

IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JOSE GARCIA CARBALLEA,

Petitioner,

vs.

KRISTI NOEM, Secretary of The
Department of Homeland Security; **TODD
M. LYONS**, Acting Director, U.S.
Immigration and Customs Enforcement
(ICE); **DEREK GORDON**, Acting Executive
Associate Director, Homeland Security
Investigations (HSI), U.S. Immigration and
Customs Enforcement (ICE); **MARCOS
CHARLES**, Acting Executive Associate
Director, Enforcement and Removal
Operations (ERO), U.S. Immigration and
Customs Enforcement (ICE); **DAREN K.
MARGOLIN**, Acting Director, Executive
Office For Immigration Review; **TIM
ROBBINS**, Director, U.S. ICE Field Office of
Los Angeles and Warden of Adelanto
Detention Facility,

Respondents.

CASE NO.

PETITION FOR A WRIT
OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241, BY A PERSON
SUBJECT TO INDEFINITE IMMIGRATION DETENTION

COMES NOW Petitioner, Jose Garcia Carballea, by and through undersigned counsel, petitions this Honorable Court on an emergency basis for a Writ of Habeas Corpus under 28 U.S.C. § 2241. Petitioner is a native and citizen of Cuba who has been unlawfully detained by the Department of Homeland Security ("DHS") for a prolonged period in violation of statutory and constitutional law. This Court's intervention is necessary to end this unlawful detention and protect the rights guaranteed to Petitioner under the Due Process Clause of the Fifth Amendment and federal immigration law. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. The Petitioner is in the physical custody of the Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at the Adelanto Detention Facility in Adelanto, California. ICE has contracted with the Adelanto Detention Facility to house immigration detainees such as Petitioner. Petitioner is under the direct control of Respondents and their agents.
2. Petitioner asks this Court to find that his prolonged incarceration is unreasonable and to order his immediate release.

JURISDICTION

3. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*
4. 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). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

5. Venue lies in the Eastern Division of the United States District Court for the Central District of California, because Petitioner is currently detained in the territorial jurisdiction of this Court, at the Adelanto Detention Facility, located at 10400 Rancho Road, Adelanto, California 92301, which lies within San Bernardino County. 28 U.S.C. § 1391.

EXHAUSTION OF REMEDIES

6. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. After the Supreme Court decision in *Zadvydas*, the Department of Justice

issued regulations governing the custody of aliens removed. *See* 8 C.F.R.

§ 241.4. Petitioner received a final order of removal on September 30, 2014.

7. After his “90-day” custody review, on or about November 05, 2025, ICE decided to continue his detention. Petitioner did not receive a written decision from ICE Headquarters Post-Order Detention Unit (“HQPDU”) informing Petitioner that it would continue to keep him in custody despite having been detained for six months after a final order of removal. Petitioner was just kept in the detention facility. The custody review regulations do not provide for an appeal from an HQPDU custody review decision. *See* 8 C.F.R. §241.4(d).

8. Therefore, no statutory exhaustion requirements apply to Petitioner’s claim of unlawful detention.

PARTIES

9. Petitioner is a native and citizen of Cuba. Petitioner was first taken into ICE custody on or about June 2025, and has remained in ICE custody continuously since that date. Petitioner was ordered removed on September 30, 2014. Petitioner is currently detained at Adelanto Detention Facility. Petitioner has been continuously detained by ICE for over 6 months.

10. Respondent Pamela Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Ms. Bondi has ultimate custodial authority over Petitioner.

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Kristi Noem is the legal custodian of Petitioner. She is sued in her official capacity.

12. Respondent Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement (ICE), is responsible for the nationwide administration and oversight of ICE, the agency charged with enforcement of immigration detention and removal. He is sued in his official capacity.

13. Respondent Derek Gordon, Acting Executive Associate Director of Homeland Security Investigations (HSI), ICE, oversees investigative operations of ICE, including matters involving the apprehension of noncitizens. While HSI is primarily investigative, its leadership participates in the broader enforcement mechanisms of DHS. He is sued in his official capacity.

14. Respondent Marcos Charles, Acting Executive Associate Director of Enforcement and Removal Operations (ERO), ICE, is directly responsible for the supervision and operation of ICE's detention and removal activities. His division has direct oversight of the detention facility where Petitioner is currently held. He is sued in his official capacity.

15. Defendant, Daren K. Margolin, is the Acting Director of the Executive Office for Immigration Review (EOIR), a component of the U.S. Department of Justice responsible for adjudicating immigration cases, including asylum claims, in removal proceedings. He is sued in his official capacity.

16. Respondent Tim Robbins is the U.S. ICE Field Office Director of the Los Angeles Field Office. Tim Robbins is the Petitioner's immediate custodian. *See Vásquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). He is sued in his official capacity.

