportation officer of the United States Immigration
15 and Customs Enforcement assigned to Petitioner. He is a legal custodian of Petitioner and is named in his
16 official capacity.

17 16. Respondent Todd M. Lyons is the Acting Director of ICE. He is a legal custodian of
18 Petitioner and is named in his official capacity.

19 17. Respondent Chadd Wolf is the Secretary of the United States Department of
20 Homeland Security (DHS). She is a legal custodian of Petitioner and is named in her official capacity.

21 18. Respondent Pamela Bondi is the Attorney General of the United States Department
22 of Justice. She is a legal custodian of Petitioner and is named in her official capacity.

STATEMENT OF FACTS

1. Petitioner **COSTA DA SILVA ROSARIO** was born in Angola on 
2. Petitioner **COSTA DA SILVA ROSARIO** is a NETHERLANDER citizen living U.S. since March 24th 2022
3. On October 30th 2025, Petitioner was ordered removed to Netherlands alternative Angola. The order became administratively final that day.
4. Petitioner has been in ICE custody during his removal proceedings and at the time of his removal order on June 03th, 2025. And the Judge final order become October 30th
5. The ninety-day statutory removal period under 8 U.S.C. § 1231(a)(1)(A) expired on March 30th, 2026. (More than 90 days have passed in ICE Custody)
6. Petitioner has complied fully with all ICE requests and has made no effort to interfere with his removal.
7. Petitioner has not filed any appeal or motion that would delay removal.
8. Petitioner has now been detained for more than 90 days since order removed with no significant likelihood of removal in the reasonably foreseeable future.

LEGAL FRAMEWORK

Under 8 U.S.C. § 1231(a)(1)(A), the government shall remove a noncitizen within ninety days of a final removal order. Detention during that ninety-day period is mandatory. 8 U.S.C. § 1231(a)(2). If removal is not effectuated in that time, the statute authorizes release under supervision, except that § 1231(a)(6) permits limited continued detention. In *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the Supreme Court held that § 1231(a)(6) does not permit indefinite detention and construed the statute to authorize detention

1 only for a period reasonably necessary to effect removal. The Court set six months as a presumptive
2 reasonable period. After that, if removal is not significantly likely in the reasonably foreseeable future,
3 the detainee must be released. See also *Clark v. Martinez*, 543 U.S. 371, 377 (2005). (In Martinez's case,
4 the District Court found that removal was not reasonably foreseeable and ordered that Martinez be
5 released under appropriate conditions. The Ninth Circuit affirmed.)
6

7 8 **CLAIM FOR RELIEF**

9 **COUNT I**

10 **VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT**

11
12 Petitioner's continued detention is unlawful and violates the Immigration and Nationality Act, 8
13 U.S.C. § 1231. The Ninety-days statutory period of detention has expired and petitioner has provided
14 good reason to believe that his removal is not significantly likely to occur in the reasonably foreseeable
15 future. Therefore, Respondents lack authority to continue detaining petitioner.
16

17 18 **COUNT II**

19 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S** 20 **CONSTITUTION**

21
22 The Due Process Clause of the Fifth Amendment forbids the government from depriving any
23 person of liberty without due process of law. U.S. Const. amend. V. See generally *Reno v. Flores*, 507
24 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).
25
26
27
28

1 Petitioners' detention violates the Due Process Clause because it is not rationally related to any
2 immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate
3 purpose the government could have in imprisoning Petitioner; and because it lacks statutory
4 authorization.
5

6 7 ARGUMENT

8 Petitioner's detention exceeds the ninety-day statutory period under 8 U.S.C. § 1231(a)(1)(A).
9 Removal is not significantly likely in the reasonably foreseeable future because ICE has able to get travel
10 documents for Neanderthad country removal since ordered removed. The travel document was issue On
11 December 10th, 2025. ICE has not remove the Petitioner, the document expired 9th January 2026. ICE
12 refuse to disclose the name of the Third country Petitioner's Due Process Clause of the Fifth Amendment
13 and the Administrative Procedure Act ("APA") which requires the government to provide meaningful
14 notice and the opportunity to present a fear-based claim before removing him to a third country. *See*
15 *Aden*, 409 F. Supp. 3d at 1009; *Najja*, 630 Fed App'x 724.
16
17

18
19 Petitioners' detention violates the Due Process Clause because it is not rationally related to any
20 immigration purpose; because it is not the least restrictive mechanism for accomplishing any legitimate
21 purpose the government could have in imprisoning Petitioner; and because it lacks statutory
22 authorization.
23

24 Petitioner has met his burden under *Zadvydas*, 533 U.S. at 701, of providing good reason to
25 believe removal is not reasonably foreseeable. The burden thus shifts to the government to rebut with
26 evidence. The government cannot do so here, *See Krajekian v. Cantu*, No. CV-25-02666-PHX-DJH, 2025
27
28

WL 5456789, at *3 (D. Ariz. Sept. 5, 2025) (granting habeas relief where ICE could not show removal was significantly likely). Because detention has become prolonged and removal is not imminent, continued confinement violates the statute and the Due Process Clause. See *Zadvydas*, 533 U.S. at 690.

