

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Otailson Domingues-Dos Santos,

Petitioner,

v.

Markwayne Mullin, Secretary, U.S.
Department of Homeland Security
Garrett J. Ripa, Miami Field Office
Director of Enforcement and
Removal Operations, Miami Field
Office, Immigration and Customs
Enforcement; U.S. Department of
Homeland Security; Todd Blanche,
U.S. Attorney General; Executive
Office for Immigration Review;
Warden of Florida Soft Side South
Detention Facility

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

INTRODUCTION

1
2 1. Petitioner Otailson Domingues-Dos Santos, A# 
3 respectfully submits this Petition for Writ of Habeas Corpus challenging his
4 continued detention by the United States Department of Homeland Security,
5 Immigration and Customs Enforcement ("ICE").
6

7 2. Petitioner was admitted into the United States on or about
8 September 24, 2002, from Brazil and has resided continuously in the United
9 States since that time.

10 3. On or about July 5, 2005, an Immigration Judge entered a final order
11 of removal against Petitioner.
12

13 4. On or about January 30, 2026, Petitioner was taken into ICE custody
14 at his residence after ICE officers asserted that his removal to Mexico was
15 possible. However, Petitioner has consistently expressed a fear of return
16 to Brazil, the country with which he has a genuine fear of persecution and/or
17 harm, raising serious concerns regarding the legality and foreseeability of his
18 removal.
19

20 5. Petitioner seeks immediate relief from this unlawful detention,
21 including release under an Order of Supervision or under reasonable conditions
22 of supervision.
23
24

JURISDICTION

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause) and the Administrative Procedure Act (APA), 5 U.S.C. §§ 701, *et seq.*

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Middle District of Florida, the judicial district in which Petitioner currently is detained.

1 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
2 because Respondents are employees, officers, and agencies of the United States,
3 and because a substantial part of the events or omissions giving rise to the claims
4 occurred in the Middle District of Florida.
5

6 **REQUIREMENTS OF 28 U.S.C. § 2243**

7 14. This Petition for Writ of Habeas Corpus is brought pursuant to 28
8 U.S.C. § 2243 to challenge the Respondent's unlawful detention of Petitioner,
9 whose detention bears no reasonable relation to a likelihood of removal.

10 15. Habeas corpus is "perhaps the most important writ known to the
11 constitutional law . . . affording as it does a *swift* and imperative remedy in all
12 cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963)
13 (emphasis added). "The application for the writ usurps the attention and
14 displaces the calendar of the judge or justice who entertains it and receives
15 prompt action from him within the four corners of the application." *Yong v.*
16 *I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).
17

18 **PARTIES**

19 16. Petitioner Otailson Domingues-Dos Santos is a citizen of Brazil who
20 has been in immigration detention since January 30, 2026.
21

22 17. Respondent Garrett J. Ripa is the Director of the Miami Field Office
23 of ICE's Enforcement and Removal Operations division. As such, Garrett J. Ripa
24

1 is Petitioner's immediate custodian and is responsible for Petitioner's detention
2 and removal. He is named in his official capacity.

3 18. Respondent Markwayne Mullin is the Secretary of the Department
4 of Homeland Security. He is responsible for the implementation and
5 enforcement of the Immigration and Nationality Act (INA), and oversees ICE,
6 which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial
7 authority over Petitioner and is sued in her official capacity.
8

9 19. Respondent Department of Homeland Security (DHS) is the federal
10 agency responsible for implementing and enforcing the INA, including the
11 detention and removal of noncitizens.
12

13 20. Respondent Todd Blanche, Attorney General of the United States. Is
14 responsible for the Department of Justice, of which the Executive Office for
15 Immigration Review and the immigration court system it operates is a
16 component agency.
17

18 21. Respondent Executive Office for Immigration Review (EOIR) is the
19 federal agency responsible for implementing and enforcing the INA in removal
20 proceedings, including for custody redeterminations in bond hearings.

21 22. Respondent Warden of Florida Soft Side South Detention Facility is
22 employed by a private corporation as Warden of Florida Soft Side South
23
24

1 Detention Facility, where Petitioner is detained. He has immediate physical
2 custody of Petitioner. He is sued in his official capacity.

3
4 **CLAIM FOR RELIEF**

5 **Count I**

6 **Unlawful Post-Order Detention in Violation of the Fifth Amendment and 28**
7 **U.S.C. § 2241 Because There Is No Significant Likelihood of Removal in the**
8 **Reasonably Foreseeable Future**

9 23. Petitioner's continued detention is unlawful because there is no
10 significant likelihood of removal in the reasonably foreseeable future.

