

FILED

DEC 15 2025

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

David Betancourt Gomez

A-Number: 


Adelanto, California 92301

Pro Se

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION**

DAVID BETANCOURT GOMEZ

A#

Petitioner,

vs.

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security,
**DEPARTMENT OF HOMELAND
SECURITY; PAM BONDI, Attorney General
of United States, CHERYL M. DAVIES,
Director and/or the Acting Director of the Los
Angeles Field Office of U.S. Immigration and
Customs Enforcement, WARDEN
ADELANTO ICE PROCESSING CENTER,
and UNITED STATES ENFORCEMENT
AND REMOVAL OPERATIONS,**
Respondents.

Case No.:

1:25CV 01866 DMC AC(HC)

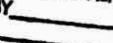
**PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO 28 U.S.C. § 2241**

ORAL ARGUMENT REQUESTED

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CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy
Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner, David Betancourt Gomez, has been incarcerated since on or about June 8,
2024 by Immigration and Customs Enforcement ("ICE") over 17 months ago. The Petitioner has
been incarcerated at the Adelanto ICE Detention Facility, since or on about June 7, 2025.

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1 Petitioner's detention became unconstitutional six months after his CAT Deferral order in his case
2 was administratively final on February 18, 2025, and removal is not reasonably foreseeable.
3 Accordingly, to vindicate Petitioner's statutory and constitutional rights and to put an end to his
4 continued arbitrary detention, this Court should grant the instant petition for a writ of habeas corpus.

5 2. The Petitioner's removal to his native country of Colombia is not reasonably foreseeable
6 because returning him to Colombia would expose him to a substantial risk of torture. Given these
7 conditions, the government cannot execute his removal in the foreseeable future, rendering
8 continued detention unlawful. Absent an order from this Court, Petitioner will likely continue to
9 remain detained for many more months, if not years.

10 3. Petitioner asks this Court to find that his prolonged incarceration is unreasonable and to
11 order his immediate release.

12 4. Petitioner was granted a CAT Deferment on February 18, 2025, while detained in
13 Tacoma, Washington by an IJ. Therefore, the Petitioner cannot be removed to his home country
14 of Colombia as he was deemed a victim of crime and torture. Petitioner has no other ties or
15 citizenship to any other country. As a matter of fact, the only ties the Petitioner has is with the
16 United States, wherein his veteran brother and medically ill father reside. Both are citizens of the
17 United States.

18 5. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus,
19 determine that Petitioner's detention is not justified because the government has not established
20 by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of
21 available alternatives to detention, and order Petitioner's release, with appropriate conditions of
22 supervision if necessary, considering the fact that the Petitioner's does not have the ability to pay
23 bond.

24 6. Alternatively, Petitioner requests that the Court issue a writ of habeas corpus and order
25 Petitioner's release within 30 days unless Respondents schedule a hearing before an IJ where: (1)
26 to continue detention, the government must establish by clear and convincing evidence that
27 Petitioner presents a risk flight or danger, even after consideration of alternatives to detention that
28 could mitigate any risk that Petitioner's release would present; and (2) if the government cannot
meet its burden, the IJ shall order Petitioner's release on appropriate conditions of supervision,
taking into account the fact that the Petitioner does not have the ability to pay for bond.

JURISDICTION

7. Petitioner is detained in civil immigration custody at Adelanto ICE Detention Center in Adelanto, California. He has been detained by ICE since or on about June 8, 2024; however he has been detained at Adelanto ICE Detention Center since June 7, 2025. He has received several individualized bond hearings before an immigration Judge (IJ), said the bond hearings were denied as the IJ did not have jurisdiction.

8. This action rises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 10101 *et seq.*

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). 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

10. Venue is proper because Petitioner is detained in Adelanto, California, which is within the jurisdiction of this District. *See Doe v. Garland*, 109 F. 4th 1188, 1197-99 (9th Cir. 2024).

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to her claims occurred in this district, and no real property is involved in this action.

PARTIES

12. Petitioner is a citizen of Colombia; was ordered removed following proceedings under INA § 240/ 8 U.S.C. § 1229 a. He has been detained for over 17 months and is currently detained at Adelanto ICE Detention Center. Petitioner is the custody, and under the direct control of Respondents and their agents.

13. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is empowered to carry out any administrative order against Petitioner and is a legal custodian of Petitioner.

14. Respondent Department of Homeland Security (DHS) is the federal agency responsible for

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1 implementing and enforcing the INA. DHS oversees ICE and the detention of noncitizens. DHS
2 is a legal custodian of Petitioner.

3 15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of
4 the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity,
5 she has the authority to adjudicate removal cases and oversees the Executive Office for
6 Immigration Review (EOIR), which administers the immigration courts and the BIA.

7 16. Respondent Cheryl M. Davies and/or the Acting Director is sued in their official
8 capacity as the Director of the Los Angeles Field Office of U.S. Immigration and Customs
9 Enforcement. Respondent Davies and/or the acting director is a legal custodian of Petitioner and
10 has authority to release him.

11 17. Respondent the Warden of Adelanto ICE Detention Center, is the Warden of Adelanto ICE
12 Detention Center and they have immediate physical custody of Petitioner pursuant to a contract
13 with ICE to detain noncitizens and is a legal custodian of Petitioner.

14 18. Respondent United States Enforcement and Removal Operations (ERO) is the federal
15 agency responsible for enforcing immigration laws, by identifying, arresting, detaining and
16 removing citizens who are unlawfully present, pose security risks, or undermine immigration
17 integrity focusing on public safety threats like criminal aliens and immigration fugitives through
18 nationwide operations, detention management, and removal flights. ERO is a legal custodian of
19 Petitioner.

20 **STATEMENT OF FACTS**

21 19. Petitioner is a 44 year-old-citizen of Colombia. He entered the United States as a lawful
22 permanent resident when he was only three years old, growing up with his entire family and
23 knowing no other home. As a young adult, he made a serious mistake and was convicted of
24 possession of MDMA, a crime that ultimately placed him in removal proceedings. Despite having
25 lived nearly his whole life in the United States, the Petitioner was ordered removed to Colombia
26 on or about 2003—a country he barely remembered and had no meaningful ties to. Once there, he
27 tried to rebuild his life but quickly became the target of criminal groups who saw him as vulnerable
28 and without protection. Over time, he faced escalating threats and acts of intimidation, eventually

1 being beaten and tortured by these armed actors. The persecution left him traumatized and fearful,
2 and despite having served his sentence in the United States, he now confronted far greater danger
3 in the country to which he had been deported.

4 20. In his home country, the Petitioner, lived quietly and responsibly, never having any
5 encounters with the law or involvement in criminal activity. Determined to rebuild his life and
6 contribute positively to his community, he earned several professional certificates, including
7 qualifications as a security guard and proof of English proficiency. Through hard work and
8 perseverance, he established stability, formed meaningful relationships, and eventually built a
9 family of his own. His dedication to personal growth and his commitment to providing a safe,
supportive environment for his loved ones became central to the new life he was creating.

10 21. After being tortured in Colombia by criminal groups who targeted him repeatedly, he
11 realized that remaining there meant living in constant fear for his life and his family's life. The
12 trauma he endured left him physically and emotionally scared, and the threats showed no sign of
13 ending. Faced with this danger, he made the difficult decision to flee to the United States, not only
14 to seek safety but also because his parents were struggling with serious health problems and
15 urgently needed his support. His return was driven by both the instinct to survive and a deep sense
16 of responsibility toward the parents who raised him, cared for him, and now relied on him during
their most vulnerable year.

17 22. The Petitioner entered the United States through the Arizona border on or about January
18 2024, where he was inspected by immigration authorities and subsequently released to continue
19 his process. For several months, he lived quietly and complied with all requirements while trying
20 to rebuild his life. However, on June 8, 2024, everything changed when ICE officers detained him
21 and placed him in custody. Since then, he has remained in detention, hoping for the opportunity to
22 resolve his case and reunite with the loved ones who depend on him.