17. Respondent Warden of Adelanto Detention Facility, where Petitioner is currently detained under the authority of ICE, alternatively, may be considered to be Petitioner's immediate custodian.

STATEMENT OF THE FACTS

18. Petitioner, Jose Garcia Carballea, was born in Cuba on [REDACTED]

[REDACTED] He entered the United States at approximately 25 years of age and is currently 59 years old. See Exhibit A.

19. Petitioner, was paroled into the United States as a refugee on August 28, 1992 and later adjusted to lawful permanent resident status on June 22, 2009, under Section 245 of the INA.

20. Petitioner, has been living in this country for over 33 years. If released, he will live at [REDACTED] with his partner, and he will concentrate on working and supporting his family. He is prepared to comply with any restrictions imposed on him as part of his release.

21. On March 18, 2014. Mr. Carballea was convicted in the Criminal Court at Fentress County, Tennessee, for the offense of manufacturing a controlled substance. He received a sentence of four (4) years for this offense. Mr. Carballea served his due time and, since that time, has had no further encounters with law enforcement. Since this offense was over eleven (11) years ago, this reflects on his deep respect for the law, long-term rehabilitation, and genuine commitment to personal reform and no re-offense. See Exhibit B.

22. Petitioner possesses an expired Cuban passport (No. ) and does not possess any other nationality. He is unable to obtain a renewed or replacement Cuban passport through no fault of his own. See Exhibit A.

23. Petitioner was admitted to the United States. On August 25, 2014, he was placed in removal proceedings pursuant to section 240 of the INA. He was charged as removable under INA § 237(a)(2)(A)(iii) based on a conviction that, at the time, was classified as an aggravated felony under INA § 101(a)(43)(B), relating to the illicit trafficking in a controlled substance, as described in § 102 of the Controlled Substances Act. See Exhibit B and C.

24. Petitioner is subject to a final order of removal. Several months prior to his current period of incarceration, which began on or about June 2, 2025, ICE officers physically attempted to remove him to Cuba. Petitioner was returned to the United States after that removal attempt failed, because Cuba, which is his country of origin and sole country of nationality, refused to accept him.

25. Petitioner has remained in detention continuously ever since June 2, 2025, which now exceeds 180 days.

26. Petitioner's custody status was first reviewed on November 5, 2025. After receiving ICE's Post-Order Custody Review guidelines, Petitioner's counsel submitted a 90-day Legal Brief in Support of Review of Custody Status. ICE failed to issue any written decision following that review, failed to provide notice of the reasons for continued detention, and failed to identify any evidence supporting detention. Petitioner has remained detained without explanation, depriving him of a meaningful review and due process of law. See Exhibit D.

27. Petitioner's counsel has been in communication with officials at Adelanto Detention Facility. ICE initially scheduled Petitioner's first custody review interview for November 11, 2025, at 9:00 a.m., at the Adelanto ICE Processing Center, for the purpose of determining whether a recommendation for release would be made. Petitioner did not receive that interview. After counsel followed up with the officer responsible for Petitioner's custody, ICE acknowledged that the failure to conduct the interview was due to a scheduling error and advised that the interview would instead be conducted on November 20, 2025. That interview also did not occur, because Petitioner was transferred to Texas before it could take place. Petitioner has since been returned to the Adelanto Detention

Facility, but no custody review interview has ever been conducted. *See Exhibit E.*

28. Petitioner's counsel submitted a 180-Day Custody Review Request under the *Zadvydas* standard on December 5, 2025, after Petitioner had been in custody for 180 days. The request was sent to Adelanto Detention Facility, where Petitioner is currently held, and to HQPDU. No response has been received to date.

29. Petitioner possesses no other nationality through which he may obtain citizenship. This means that no other country will issue him a travel document or recognize him as a citizen. The inability to obtain a valid passport or related travel documents is entirely beyond Mr. Carballea's control and lies solely with Cuban governmental authorities. Indeed, DHS has previously attempted to remove him, including by arranging travel to Cuba; however, due to circumstances outside his control, Cuban authorities refused admission, and he was returned to the United States.

30. To Petitioner's knowledge, the government of Cuba has not issued travel documents for him. Indeed, neither ICE nor Cuba have provided any indication that Cuba would accept Petitioner in the reasonably foreseeable future.

31. Petitioner has cooperated fully with all efforts by ICE to remove Petitioner from the United States. No travel document application or any other papers related to travel identification, has ever been provided to Petitioner from the Deportation Office. As of today, Petitioner is not significantly likely to be removed in the reasonably foreseeable future.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

32. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the U.S. Supreme Court held that 8 U.S.C. § 1231(a)(6), when “read in light of the Constitution’s demands, limits an alien’s post-removal-period detention to a period reasonably necessary to bring about that alien’s removal from the United States.” 533 U.S. at 689. A “habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal.” *Id.* at 699. If the individual’s removal “is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute.” *Id.* at 699-700.

