

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

UNITED STATES DISTRICT COURT

for the

MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISIONROLANDO PENA QUESADA
Petitioner

v.

DOMINGO STEWART, WARDEN, (SFDI)

TODD BLANCHE, ATTORNEY GENERAL (ACTING)
Respondent
(name of warden or authorized person having custody of petitioner)

Case No.

2:26cv1728-SPC-NAM

(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: Rolando Pena Quesada
(b) Other names you have used: none
2. Place of confinement:
(a) Name of institution: South Florida Detention Facility
(b) Address: 54575 Tamiami Trail E.
Chopce, FL 34141
(c) Your identification number: A#
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
DHS / ICE DETENTION
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): _____

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

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

DEPARTMENT OF HOMELAND SECURITY (DHS)
IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE); (SPDE)

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

NONE

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

U.S. Immigration and Customs Enforcement refusal to
Release me from Immigration Detention

(d) Date of the decision or action:

DETAINED SINCE November 30, 2023**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: _____

(2) Date of filing: _____

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

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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

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: _____

(2) Date of filing: _____

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

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(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: _____

(2) Date of filing: _____

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

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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

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: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (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: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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

11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: INITIAL CUSTODY March 2, 2012 to May 29, 2012(b) Date of the removal or reinstatement order: November 30th 2025(c) Did you file an appeal with the Board of Immigration Appeals? JULY 13, 2011☐ 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: _____

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

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: Violation of 8 U.S.C. § 1231 (a)(6) and Fifth
AMENDMENT TO THE U.S. CONSTITUTION

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

PETITIONER HAS BEEN DETAINED BY ICE BEYOND REMOVAL PERIOD
AUTHORIZED BY STATUTE. REMOVAL IS NOT REASONABLY FORESEEABLE.
NO JUSTIFICATION EXISTS.
SEE ATTACHED MEMORANDUM

(b) Did you present Ground One in all appeals that were available to you? NOT APPLICABLE
☐ Yes ☐ No

GROUND TWO: SUBSTANTIVE VIOLATION OF THE DUE PROCESS
CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

SEE ATTACHED MEMORANDUM

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

ICE IS DEPRIVING AND VIOLATING PETITIONER'S RIGHTS
TO LIFE, LIBERTY AND DUE PROCESS BY DETAINING
PETITIONER FOR A PROLONGED, UNJUSTIFIED AND
INDEFINITE PERIOD.
(SEE ATTACHED MEMORANDUM)

(b) Did you present Ground Two in all appeals that were available to you? NOT APPLICABLE
☐ Yes ☐ No

GROUND THREE: PROCEDURAL VIOLATION OF THE DUE PROCESS CLAUSE
OF THE U.S. CONSTITUTION.

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

ICE IS PROCEDURALLY DEPRIVING PETITIONER'S RIGHTS
TO LIBERTY AND DUE PROCESS. PETITIONER IS DETAINED
BY ICE FOR A STATUTORILY UNJUSTIFIED AND INDEFINITE
PERIOD.
(SEE ATTACHED MEMORANDUM)

(b) Did you present Ground Three in all appeals that were available to you? NOT APPLICABLE
☐ Yes ☐ No

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GROUND FOUR:

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

(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: Not Applicable to THIS MATTER

Request for Relief

15. State exactly what you want the court to do:

ORDER Immediate Release From
ICE Custody.

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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:

May 16, 2026

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: May 16, 2026

X 

Signature of Petitioner

Signature of Attorney or other authorized person, if any

Roland Pena Quesada

A# 

54575 Tamiami Trail E.

Ochopee, FL 34141

South Florida Detention Facility

PRO SE

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

ROLAND PENA QUESADA,

Petitioner

-v-

**DOMINGO STEWART, Warden,
South Florida Detention Facility**

TODD BLANCHE, Attorney General (Acting),

Respondent(s)

Case No. _____

**[PROPOSED]
ORDER TO SHOW CAUSE**

Upon consideration of Petitioner's Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and memorandum of law that requests, inter alia, the issue of an Order to Show Cause pursuant to 28 U.S.C. § 2243, IT IS HEREBY ORDERED that:

1. Respondents are ORDERED to file a return on the Order to Show Cause why the Petition for Writ of Habeas Corpus should not be granted by June 1st, 2026.
2. Petitioner shall have an opportunity to reply by June 10th, 2026.
3. A hearing on this case shall be set on _____.