11 Respondents have not effected removal, have not produced evidence that Mexico
12 has formally accepted Petitioner for repatriation, and have not produced valid
13 travel documents authorizing removal. These circumstances demonstrate more
14 than a temporary delay; they establish a present inability to execute removal.

15 24. Under *Zadvydas v. Davis*, once detention has extended beyond the
16 presumptively reasonable period and the noncitizen provides good reason to
17 believe removal is not significantly likely in the reasonably foreseeable future,
18 the burden shifts to the Government to rebut that showing. Here, the absence of
19 travel documents, and the lack of evidence of receiving-country acceptance
20 establish precisely the type of indefinite detention prohibited by due process.
21 Continued detention therefore violates the Fifth Amendment and habeas relief is
22 warranted.
23
24

Count II
Continued Detention Is Arbitrary and Violates Substantive and Procedural Due Process

25. Petitioner's continued detention is arbitrary and violates the Due Process Clause because detention no longer bears a reasonable relationship to its purported purpose of effectuating removal. Civil immigration detention may not become punitive or indefinite where removal is not realistically foreseeable. Where the Government cannot show a meaningful prospect of removal in the reasonably foreseeable future, continued confinement ceases to serve a legitimate regulatory purpose.

26. Further, revocation of Petitioner's prior Order of Supervision, followed by prolonged detention without a realistic removal prospect, underscores the arbitrary nature of custody. Petitioner was previously managed through supervision in the community, demonstrating the existence of less restrictive alternatives to detention. Respondents' continued confinement despite those alternatives violates due process.

Count III
Detention Is Unlawful Because Respondents Have Failed to Demonstrate a Significant Likelihood of Effectuating Removal to Mexico or Brazil

27. Respondents cannot justify continued detention based on speculative removal possibilities. The Government may not rely on abstract assertions that removal might occur someday; it must show a realistic and

1 significant likelihood of removal in the reasonably foreseeable future. Here, there
2 is no evidence Mexico or Brazil has agreed to accept Petitioner, no evidence
3 travel documents have been issued. Mere hope of future repatriation cannot
4 support continued detention.
5

6 28. Because removal remains speculative and unsupported by concrete
7 evidence, detention exceeds statutory and constitutional limits and Petitioner is
8 entitled to release under reasonable conditions of supervision.
9

10 **Count IV**

11 **In the Alternative, Petitioner Is Entitled to Release Under Reinstatement of an 12 Order of Supervision Pursuant to 8 C.F.R. § 241.13**

13 29. Even assuming arguendo Respondents contend removal remains
14 possible, Petitioner is at minimum entitled to release under supervision. Given
15 the absence of a realistic removal prospect, reinstatement of supervision is the
16 appropriate remedy consistent with 8 C.F.R. § 241.13 and constitutional
17 limitations on prolonged detention.
18

19 **PRAYER FOR RELIEF**

20 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 21 a. Assume jurisdiction over this matter;
- 22 b. Issue a writ of habeas corpus requiring that within one day,
23 Respondents release Petitioner;
- 24 c. Specifically prohibit Respondents from removing Petitioner from the
United States while this matter remains pending; and

1 d. Grant any other and further relief that this Court deems just and
2 proper.

3
4 DATED this 20th of May, 2026.

5 /s/ Yaritssa Plasencia
6 Yaritssa Plasencia, Esq.
7 Florida Bar No.: 1021659
8 Great American Law Firm PLLC
9 100 Frandorson Cir., Ste. 202C
10 Apollo Beach, FL 33572
11 Phone: (407) 929-9292
12 Email: greatamericanlaw@gmail.com
13 *Attorney for Petitioner*

14 **VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF**
15 **PURSUANT TO 28 U.S.C. § 2242**

16 I, Yaritssa Plasencia, am submitting this verification on behalf of the petitioner
17 because I am the petitioner's attorney. I am acting on behalf of the petitioner,
18 Otailson Domingues-Dos Santos, based on discussions with his attorney. On the
19 basis of these discussions and reviewing the record, I hereby verify that the
20 statements made in the foregoing Petition for Writ of Habeas Corpus are true and
21 correct to the best of my knowledge.

22 DATED this 20th of May, 2026.

23 /s/ Yaritssa Plasencia
24 Yaritssa Plasencia, Esq.
Florida Bar No.: 1021659
Great American Law Firm PLLC
100 Frandorson Cir., Ste. 202C

Apollo Beach, FL 33572
Phone: (407) 929-9292
greatamericanlaw@gmail.com
Attorney for Petitioner

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24