

**UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF ARIZONA
PHOENIX DIVISION**

PEDRO YIMI CARDIN ALVAREZ

Petitioner,

v.

DAVID RIVAS, in his official capacity as Warden
of the San Luis Regional Detention Center;
GREGORY J. ARCHAMBEAULT, in his official
capacity as San Diego Field Office Director,
Immigration and Customs Enforcement's
Enforcement and Removal Operations; TODD
LYONS, in his official capacity as Acting Director
of Immigration and Customs Enforcement; KRISTI
NOEM, in her official capacity as Secretary of the
Department of Homeland Security; and PAMELA
BONDI, in her official capacity as Attorney
General.

Respondents.

Case No. _____

Agency File: 240-051-567

**PETITION FOR WRIT OF HABEAS CORPUS AND
REQUEST FOR ORDER TO SHOW CAUSE**

INTRODUCTION

1. Petitioner, Pedro Yimi Cardin Alvarez, has been in detention since May 27, 2025, and remains in custody currently at the San Luis Regional Detention Center located at 406 North Avenue D, San Luis, Arizona 85349.

2. The Department of Homeland Security ("DHS") moved to dismiss his INA § 240, 8 U.S.C. § 1229a removal proceedings with the goal of placing him in expedited removal proceedings pursuant to INA § 235, 8 U.S.C. § 1225.

3. Mr. Cardin was arrested and detained on May 27, 2025, when he exited the courtroom following the dismissal of his case.

4. Despite detaining Mr. Cardin and threatening to place him in removal proceedings, DHS has yet to place him in *any* proceedings.

5. Absent an order from this Court, Petitioner will continue to suffer irreparable harm caused by his unlawful detention and violation of his constitutional rights.

6. To remedy this, Mr. Cardin asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release Mr. Cardin because his continued confinement violates procedural due process, and substantive due process.

7. Mr. Cardin requests this Court to order Respondents to show cause demonstrating why he should not be released within three days. 28 U.S.C. § 2243.

I. JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101.

9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

II. VENUE

11. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Mr. Cardin is detained at the San Luis Regional Detention Center located at 406 North

Avenue D, San Luis, Arizona 85349, within the District of Arizona, and Petitioner's immediate physical custodian is in this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

V. PARTIES

14. Petitioner, Pedro Yimi Cardin Alvarez, is currently detained at the San Luis Regional Detention Center located at 406 North Avenue D, San Luis, Arizona 85349. He has been in custody since May 27, 2025. Mr. Cardin is in the custody and under the direct control of Respondents and their agents.

15. Respondent, David Rivas, is named in his official capacity as the Warden of San Luis Regional Detention Center. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Rivas's address is 406 North Avenue D, San Luis, Arizona 85349.

16. Respondent, Gregory J. Archambeault, is named in his official capacity as San Diego Field Office Director of the ICE Enforcement & Removal Operations (“ERO”). In this capacity, he is responsible for the administration of immigration laws and the execution of immigration confinement and the institution of removal proceedings in San Luis, Arizona, which is the jurisdiction where Mr. Cardin is confined. As such, he is a custodian of Mr. Cardin. Respondent Archambeault’s address is 880 Front Street, #2242, San Diego, California 92101.

17. Respondent, Todd Lyons, is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States and is legally responsible for pursuing any effort to remove Mr. Cardin and confine him pending removal. As such, he is a custodian of Mr. Cardin. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

18. Respondent, Kristi Noem, is named in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove the Petitioner; and as such is a custodian of Mr. Cardin. Respondent Noem’s address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

19. Respondent, Pamela Bondi, is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g); and as such is a custodian of Mr. Cardin. Respondent

Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

VI. STATEMENT OF FACTS

20. Petitioner is a native and citizen of Cuba, born on 

21. Petitioner has no criminal history.

22. On or about February 9, 2022, Mr. Cardin entered the United States.

23. After being detained by immigration, Mr. Cardin was issued an ICE Form I-220A, Order of Release on Recognizance, and was given a Notice to Appear ("NTA").

24. On June 28, 2022, Mr. Cardin submitted his I-589, Application for Asylum, Withholding of Removal, and Convention Against Torture ("CAT") with U.S. Citizenship and Immigration Services ("USCIS").

25. On August 31, 2023, Petitioner submitted an I-485, Application to Register Permanent Residence or Adjust Status, with USCIS pursuant to the Cuban Adjustment Act, Public Law 89-732, as a Cuban national present in the U.S. for more than a year after being paroled pursuant to an I-220A.