And such other and further relief as the Court may find appropriate.

IT IS SO ORDERED

Dated:

UNITED STATES DISTRICT COURT

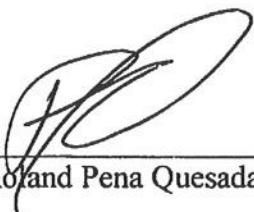
CERTIFICATE OF SERVICE

I, Roland Pena Quesada, certify that I served a true and correct copy of the foregoing
"RESPONDENT'S EVIDENCE" via mail to:

Domingo Stewart
SFDF
54575 Tamiami Trail E.
Ochopee, FL 34141

U.S. District Court
2110 First Street
Ft. Myers, FL 33901

Todd Blanche (Acting Attorney General)
U.S. Dept. of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-001



Roland Pena Quesada

5/16/2026

Date

MEMORANDUM OF LAW IN SUPPORT OF PETITION OR WRIT OF
HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

ROLAND PENA QUESADA

At 

PRO SE PETITION – DETAINED

SOUTH FLORIDA DETENTION FACILITY (SFDF)

54575 TAMiami TRAIL E.

OCHOPEE, FL 34141

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

ROLAND PENA QUESADA,

Petitioner

-v-

**DOMINGO STEWART, Warden,
South Florida Detention Facility,**

TODD BLANCHE, Attorney General (Acting),

Respondent(s)

HABEAS CORPUS MOTION
PURSUENT TO TITLE 28 U.S.C.S. § 2241 (a), (c)(3)

Comes Now, Roland Pena Quesada, pro-se, on this 16th day of May, 2026, humbly pleading that, pursuant to Title 28 U.S.C.S. § 2241 (a), (c)(3), this Honorable Court intervene on his behalf and grant relief from Respondents' intrusion upon and violation(s) of Petitioner's constitutional rights as so raised in this Petition.

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Jurisdictional Statement

This court has jurisdiction over this matter pursuant to Title 28 of the USCS, §2241 section (a) and section (c)(3); and, 28 USCS §1331.

Jurisdictional Claim

The Supreme Court has long established that “... absent suspension, the writ of habeas corpus remains available to every individual [including non-citizens or aliens in immigration proceedings] detained within the United States” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525, 124 S. Ct. 2633, 159 L. Ed. 2D 578 (2004), and thus, every individual is protected by the due process rights afforded by the Fifth Amendment and Art. I, § 9, cl. 2 of the United States Constitution states, “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”

Zadvydas v. Davis, 533 U.S. 678 (2001), at 678, citing § 1252 (g), concluded that “§ 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention.

CLAIMS

I

Violation of Title 8 U.S.C. § 1231(a)(6) and Fifth Amendment to the United States Constitution

Whether Petitioner's 270-day-ongoing, post-removal-order, statutorily unjustified, and indefinite detention violates Title 8 U.S.C. § 1231(a)(6) and Petitioner's Fifth Amendment rights to liberty and due process of law.

II

Substantive Violation of Fifth Amendment Rights to the United States Constitution

Whether Petitioner's 270-day-ongoing, post-removal-order, statutorily unjustified, and indefinite detention is a substantive violation to his Fifth Amendments rights to liberty and due process of law.

III

Procedural Violations of Fifth Amendment to the United States Constitution

Whether Petitioner's 270-day-ongoing, post-removal-order, statutorily unjustified, and indefinite detention is a procedural violation to his Fifth Amendments rights to liberty and due process of law.