33. In determining the length of a reasonable removal period, the Court adopted a “presumptively reasonable period of detention” of six months. *Id.* at 701. After six months, the government bears the burden of disproving an alien’s “good reason to believe that there is no significant

likelihood of removal in the reasonably foreseeable future.” *See Zhou v. Farquharson*, 2001 U.S. Dist. LEXIS 18239, *2-*3 (D.Mass. Oct. 19, 2001) (quoting and summarizing *Zadvydas*). Moreover, “for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701. ICE’s administrative regulations also recognize that the HQPDU has a six-month period for determining whether there is a significant likelihood of an alien’s removal in the reasonably foreseeable future. *See* 8 C.F.R. § 241.4(k)(2)(ii).

34. Evidence showing successful repatriation of other persons to the country at issue is not sufficient to meet the government’s burden to establish that an alien petitioner will be deported in the reasonably foreseeable future. *See Thompson v. INS*, 2002 U.S. Dist. LEXIS 23936 (E. D. La. September 16, 2002) (government failed to show that alien’s deportation to Guyana was reasonably foreseeable where the government offered historical statistics of repatriation to Guyana, but failed to show any response from Guyana on the application for travel documents that INS and the petitioner had requested). Rather for the government to meet its burden of showing that

an alien's repatriation is reasonably foreseeable, it must provide some meaningful evidence particular to the individual petitioner's case.

35. An alien who has been detained beyond the presumptive six months should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. *See Agbada v. John Ashcroft*, 2002 U.S. Dist. LEXIS 15797 (D. Mass. August 22, 2002) (court "will likely grant" habeas petition after fourteen months if ICE is "unable to present document confirmation that the Nigerian government has agreed to [petitioner's] repatriation"); *Zhou*, 2001 U.S. Dist. LEXIS 19050 at *7 (W.D. Wash. February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there was no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF
COUNT ONE
STATUTORY VIOLATION

36. Petitioner re-alleges and incorporates by reference paragraphs one (1) through thirty-five (35) above.

37. Petitioner's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1231(a)(6) as interpreted by the U.S. Supreme Court in *Zadvydas*. The six-month presumptively reasonable period for continued removal efforts has expired. Petitioner still has not been removed, and for the reasons outlined above in paragraphs one (1) through thirty-five (35), Petitioner's removal to Cuba is not reasonably foreseeable. The Supreme Court held in *Zadvydas* and *Martinez* that ICE's continued detention of someone after six months where deportation is not reasonably foreseeable is unreasonably and in violation of 8 U.S.C. § 1231(a). 533 U.S. at 701.

COUNT TWO
SUBSTANTIVE DUE PROCESS VIOLATION

38. Petitioner re-alleges and incorporates by reference paragraphs one (1) through thirty-three (33) above.

39. Petitioner's continued detention violates Petitioner's right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. *See e.g., Tam v. INS*, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights).

40. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The U.S. Supreme Court in *Zadvydas* thus interpreted 8 U.S.C. § 1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interest to effect the alien's removal. *See Kay v. Reno*, 94 F.Supp.2d 546, 551 (M.D. Pa. 2000) (granting writ of habeas corpus, because petitioner's substantive due process rights were violated, and noting that "If deportation can never occur, the government's primary legitimate purpose in detention-executing removal-is nonsensical.")

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

41. Petitioner re-alleges and incorporates by reference paragraphs one (1) through thirty-three (33) above.

42. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner in this case has been denied that opportunity. ICE does not make decisions concerning aliens' custody status in a neutral and impartial manner. The failure of Respondents to provide a neutral decision-maker to review the continued custody of Petitioner violates Petitioner's right to procedural due process.

43. Further, Respondents have failed to acknowledge or act upon the Petitioner's administrative request for release in a timely manner. There is no administrative mechanism in place for the Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release Petitioner from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of the ICE Los Angeles Field Office Director during the pendency of these proceedings and while Petitioner remains in Respondents' custody; and
- 4) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

/s/ Ramon Trujillo, Esq

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¹ Application for *Pro Hac Vice* forthcoming.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 19, 2025, I electronically filed the forgoing document with the Clerk of Court using PACER. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties, either via transmission of Notices of Electronic Filing generated by PACER or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,

/s/ Ramon Trujillo
Ramon Trujillo

EXHIBIT LIST

- Exhibit A** Copy of Petitioner's Passport
- Exhibit B** Copy of Petitioner's Notice to Appear
- Exhibit C** Copy of Petitioner's Automated Case Information
- Exhibit D** Copy of Petitioner's ICE's Post-Order Custody Review
guidelines
- Exhibit E** Copy of Petitioner's Counsel Communications with the
Adelanto Detention Facility