26. On March 26, 2024, USCIS issued a Notice of Administrative Closure of Mr. Cardin's I-485, due to his pending proceedings before an Immigration Judge.

27. Mr. Cardin attended his scheduled hearings with the Executive Office for Immigration Review ("EOIR").

28. On January 23, 2025, Acting Secretary of the Department of Homeland Security, Benamine C. Huffman, issued a memorandum for ICE, Customs and Border Protection ("CBP"), and USCIS instructing officers to "take all steps necessary to review" cases of anyone "amendable to expedited removal but to whom expedited removal has not been applied".

Benjamin C. Huffman, Acting DHS Secretary, *Guidance Regarding How to Exercise Enforcement Discretion*, (Jan. 23, 2025) (“Huffman Memo”). These necessary steps include “terminat[ing] any ongoing removal proceedings”. *Id.*

29. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep’t of Homeland Security, *Designating Aliens for Expedited Removal*, 15 Fed. Reg. 8139 (“January 2025 Designation”). The designation was “effective on” January 21, 2025.

30. On May 27, 2025, Mr. Cardin attended his scheduled hearing before the Immigration Judge at the Miami Immigration Court located at 333 S. Miami Avenue, Suite 700, Miami, Florida 33130. However, instead of proceeding with Mr. Cardin’s EOIR proceedings to adjudicate his I-589, the Department of Homeland Security (“DHS”) moved to dismiss the proceedings.

31. Upon information and belief, in the courtroom there was an ICE agent dressed in civilian clothes, who ensured everyone whose case was dismissed was promptly arrested by ICE agents upon exiting the courtroom.

32. After exiting the courtroom, Petitioner was arrested by ICE agents. The ICE agents did not provide Petitioner with any process or access to counsel. The ICE agents did not offer him any opportunity to be heard prior to arresting and detaining him. Petitioner was taken to Krome North Service Processing Center located at 18201 SW 12th Street Miami, Florida 33194.

33. In June 2025, Mr. Cardin was moved to San Luis Regional Detention Center located at 406 North Avenue D, San Luis, Arizona 85349.

34. On June 26, 2025, a Pre-NTA Bond Redetermination Request was submitted with the Imperial Immigration Court located at 2409 La Brucherie Road Imperial, California 92251.

35. On July 2, 2025, Immigration Judge Catherine Halliday-Roberts denied the Bond Redetermination Request because “the Court lacks jurisdiction as Respondent is not currently in 240 removal proceedings. Matter o A-W-, 25 I. &N. Dec. 45, 46 (BIA 2009).”

36. At the July 2, 2025, hearing, DHS stated that Petitioner would be placed in Expedited Removal Proceedings.

37. There are no future hearings for Mr. Cardin’s case, and Mr. Cardin has yet to be placed in *any* removal proceedings since the dismissal of his original removal proceedings.

VII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Procedural Due Process Clause of the Fifth Amendment to the U.S. Constitution.

38. The allegations in the above paragraphs are realleged and incorporated herein.

39. In expedited removal, individuals receive no meaningful opportunity to challenge key issues such as admissibility, parole, or continuous physical presence. *See* 8 U.S.C. § 1225(b)(1)(A); 8 C.F.R. § 235.3. The burden rests entirely on the noncitizen to prove these facts to the satisfaction of an immigration officer, without guaranteed time to prepare, access to counsel, or ability to gather or present evidence. *Id.* Unlike in § 240 removal proceedings, there are no procedural safeguards such as judicial review, evidentiary hearings, or neutral adjudication. Instead, a low-level DHS officer acts as both prosecutor and decision-maker. *Id.*

40. When the Government interferes with a liberty interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing

three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

41. Freedom from imprisonment, including government detention, is central to the liberty protected by the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Mr. Cardin's has a substantial personal interest given that his interest is his freedom from arbitrary government detention, the liberty that "lies at the heart of the [Due Process] Clause protects". *See id.*

42. The risk of an erroneous deprivation of Mr. Cardin's liberty under the current procedures is extraordinarily high. At the time DHS sought dismissal of his §240 removal proceedings, Mr. Cardin was actively pursuing claims for asylum, withholding of removal, and protection under the CAT, which are claims that implicate serious statutory and constitutional protections. By pursuing the dismissal of § 240 proceedings, expressing an intent to pursue expedited removal, and failing to follow through with *any* formal process, Respondents have effectively stripped Mr. Cardin of both procedural safeguards and a forum to adjudicate his claims. He is now detained without a Notice to Appear, without an Order of Expedited Removal, and without any pending proceeding to justify his continued custody. The absence of any meaningful review mechanism, combined with the limited avenues for judicial oversight under the expedited removal framework, significantly increases the likelihood that Mr. Cardin's liberty has been erroneously and unlawfully restricted. Outside of this Petition for Writ of Habeas Corpus, Mr. Cardin has no access to a court with jurisdiction to review the legality of his detention or the Government's failure to initiate proper removal procedures.