BACKGROUND

1. Petitioner, a Cuban national, was admitted into the United States in 2007.
2. On July 13, 2011 Petitioner was ordered removed to “Cuba” by Immigration Judge. (Exhibit 1)
3. Petitioner was detained during the “Removal Period” from March 2, 2012 to May 29, 2012.
(Exhibit 2 and 2a)
4. Upon serving prison sentence and “Removal Period” detention, Petitioner was released on OSUP in May 2012.
5. Petitioner was detained by ICE on November 30, 2025, in Miramar, FL to effectuate removal and subsequently taken to South Florida Detention Facility (SFDF).
6. In January 2026, Petitioner was moved to East Montana in El Paso, Texas.
7. Mexico did not accept petitioner.
8. On or about February 6th, 2026, Petitioner was returned to SFDF (Alligator Alcatraz).
9. Petitioner remains detained at SFDF, as of May 28, 2026.
10. Petitioner has been in DHS / ICE for a total of 270 days post-removal-order detention. (90 days “removal period” detention (March 2, 2012 to May 29, 2012 (Exhibit 2 and 2a) and 180 days ongoing “post-removal-period detention).
11. Petitioner filed Habeas Corpus on February 24, 2026, in the Middle District of Florida, Ft. Myers, before Honorable Kyle C. Dudek.
12. Habeas Petition was dismissed as premature on March 19, 2026. (Note: The Court based its decision on the erroneous premise that the Petitioner has not been detained for the 180-day “presumptively reasonable” period.) (Ex. 3) In fact, Petitioner was at 180 days of post-order removal detention as of February 27th, 2026. (270 days as of May 28th, 2026)
13. Petitioner has complied and acted in good faith to all requests by ICE in making necessary applications for removal and departure.

INTRODUCTION

1. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that, “Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause”, and that “in light of the Constitution's demands, the post removal-period statute ... implicitly limits an aliens detention to a period reasonably necessary to bring about the alien's removal ... and does not permit indefinite detention.”
2. In long-sighted awareness, the *Zadvydas* Court anticipates the discretionary discord that such an ambiguous measurement as the term “reasonably necessary” would present and offers guidance, prescribing that it is doubtful that *all* [emphasis added] removals could be accomplished in 90 days, but it doubted the constitutionality of more than 6 months detention. “Thus for the sake of uniform administration ... six months is the appropriate period.” *Zadvydas*, 533 U.S. at 661.
3. The *Zadvydas* framework establishes a “presumptively reasonable” total detention period of up-to 6 months: 90-day “removal-period”, which is a mandatory detention period; and a 3-month (90-day), “post-removal-period”, which is circumstantial in nature.
4. The Petitioner argues that his 90-day detention during his “removal-period”, in addition to his 180-day, ongoing “post-removal-period” detention, for a total of 270 days, has long surpassed the 6-month “presumptively reasonable” period prescribed by the *Zadvydas* Court. Petitioner proves that removal is not “reasonably foreseeable” and that no lawful justification exists for further detention.
5. Petitioner seeks relief in form of custody reclassification from that of “detention” to “release” or “release under supervision”. 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 cause for additional time. *See* 28 U.S.C. § 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 additional time, not exceeding twenty days, is allowed”).

Argument

6. Petitioner's ongoing, statutorily unjustified, indefinite post-removal order detention is a substantive and procedural violation to Title 8 U.S.C. § 1231(a)(6) and his Fifth Amendment right to life, liberty and due-process of law.
7. The Supreme Court's ruling in *Zadvydas v. Davis*, 533 U.S. 678 (2001), held in part that (1) “the post-removal-period detention statute read in light of the Constitution's demands ... does not permit indefinite detention.”; (2) “the post-removal-period implicitly limits an alien's detention to a period reasonably necessary to bring about the alien's removal.” and (3) “ ... if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized.” *See Id.* at Cite. That is, post-removal period detention is only statutorily authorized if removal is reasonably foreseeable.
8. The first part above has faced little interpretive headwind. As to the second and third part however, despite the Court's attempt to define clear parameters, a notable interpretive gap has developed – if not in theory certainly in practice. The Petitioner argues that the government's application of the *Zadvydas* framework as prescribed by the Court in its ruling is not only erroneous, but in some instances capriciously misapplied.