PRAYER FOR RELIEF

Petitioner respectfully requests that this court:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within three days of the return, as required by 28 U.S.C. § 2243;
3. Grant the writ of habeas corpus and order Petitioner's immediate release under reasonable supervision;
4. Declare that Petitioner's detention violates 8 U.S.C. § 1231 and the Fifth Amendment's Due Process Clause;
5. Issue an order pursuant to 28 U.S.C. § 2243 directing Respondents to show cause why the writ of habeas corpus should not be granted;
6. Enjoin Respondents from further detention absent a significant likelihood of removal in the reasonably foreseeable future;
7. Grant such other relief as the Court deems just and proper.

Respectfully submitted this 17th day of March, 2026

Signed by: 

COSTA DA SILVA ROSARIO
Petitioner, Pro Se.

INCORPORATION OF EXHIBITS**TABLE OF CONTENTS**

EXHIBIT	INDEX OF DOCUMENTATION SUBMITTED	PAGE(S)
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COSTA DA SILVA ROSARIO
ALIEN NO: 
FLORENCE CORRECTIONAL COMPLEX
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EXHIBIT A

Travel Document for Netherlands country

COSTA DA SILVA ROSARIO
ALIEN NO: 

COSTA DA SILVA ROSARIO
ALIEN NO: 
FLORENCE CORRECTIONAL COMPLEX
P.O BOX 6300
FLORENCE, AZ 85132

EXHIBIT B

Order of Immigration Judge

COSTA DA SILVA ROSARIO
ALIEN NO: 



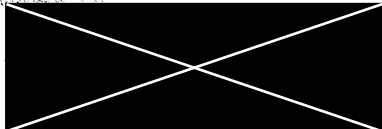
UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
FLORENCE IMMIGRATION COURT

Respondent Name:

COSTA DA SILVA, ROSARIO

To:

COSTA DA SILVA, ROSARIO
CAFCC



A-Number:



Riders:

In Asylum Only Case Proceedings

Initiated by the Department of Homeland Security

Date:

10/30/2025

ORDER OF THE IMMIGRATION JUDGE

- ☐ This is a summary of the oral decision entered on
- ☒ Both parties waived the issuance of a formal oral decision in this proceeding.

The alien's request for:

- ☒ Asylum is:
- ☐ granted ☐ denied ☒ withdrawn.
- ☒ Withholding of Removal under Immigration and Nationality Act § 241(b)(3) is:
- ☐ granted ☐ denied ☒ withdrawn.
- ☒ Withholding of Removal under the Convention Against Torture is:
- ☐ granted ☐ denied ☒ withdrawn.
- ☒ Deferral of Removal under the Convention Against Torture is:
- ☐ granted ☐ denied ☒ withdrawn.



Immigration Judge: GUERRERO, MARNI 10/30/2025

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☒ waived ☐ reserved

Appeal Due:

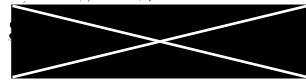
Certificate of Service

This document was served:

Via: ☐ M Mail | ☐ P Personal Service | ☐ E Electronic Service | ☐ U Address Unavailable

To: ☐ Alien | ☐ M Alien c/o custodial officer | ☐ Alien atty/rep. | ☐ M DHS

Respondent Name : COSTA DA SILVA, ROSARIO | A-Number



Riders:

Date: 10/30/2025 By: Carrie Kiesel, Court Staff

COSTA DA SILVA ROSARIO

ALIEN NO: 

FLORENCE CORRECTIONAL COMPLEX

P.O BOX 6300

FLORENCE, AZ 85132

EXHIBIT C

Warning for Failure to Depart.

