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UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

LUIS SANTIAGO RIVERO GONZALEZ,

Petitioner,

v.

WARDEN, EVERGLADES DETENTION CENTER;

FIELD OFFICE DIRECTOR, MIAMI ICE;

ATTORNEY GENERAL OF THE UNITED STATES,

Respondents.

Case No.: 2:26-CV-1701-SPC-KRH

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

**I. PRELIMINARY STATEMENT & RECENT CASE HISTORY**

1. Petitioner, Luis Santiago Rivero Gonzalez, brings this emergency petition to challenge his continued detention by Respondents.
2. This Court previously dismissed Petitioner's prior habeas petition (Case No. 2:26-cv-00681-KCD-NPM) "without prejudice" on April 2, 2026, on the grounds that it was premature under the 180-day presumptive timeline established in *Zadvydas v. Davis*.
3. Petitioner refiles now on Day 166 of continuous immigration custody (detained since December 2, 2025).
4. While the standard six-month mark is approximately two weeks away, an immediate constitutional emergency has arisen regarding Petitioner's physical safety, health, and survival inside the facility. Petitioner cannot wait the remaining days for the *Zadvydas* clock to expire; his continued detention under these punitive and life-threatening conditions constitutes an ongoing, severe violation of his constitutional rights.

**II. GROUNDS FOR RELIEF**

**GROUND ONE: Violation of the Fifth Amendment Due Process Clause**

**(Deliberate Indifference to Serious Medical Needs and Punitive Conditions)**

5. Petitioner is a civil immigration detainee. The Fifth Amendment strictly prohibits civil detention from being "punitive."

6. Respondents are exhibiting deliberate indifference by completely withholding Petitioner's prescribed medications and actively denying him the use of a wheelchair required for his basic physical mobility and safety.

7. Withholding essential medical equipment and life-sustaining care transforms this civil detention into unlawful punishment.

**GROUND TWO: Violation of the Fifth Amendment Due Process Clause**

**(Failure to Protect from Known Physical Violence)**

8. The government has an absolute constitutional duty under the Due Process Clause to ensure the reasonable safety of civil detainees.

9. Respondents have direct, documented knowledge that Petitioner was severely assaulted and hospitalized on December 2025, by members of the "305 Gang."

10. Despite this explicit knowledge, Respondents have failed to protect him, forcing Petitioner into shared spaces and direct contact with known members of that exact gang, placing his life in imminent danger.

**GROUND THREE: Violation of the Fourth Amendment**

**(Unreasonable Seizure)**

11. The continued physical seizure of a disabled individual in a facility that is operationally incapable of guaranteeing physical safety, basic sanitation, or necessary medical accommodation is fundamentally "unreasonable."

**III. SUPPORTING FACTS**

1. **Prolonged Detention with No Likelihood of Removal:** Petitioner has been detained for 166 days. There is no significant likelihood of his removal to Cuba in the reasonably foreseeable future due to ongoing diplomatic limitations and his critical medical state.

2. **Active Obstruction of Justice:** Petitioner has repeatedly demanded his medical records from facility staff to present to this Court. The facility has actively refused to provide them, deliberately obstructing his ability to show the full extent of his injuries.

3. **Escalation of Conditions:** As referenced in Petitioner's prior declarations, the facility has a pattern of systemic issues (including spoiled food and deceptive transfer threats). These conditions have now escalated to a direct, immediate threat to Petitioner's survival.

**V. PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

1. **Issue a Writ of Habeas Corpus** ordering his immediate release under an Order of Supervision;
2. **In the alternative, immediately order an expedited Bond Hearing** where the burden shifts to the government to justify his safety;
3. **Issue an Emergency Injunction** ordering the Warden to immediately return Petitioner's wheelchair and required medical prescriptions pending a final ruling.

Dated: 04/30/2026

Respectfully submitted,

Luis Santiago Rivero Gonzalez

Petitioner, Pro Se

Everglades Detention Center

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MAY 19 2026

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

# UNITED STATES DISTRICT COURT

for the

Luis Rivera Gonzalez

Petitioner

v.  
Warden Florida Soft side South  
and USA Attorney General.

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 2:26-W-1701-SPC-KRH  
(Supplied by Clerk of Court)

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

## Personal Information

1. (a) Your full name: Rivera Gonzalez, Luis  
(b) Other names you have used: \_\_\_\_\_
2. Place of confinement:  
(a) Name of institution: Florida Soft side South  
(b) Address: 54575 Tamiami Trail East Ochopee FL 34141
3. (c) Your identification number: AA [REDACTED]  
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)

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☐ Pretrial detention☒ Immigration detention☒ Detainer☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)☐ Disciplinary proceedings☐ Other (explain):

N/A

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court:

N/A

(b) Docket number, case number, or opinion number:

N/A

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

THE PETITIONER CHALLENGES HIS DETENTION WITH ICE THE REVOCATION OF HIS ORDER OF SUPERVISION AND RELEASE UNDER 8 C.F.R. 247(a)(1)(iv) IN VIOLATION OF THE SUPREME COURT VIEW OF LIBERTY CLAUSE OF FIFTH