Removal-Period and Post-Removal-Period

9. In order to properly apply the *Zadvydas* framework, it is vital to clearly recognize and distinguish the characteristics which define and differentiate each the removal-period and the post-removal-period.
10. In its decision in *Zadvydas*, the Court took notable effort to highlight the distinction between the 90-day removal-period and that of the post-removal-period. (“United States Attorney General is authorized to further detain ..., beyond a 90-day statutory removal period.” *See Zadvydas*, at 653; “ ... in custody after 90-day removal period expires,” *Id.* at 658; “The post-removal period detention statute” *Id.* at 660; “constitutional challenges to post-removal-period detention” *Id.* At 659)

11. The distinction between the two periods becomes especially pressing in this process, for the government might be inclined to grant itself a fresh 90-day removal-period, which is outside federal court review. There is nothing in § 1231 that allows for such liberty. Rather, quite the opposite is true. Title 8 U.S.C. § 1231(a)(1)(B)(iii), specifically notes that the 90-day removal-period is not triggered in any way by detention under an immigration process. If the government could arbitrarily detain an individual and thereby trigger a statutory mandated detention period, all without the federal court oversight; it would be entitled to an endless, looping, and indefinite detention, which is precisely contrary to what the *Zadvydas* Court held in its ruling.

Removal-Period Definition

12. The statutory distinction is made clear by Title 8 U.S.C. § 1231 (a)(1)(A)-(B), as it strictly defines “Removal Period”:

§ 1231. Detention and removal of aliens ordered removed

(a) Detention, release, and removal of aliens ordered removed.

(1) Removal period.

(A) In general. Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the “removal period”).

(B) Beginning of period. The removal period begins on the latest of the following:

(i) The date the order of removal becomes administratively final.

(ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

(iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

13. Simply put, the “removal period” is the 90-day period immediately following the latter of (i),(ii), or (iii). In no way is the period defined or triggered by immigration process detention. Quite the contrary, subsection (iii) explicitly exempts that possibility. If the alien is detained or confined when the final order of removal becomes administratively or judicially final, the “removal period” then begins upon his release. (And presumptively taken taken into ICE detention.)

14. The only statutorily allowed extension of the 90-day “removal-period” is defined in subsection (C) of § 1231, which states:

“(C) Suspension of period. The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal.”

15. It is the Attorney General whom must act during the removal period. In § 1231 (a)(2) we find it explicitly making this point:

“(2) Detention. During the removal period, the Attorney General shall detain the alien.”

16. As it is clear by this subsection, it is the Attorney General's responsibility to detain the alien during the removal period. In no way is the removal period defined by a whimsical decision to detain, nor is a suspension or extension granted by the Attorney General's failure to act. It is important to note that although the Attorney General is required to detain the alien during the removal period and that the removal-period detention is tolled in the 180-day presumptively reasonable period prescribed by the Court, physical detention is otherwise completely divorced from defining the term.

17. The Attorney General is not entitled to redefine the “Removal Period” simply because he failed to meet his responsibility during the statutorily prescribed term. Much less does it allow the government to arbitrarily and/or whimsically detain and claim a reset. By definition, the “removal-period” is a stationary one-time occurrence, and it is the only statutorily mandated detention period.

Post Removal Period Definition

18. The post-removal-period would by default be defined as any term of detention after the statutorily defined 90-day removal-period expires. As such, any detention effectuated -- in relation to removal -- after the “removal-period” must be classified as post-removal-period detention.

19. These distinctions are vital when applying the *Zadvydas* framework as prescribed by the Court's holding. More importantly, it bares reminding that the sole purpose of statutory detention shall be measured “in terms of the statute's purpose of assuring the alien's presence at the moment of removal.” *See Zadvydas* at Cite. This holds true for both the mandatory 90-day removal-period and

the discretionary post-removal-period.

6-Month Presumptive Period

20. In keeping with the Court's rationale in *Zadvydas* and viewed in light of Constitution's demands upon the statutory provisions, Petitioner argues that the 6-month presumptive period undoubtedly includes any detention during the 90-day removal-period in addition to any detention during the post-removal-period. In *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051-52 (11th Cir. 2002), the Court decided that the 90 day removal-period is in fact inclusive when tolling time, stating, "Supreme Court appears to view the six-month period to include the 90-day removal period plus 90 days thereafter."