43. The Government's interest in Mr. Cardin's continued detention is minimal under the current circumstances. While the Government generally has a legitimate interest in enforcing immigration laws and effectuating removal for individuals with final orders, that interest does not extend to detaining individuals indefinitely without any active proceedings or legal basis. Mr. Cardin was previously released after his entry into the United States and complied fully with all reporting and court appearance obligations during the pendency of his §240 removal proceedings. He also affirmatively sought immigration relief in the form of asylum, withholding of removal, and CAT protection. At present, there is no final order of removal against him, nor any pending proceeding under which DHS is actively pursuing his removal. Thus, the Government's interest in detaining Mr. Cardin, absent any operative legal process, is not only weak but constitutionally insufficient to justify depriving him of his liberty without adequate procedural protections.

44. Thus, Petitioner's detention violates procedural due process.

COUNT TWO
Violation of the Substantive Due Process Clause of the Fifth Amendment to the U.S. Constitution

45. The allegations in the above paragraphs are realleged and incorporated herein.

46. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

47. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693 (2001).

48. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). With

respect to immigration confinement, the Supreme Court has recognized two special justifications: (1) preventing flight and (2) preventing danger to the community. *See id* at 690.

49. Preventing flight, which is meant to ensure compliance with court appearances, is not a legitimate concern in Mr. Cardin's case. He has never demonstrated any indication of being a flight risk, as shown by his consistent compliance with all reporting requirements and court appearances throughout the duration of his § 240 removal proceedings. In fact, Mr. Cardin was detained by ICE while he was attending his scheduled immigration court hearing, further demonstrating his full compliance and intent to follow the legal process. Mr. Cardin was actively pursuing legal avenues to regularize his immigration status when Respondents abruptly terminated his removal proceedings, disrupting a lawful process in which he was fully engaged. Under these circumstances, continued detention cannot be justified on the basis of flight prevention.

50. Petitioner is no danger to society, as evidenced by the fact that he has had NO contacts with law enforcement.

51. Mr. Cardin's detention appears to be purely punitive as it bears no "reasonable relation" to any legitimate government purpose. *See Zadvydas*, 533 U.S. at 690. (finding immigration detention is civil and thus assumed to be "nonpunitive in purpose and effect").

52. Thus, Petitioner's detention violates substantive due process.

COUNT THREE

Release Pending Determination

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. As part of this Court's authority under the All Writs Act, the habeas corpus statute, and its inherent equitable authority to preserve the Court's authority, the Court may order the release of Mr. Cardin on bond during the pendency of these proceedings. *Calley v. Callaway*,

496 F.2d 701, 702 (5th Cir. 1974). Such release is proper when the Petitioner (1) has raised substantial constitutional claims with a high probability of success; and (2) where exceptional circumstances exist. *Calley*, 496 F.2d at 702 & n.1.

55. Mr. Cardin is not a flight risk and does not pose any danger to the community, therefore the Government has no legitimate interest in his continued detention that could outweigh the daily harm and constitutional violation that his continued detention inflicts.

56. Here, Mr. Cardin has presented substantial constitutional claims challenging his unjust detention. Extraordinary circumstance, such as Mr. Cardin's re-detention without any active Notice to Appear or Order of Removal, exists making Mr. Cardin's release essential for the remedy to be effective.

VIII. PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Mr. Cardin pursuant to 28 U.S.C. § 2241 should not be granted within three days;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) In the alternative, grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
- (5) Declare that Petitioner's detention violates the Procedural Due Process Clause of the Fifth Amendment;
- (6) Declare that Petitioner's detention violates the Substantial Due Process Clause of the Fifth Amendment; and

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Kenia Garcia

Kenia Garcia, Esq.

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Counsel for Petitioner

Dated: August 14, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Pedro Yimi Cardin Alvarez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 14th day of August 2025.

/s/Kenia Garcia

Kenia Garcia

Counsel for Petitioner