COSTA DA SILVA ROSARIO
ALIEN NO: 

U.S. Department of Justice

Immigration and Naturalization Service

Warning for Failure to Depart

Name: Costa Da Silva, Rosario	District Office: Phoenix Field Office	File #: 
---	---	--

Section 243(a) of the Immigration and Nationality Act provides, in part, that:

Any alien against whom a final order of removal is outstanding by reason of being a member of any of the classes described in section 237(a) who--

- (A) willfully fails or refuses to depart from the United States within a period of 90 days* from the date of the final order of removal under administrative processes, or if judicial review is had, then from the date of the final order of the court,
- (B) willfully fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure,
- (C) connives or conspires, or takes any other action, designed to prevent or hamper or with the purpose of preventing or hampering the alien's departure pursuant to such, or
- (D) willfully fails or refuses to present himself or herself for removal at the time and place required by the Secretary of Homeland Security pursuant to such order,

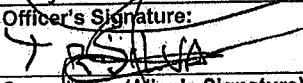
shall be fined under title 18, United States Code, or imprisoned not more than four years (or 10 years if the alien is a member of any of the classes described in paragraph (1)(E), (2), (3), or (4) of section 237(a)), or both.

Nothing in this section shall make it a violation to take proper steps for the purpose of securing cancellation of or exemption from such order of removal or for the purpose of securing the alien's release from incarceration or custody.

Any action the Immigration and Naturalization Service may take to obtain a travel document for your departure or to remove you will NOT relieve you of the liability for compliance with the provisions of law referred to in the first paragraph above.

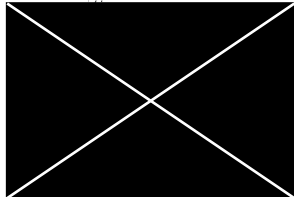
* Section 241(a)(1)(C) provides for the extension of the statutory removal period if the alien refuses, during the removal period, to make application in good faith, for a travel or other document necessary for the alien's removal or departure or conspires or acts to prevent the alien's removal subject to an order of removal.

Date Order Final: July 3, 2025	Ordered Removed under Section: Section 237 (a)(1)(B) of the INA
--	---

Record of Service (Check method used)	
Record of Personal Service	
Served By: (Print Name and Title of Officer) J. Symmonds Officer's Signature: 	Date: January 30, 2026
Location of Service: FDC	Date: January 30, 2026
Served On: (Alien's Signature) Served via mail	Date: January 30, 2026

() Warning administered in Court (Copy of order attached)	Record of Personal Service (Cont.)
() Certified Mail Service	Fingerprint of Alien (Specify finger used)

Attach certified mail receipts here.



CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on March 17th, 2026, Petitioner filed with the United States District Court for the District of Arizona, this Petition for Habeas Corpus. **I, COSTA DA SILVA ROSARIO , Pro Se**, do hereby state that I caused a copy of Petition for Habeas Corpus to be served upon the listed individuals below at the indicated addresses via certified U.S. mail (in the event the Court does not issue the summons).

TO: Luis Rosa Jr, Warden
Central Arizona Florence Correctional
Complex
1155 North Pinal Pkwy,
Florence, AZ 85132

John Cantu, Director
ICE Enforcement and Removal Operations,
Phoenix Field Office
2035 N. Central Ave,
Phoenix, AZ 85004

Todd Lyons, Acting Director
U.S. Immigration and Customs
Enforcement
500 12th St. SW
Washington, DC 20536

Chadd Wolf, Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave. SE
Washington, DC 20528

Pamela Bondi, Attorney General
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530-0001

United States Attorney
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Ave., Suite 1800
Phoenix, AZ 85004-4449

A Nordstrom, Deportation Officer
United States Immigration and
Custom Enforcement
3250 N. Pinal Parkway Avenue,
Florence, AZ 85132

ICE Field Office
2035 N. Central Avenue,
Phoenix, AZ 85004

Signed by: 

COSTA DA SILVA ROSARIO
Petitioner, Pro Se.

COSTA DA SILVA ROSARIO

A# 

Central Arizona Florence Correctional Complex

P.O. BOX 6300

Florence, AZ 85132

CERTIFICATE OF SERVICE

On 03-17-26, I Costa Da Silva Rosario, served a copy of this:

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT
(Type of Document)

and any attached pages by United States Postal Service (U.S.P.S.) and institutional mail to the following:

- **United States District Court, District of Arizona – Phoenix Division**
Sandra Day O'Connor U.S. Courthouse, Suite 130
401 West Washington Street, SPC 1
Phoenix, AZ 85003 – 2118
- **ICE Headquarters (ERO Removal Division)**
Potomac Center North
500 12th Street, SW
Washington, D.C. 20536
- **ICE/DHS Litigation Box**
3250 N. Pinal Parkway
Florence, AZ – 85132

Date: 03-17-26

Signature: 