21. The *Zadvydas* Court offers its reasoning, noting that "it is unlikely that Congress believed that all ... removals could be accomplished in the 90-day removal period" as prescribed in Title 8 U.S.C. § 1231 (a)(1)(A) – (B), "but there is reason to believe that it doubted the constitutionality of more than six months' detention." *Zadvydas v. Davis*, 533 U.S. 678 (2001). The Court therefore settled on a total of 6 months detention as the "presumptively reasonable" term of detention, a term of detention that the Court deemed would permit the statutory interpretation to meet the Constitution's demand and allow for "uniform administration by federal courts." *Id.* at Cite.

Zadvydas Framework

22. The statutory provision in 8 U.S.C. § 1231, when viewed in light of the Constitution's demands and the Court's ruling in *Zadvydas*, offers a quite functional and practical framework.

23. **I-Removal Period:** The "Removal Period" begins upon the lates of either (i) The date the order of removal becomes administratively final; (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order; or (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement. (It is important to note that if an alien is ordered removed in absentia, the

final order does not become administratively final until it is served upon the alien, eliminating the possibility of the alien evading the mandated 90-day detention term in § 1231 (a)(2); or, it may be extended per (a)(1)(C) of the section.)

24. II-Removal-Period Detention: The Attorney General shall detain the individual during the 90-day “Removal Period”. If he fails to do so, the onus is entirely on him. There is nothing in the statute that allows for a reset or redefining of the “Removal Period”, especially not for the provision which mandates detention.

25. III-Post-Removal Period: Upon expiration of the 90-day removal-period, the Post-removal-period begins. This juncture marks a vital shift in the framework and triggers various administrative, judicial constitutional demands upon the statute and further detention.

(a) Detention is no longer mandated per § 1231 (a)(2), and shifts to (a)(6), a strictly discretionary and circumstantially based detention.

(b) DHS should perform a 90-day review, allowing alien to present evidence in his behalf.

(c) Per *Zadvydas*, detention becomes subject to federal court review for reasonableness, (However the onus to demonstrate a lack of reasonableness falls to the detainee until the 180-day mark.)

(d) Detention is unauthorized if removal is not reasonably foreseeable. (Although the court prescribes a 180-day presumptively reasonable time-frame, it did so under the premise that not *all* removals could possibly be effectuated within the 90-day removal period and to allow for administrative congruity amongst federal courts. The *Zadvydas* Court does not issue a 180-day blank detention check for the government to use whenever it fancies. Rather, the post-removal detention extension is only applicable for a period reasonably necessary to bring about alien's removal and only for so long as removal remains reasonably foreseeable. The Court assumes that the government will act with integrity and in good faith. If the government knows that removal is *not* reasonably foreseeable, it is lawfully required to end detention.)

(e) After the 90 days of post-removal-period detention (180-days total), onus shifts to government to demonstrate the justification for further detention under the reasonableness standard.

Applying Zadvydas Framework
(Procedural Background)

26. After being released from state prison detention on March 2th, 2012, the Petitioner was detained by ICE for 90 days pursuant to an order of removal. (Ex. 2, and 2a) This would classify as 90 days of removal-period detention. Petitioner was subsequently released under an order of supervision.
27. The Petitioner was again picked up by ICE on November 30th, 2025, citing a revocation of supervision, where no violation existed. DHS claimed it was ready to effectuate Petitioner's removal. The Petitioner has remained in ICE post-removal-period custody since. The Petitioner has been detained for a total of 270 days as of May 28th, 2026, well past the 6-month presumptively reasonable time-frame set by *Zadvydas*. Cuba refuses to accept the Petitioner as does Mexico. According to ICE officers at detention center, they are awaiting on a decision from Washington as to what to do with the Cubans. (This clearly indicates that whatever path for removal the government may have had has evaporated.)
28. ICE attempted to remove Petitioner to Mexico via East Montana Facility in El Paso, TX. ICE Deportation Officer Steven Rosario erroneously claimed that Petitioner “refused” to depart. (Ex. 4, para. 16 – 18) It is important to note that DO Rosario is stationed at Krome Service Processing Center (Krome). (Ex. 4, para. 2) This would make it impossible for DO Rosario to have a first-hand account of this allegation, which may account for the errors there-in. Primarily, in paragraph 16 of his report, DO Rosario claims that on January 11th, 2026 as “ICE attempted to effectuate removal, Petitioner complained of chest pain ... taken off the flight line and transported to a local hospital for evaluation....” Petitioner attests that this is simply not true. Petitioner was never in a flight line on January 11th, 2026, nor was he transported (ever) to a hospital for any reason