(d) Date of the decision or action:

AND FOURTEEN CEMENT

## Your Earlier Challenges of the Decision or Action

7. First appeal

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

N/A

(2) Date of filing:

N/A

(3) Docket number, case number, or opinion number:

N/A

(4) Result:

N/A

(5) Date of result:

N/A

(6) Issues raised:

N/A

(b) If you answered "No," explain why you did not appeal:

N/A

8. Second appeal

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes☒ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(2) Date of filing: N/A

(3) Docket number, case number, or opinion number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

(b) If you answered "No," explain why you did not file a second appeal: \_\_\_\_\_

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: N/A

(2) Date of filing: N/A

(3) Docket number, case number, or opinion number: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

(b) If you answered "No," explain why you did not file a third appeal: N/A

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☒ No

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If "Yes," provide:

(1) Name of court: N/A

(2) Case number: N/A

(3) Date of filing: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: N/A

(2) Case number: N/A

(3) Date of filing: N/A

(4) Result: N/A

(5) Date of result: N/A

(6) Issues raised: N/A

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: N/A

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☐ Yes

☒ No

If "Yes," provide:

(a) Date you were taken into immigration custody: \_\_\_\_\_

(b) Date of the removal or reinstatement order: \_\_\_\_\_

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No

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If "Yes," provide:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** This Court subject matter jurisdiction under 28 USC § 2241 the suspension Clause because this petition for writ of "Habeas Corpus" Challenging the legality of petitioner detention, Jurisdiction Also exists under 28 U.S.C. § 7337, Jurisdiction is further supported.

(a) Supporting facts (Be brief. Do not cite cases or law.):

Respondents action Arises under the "Constitution Laws" and Treaties of the United States. To the extent petitioner brings claims under the Administrative Procedure Act, and establishing the right of review for a person suffering a legal wrong due to Agency Actions, revocation of a noncitizen order of supervision is only permissible a legitimate objective

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

**GROUND TWO:** The due process Clause Applies to all persons within the United States including Aliens, whether their presence here is lawful, unlawful, temporary or permanent. "Zadvydas v Davis (2001) (Citation Modified). Petitioner Citing and Zadvydas v Davis 533 U.S. 678, 690-92 (discussing

(a) Supporting facts (Be brief. Do not cite cases or law.): Constitutional limitations on civil detention

"Freedom from imprisonment from government custody detention, or order forms of physical restraint - "lies at the heart of the liberty that Clause protects" The Supreme Court" has only recognized two legitimate objectives of Immigration detention, preventing danger to the community and preventing flight prior to removal.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

**GROUND THREE:** In Zadvydas, the "Supreme Court" Construed 8 U.S.C. § 1237(a)(1) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, Petitioner also citing Balca v Port, No. 6:20-CV-00866, 2020 WL 6743643, AT \*5

(a) Supporting facts (Be brief. Do not cite cases or law.):

Courts have rejected conclusory claims by ICE agents which claims, without submitting concrete factual information about scheduled flight or repatriation agreements, that removal is imminent. A theoretical possibility of eventually being removed does not satisfy the government's burden once the removal period has expired, which means Petitioner

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

Can't be base in pure speculations by ICE

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GROUND FOUR:

See Attached.

(a) Supporting facts (Be brief. Do not cite cases or law.):

See Attached

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☒ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

15. State exactly what you want the court to do: Petitioner respectfully requests that the Court use its Authority under 28 U.S.C. § 2243 to order the respondents to file a return within three days unless they can show good cause why additional time is needed. See 28 USC § 2243 (Stating that an order to show cause why a petition for a writ of habeas corpus should be denied is returnable within three days unless for good cause.)

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**Declaration Under Penalty Of Perjury**

If you are incarcerated, on what date did you place this petition in the prison mail system:

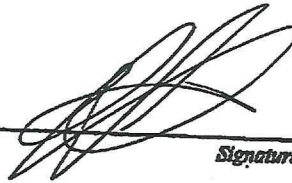
X

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

X 4/30/2020

X



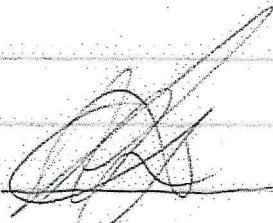
Signature of Petitioner

Signature of Attorney or other authorized person, if any

4/30/26

I, LUIS RIVERO GONZALEZ, AM GIVING A FILLED OUT COPY OF MY HABEAS PETITION TO ATTORNEY F. ELIZABETH VALENTIN TO GIVE TO MY WIFE, BECAUSE THE GUARDS AT ALLIGATOR ALCATRAZ WILL NOT SEND IT OUT FOR ME.

I UNDERSTAND ATTORNEY F. ELIZABETH VALENTIN IS NOT AN IMMIGRATION ATTORNEY AND CANNOT HELP ME WITH MY IMMIGRATION CASE.

A handwritten signature in dark ink, appearing to be 'Luis Rivero Gonzalez', written over a horizontal line.

SIGNED -