throughout his detention. Petitioner challenges ICE to produce proof of hospital records and discharge documents from SFDF for January 11th. Petitioner has only left SFDF on January 24th, 2026, to El Paso and returned February 6th, 2026. Likewise, paragraph 18 claims are also not true. But again, DO Rosario is stationed at Krome in Miami, FL and offers second or third-hand accounts, which may excuse the discrepancy.

Framework Part I

29. In Petitioner's case, because the Petitioner was still confined by the FDOC when his order of removal became administratively final, "Removal Period" detention began on March 2nd, 2012, in accordance with § 1231 (a)(1)(B)(iii), when he was released from state prison . The removal period thus ran from March 2nd, 2012 to May 29th, 2012.

Framework Part II

30. The Petitioner was detained by Immigration in Wakula County Jail (90 days) during the removal period pursuant to § 1231 (a)(2). (Ex. 2)

Framework Part III

31. In present case, the Petitioner was again detained by ICE on November 30th, 2025. Given that this detention was in relation to the 2011 Removal Order, and that the "Removal Period" expired on May 29th, 2012, this detention is classified as "post-removal-period" detention. In fact § 1231 (a) (6), which the government cites as its authority for detention in this case, is strictly for the purpose of granting the Attorney General authority to detain beyond the removal-period. This renewed post-removal-period detention has been triggered by a new set of circumstances. In this case, DHS was supposedly ready to effectuate Petitioner's removal, seemingly to Mexico.

Part III (a)

32. As outlined in Part III-(a) of the framework above, the Petitioner's detention is not mandatory detention as § 1231 (a)(2) would require. Rather it is one dictated by the discretionary authority

vested upon the Attorney General per § 1231 (a)(6).

Part III (b)

33. DHS must justify this newly enacted post-removal-period detention. As outlined in Part III-(b) of framework above, DHS must perform a review and offer the alien the opportunity to present evidence on his own behalf. For all intents and purpose, this post-removal-period detention recommences at day 91 of detention. We must assume that the Petitioner's detention on November 30th resulted from such a review and in light of new circumstances. Again, in this case, the Mexico possibility.

Part III (c)

34. However, as Part III-(c) of framework above outlines, the *Zadvydas* Court explicitly held that “Section 2241 habeas proceedings are available as a forum for statutory and constitutional challenges to post-removal-period detention.” *Zadvydas* at Cite. Therefore, the detention is subject to Federal review for “reasonableness”, even if the onus rests with Petitioner at this juncture. As such, all “post-removal-period” detention must first and foremost meet the reasonableness standard prescribed by the *Zadvydas* Court.

Part III (d)

35. Part III-(d) of framework guides us as to the “reasonableness standard” that must be met throughout the post-removal-period detention. The *Zadvydas* Court held that “ ... if removal is not reasonably foreseeable, the Court should hold continued detention unreasonable and no longer authorized.” *Id.* at Cite.

36. In Petitioner's case, it is quite evident that removal is not reasonably foreseeable given that both the Cuba and Mexico options no longer exist. And the fact that ICE agents are awaiting on a decision from Washington to determine what to do with the Cubans affirms that removal is not “reasonably foreseeable” at this time. As such, detention is statutorily unjustified and undefined or indefinite; therefore, it is no longer authorized. The Petitioner has met the burden of demonstrating that the

ongoing detention is unjustified because removal is not a “reasonably foreseeable” reality.

37. (NOTE: Petitioner argues that the alternate-country option, in this case faces, seriously dubious lawful and procedural headwinds. Petitioner's removal order specifically orders the Petitioner removed to Cuba, with no alternate-country designation. For although DHS is authorized to seek alternate designation it may only do so in cases that would not defy the order of the court. This is not unlike the Bureau of Prisons having the statutory authority to confine individuals to sentences ranging from one day to life; however, it must obey the order of the sentencing judge. It may not, for example, detain an individual who is sentenced to 10 years for 30 years. There also exists due process violation claims pursuant to 8 U.S.C. § 1231 (b)(3)(A), not to mention the residual claims that would arise to criminal pleas and ineffectiveness of council advice regarding undisclosed possibility of alternate-country designations. However, this is not at issue before the Court at this time. It also bares mention that Mexico's president has openly stated that “Mexico has no agreement [in this regard] with the United States. Whatever is transpiring is strictly on a voluntary and case-by-case basis. Although the Petitioner must, has, and is willing to comply and act in good faith to all requests by ICE in making necessary applications for removal and departure, Petitioner does not have the responsibility nor may the government force or demand Petitioner to commit an unlawful act. Therefore forceful removal to any country other than that specified by the Immigration Judge's order violates said order and would be unlawful.)

Part III (e)

38. In part III-(e) above, the framework outlines that after 90 days of post-removal-period detention (180 days total), the onus falls stringently and entirely on the government to justify further detention. The Petitioner presents that given his 90-day removal-period detention and his ongoing post-removal-period detention, his total detention is over 270 days. The Petitioner is well past the presumptively reasonable detention period prescribed by the *Zadvydas* Court. Therefore the onus to

justify further detention rests completely on the government. (Even if Petitioner's 90-day removal-period-detention were ignored, the over 180 days of current detention is again past the mandated 90-day removal-period detention, and meets the 180-day "presumptively reasonable" period prescribed by the *Zadvydas* Court.)

Lack of Reasonableness / Justification

39. In Petitioner's case, as demonstrated in the above argument, removal is not reasonably foreseeable. Further immigration detention violates due process if it is not reasonably related to its statutory purpose. *See Id.* (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)) In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.*
40. The *Zadvydas* Court addressed this explicitly in its ruling, holding that, "The first justification-preventing flight-is weak or nonexistent where removal seems a remote possibility. Preventive detention based on the second justification-protecting the community-has been upheld only when limited to specially dangerous individuals and subject to strong procedural protections. When preventive detention is potentially indefinite, this dangerousness rationale must also be accompanied by some other special circumstance, such as mental illness, that helps to create the danger." *Id.* In Petitioner's case neither justification exists.
41. Petitioner reiterates that in the Court's ruling, it held that in answering the question of whether *post-removal-period detention* was pursuant to statutory authority, it must ask whether the detention exceeds a period necessary to secure removal. *See Zadvydas* at Cite. And as such, as the length of detention grows, the period of time that would be considered the "reasonably foreseeable future" shrinks. *See, e.g., Zadvydas*, 533 U.S. At 701 (stating that as the length of time in detention grows "what counts as the 'reasonably foreseeable future' conversely would have to shrink"); *Senor*, 401 F. Supp. 3d at 430 ("[T]he passage of time combined with' the 'government [being] no closer to ...

repatriating [a detainee] than they were once they first took him into custody' [is] sufficient to meet that 'initial burden.'") *Lawrikow*, 2009 WL 2905549 at 12.

42. In cases such as the Petitioner's, where he was detained for 90 days during removal period, released under D.H.S supervision, and re-detained, the only reason(s) said supervision should be revoked is (1) a violation of the terms (which would call for punitive action, thus protected by the safeguards afforded in criminal process; and perhaps a reevaluation of the individual by DHS to rule out the "dangerousness" justification); or (2) the government has concretely arranged for removal, and will be apt to effectuate it within a reasonably foreseeable period, normally within 90 days.
43. It would defy logic that the government would deem it apt to revoke supervision after years of pursuing removal, yet be no closer to effectuating lawful removal within the reasonably foreseeable 90-day time-frame, much less over 180 days into the post-removal-period detention. (DHS is statutorily mandated to continue pursuing removal regardless if alien is in detention or on supervision. Thus, we must conclude that the removal effort has been ongoing since the order of removal became final.)
44. And it would completely illogical and certainly statutorily and constitutionally unjustified to whimsically revoke a supervision in order to perform a fishing expedition. It is without doubt that Congress structured the statute in the manner it did precisely to avoid such unhindered discretion over detention. Likewise, courts have held the constitutional lines against government infringement, rejecting conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights 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 and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future." *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at 5 (W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted).

“[I]f ICE has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that a removal is likely to occur – or even that it might occur – in the reasonably foreseeable future.” *Id.* at 5.

45. The *Zadvydas* Court took special care to highlight the distinction between the two removal-periods, limiting the government's discretionary authority to that of the post-removal-period which remains subject to Federal Court review for reasonableness, thus allowing a precious safeguard against unjustified, unlawful and indefinite detention.

46. In case of the Petitioner, or in singular cases, we may be inclined to excuse or justify these unjustifiable and indefinite terms of detention – beyond the “presumptively reasonable” prescribed period – as oversights or errors. However, the government has taken to categorically and blatantly defying and capriciously misapplying years of statutory and judicial precedent.

CONCLUSION

47. The Petitioner, Roland Pena Quesada, currently detained under color of law, is entitled to all rights and safeguards afforded under the statutes and the Constitution. This courts has jurisdiction as established in the Jurisdictional Statement and Jurisdictional Claim of this memorandum. *See pg. iii*

48. The Petitioner, pursuant to Title 8 U.S.C. § 1231 (a)(1)(A)-(B) and (a)(6), was detained for 90 days during “removal-period” in 2011, at Wakulla County Jail. The Petitioner was again detained by DHS on November 30th, 2025, and has remained in “post-removal-period” detention for 180 days as of May 29th, 2026, bringing his post-removal order detention to a total of 270 days as of May 29th, 2026.

49. The *Zadvydas* framework prescribes 6 months (180 days) as the “presumptively reasonable” period of detention, *See Zadvydas*, at 662, which includes both “removal period” detention and “post-removal-period” detention. *See Akinwale v. Ashcroft*, 287 F3d. 1050, 1051-1052 (11th Cir. 2002). However, only the “removal-period” detention, as defined by Title 8 U.S.C. § 1231 (a)(1)-(2), is a mandated detention period. 8 U.S.C. § 1231 (a)(2).

50. The “post-removal-period” detention is purely circumstantial and discretionary in nature, and it is subject to Federal Court review for reasonableness. And whereas the “removal-period” is strictly defined and triggered by a stationary occurrence in time, such as a “Final Order of Removal”, the “post-removal-period” is dictated by circumstances and may be triggered anew. It must, however, always be in light of Constitutional demands on “reasonableness”, as prescribed by *Zadvydas*, which stated that “... if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized.” *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

The Petitioner has demonstrated that (1) he qualifies for a *Zadvydas* claim, (2) removal is not “reasonably foreseeable” given that Cuba and Mexico refuse to accept Petitioner and (3) no lawful justification exists for further civil detention.

51. In conclusion, Petitioner's indefinite detention violates the detention statute and is unconstitutional.

Petitioner respectfully requests that this Court order Respondents to show cause why the writ should not be granted "within three days unless for good cause additional time, not exceeding twenty days, is allowed ," and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243 and grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.

Relief Requested

The Petitioner, Roland Pena Quesada, humbly moves and prays that whereas:

- Petitioner's constitutional claims rests within the the courts' established jurisdictional confines;
- Petitioner's 270-day, ongoing and indefinite post-removal-order detention is a violation of Fifth Amendment right to life, liberty, and due-process of law;
- Petitioner's 270-day, ongoing and indefinite "post-removal-order" detention surpasses the 90-day "removal-period" and the 180-day "presumptively reasonable" period prescribed by *Zadvydas* ; and
- whereas, Petitioner's removal is not reasonably foreseeable nor does "special justification" exist for indefinite civil detention;

This Honorable Court find in favor of Petitioner claims and grant relief by way of:

1. Immediate release from detention.
2. Custody reclassification from "detention" to supervision or release.
3. Injunction ordering that D.H.S must abide by constitutional, statutory, and judicial parameters when seeking and/or effectuating further arrests and detention in this case.

Respectfully Submitted,

Signature: _____

Name: Roland Pena Quesada

A-Number: _____

Detention Center South Florida Detention Facility

Address: 4575 Tamiami Trail E.

Ochopee, FL 34141