23 23. Although the Petitioner was granted protection under the Convention Against Torture
24 (CAT) and received a CAT Deferral, he has remained in ICE custody for more than 17 months,
25 unable to return to his family or rebuild his life. Despite being legally protected from removal to
26 the country where he was tortured, he continues to live in detention—waiting, uncertain, and
27 separated from the people who need him most. His prolonged confinement has caused significant
emotional and physical strain, leaving him feeling trapped in a system that recognizes the danger

1 he faces yet still keeps him behind bars. All he hopes for now is the chance to finally be released
2 so he can heal, reunite with his loved ones, and move forward safely.

3 24. During his detention, the Petitioner former attorney filed at least four separate Petitions for
4 Bond on his behalf, each one seeking his release from custody. However, every request was denied,
5 not because of any danger or flight concerns, but because the Immigration Judge (IJ) determined
6 that he had **no jurisdiction** to consider bond in the petitioner's case. As a result, despite multiple
7 good faith attempts to secure a lawful path to release, he has remained detained with no opportunity
8 for a bond hearing before an Immigration Court. It is important to note that The Petitioner and his
9 family no longer have the financial means to retain private counsel and have therefore terminated
their relationship with their former attorney.

10 25. The Petitioner has deep and longstanding ties to the United States, where much of his
11 family has built their lives for generations. Countless aunts, uncles, and cousins are U.S. citizens,
12 forming a strong support network that has always connected him to this country. Most importantly,
13 his brother is a Coast Guard veteran and currently serves as 

14  demonstrating the family's commitment to public service and to the safety of the
15 community. His father, also a U.S. citizen, has been struggling with worsening health—declining
16 even more after the recent loss of his wife of 50 years. With so much of his immediate and extended
17 family rooted in the United States, and with his father now facing profound medical and emotional
hardship, his ties to this country are not only strong but deeply meaningful.

18 26. While in ICE custody, he suffered the devastating loss of his mother, who passed away
19 following complications from diabetes and an exhausting 8.5-hour open-heart surgery. Tragically,
20 he was never given the chance to say goodbye, a burden that weighs heavily on him every day.
21 Now, more than anything, he hopes to be released so he can support his family during this difficult
22 time. His brother, who carries a demanding work schedule, needs help managing the
23 responsibilities that have grown since their mother's death, and his father—emotionally shattered
24 and in fragile health—requires constant care and support. All he wants is the opportunity to be
present for his family and to help them heal.

25 27. Losing his mother—the most important woman in his life—left a deep and irreplaceable
26 void, especially because he never had the chance to say goodbye. Her passing shattered him, but
27 it also reminded him of the one woman he still has left: his five-year-old daughter. She is the light

1 that keeps him moving forward, the person he loves more than anything, and the main reason he
2 fled to the United States in search of safety and a future. All he wants now is the chance to be
3 present in her life, to protect her, guide her, and give her the love and stability every child deserves.

4 LEGAL FRAMEWORK

5
6 28. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of
7 habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to
8 relief. If the Court issues an order to show cause, Respondents must file a response “within *three*
9 *days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C.
10 § 2243 (emphasis added).

11 29. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of
12 law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*,
13 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention,
14 or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause
15 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

16 30. This fundamental due process protection applies to all noncitizens, including both
17 removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth
18 removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or
19 capricious.”). It also protects noncitizens who have been ordered removed from the United States
20 and who face continuing detention. *Id.* at 690.

21 31. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the
22 removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he
23 date the order of removal becomes administratively final”; “[i]f the removal order is judicially
24 reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court’s final
25 order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the
26 date the [noncitizen] is released from detention or confinement.”

27 32. Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of
28 noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the
Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court
held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-
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1 removal-period detention to a period reasonably necessary to bring about that [noncitizen's]
2 removal from the United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably
3 foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

4 33. In determining the reasonableness of detention, the Supreme Court recognized that, if a
5 person has been detained for longer than six months following the initiation of their removal period,
6 their detention is presumptively unreasonable unless deportation is reasonably foreseeable;
7 otherwise, it violates that noncitizen's due process right to liberty. 533 U.S. at 701. In this
8 circumstance, if the noncitizen "provides good reason to believe that there is no significant
9 likelihood of removal in the reasonably foreseeable future, the Government must respond with
evidence sufficient to rebut that showing." *Id.*

10 34. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be
11 "adequate procedural protections" to ensure that the government's asserted justification for a
12 noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest
13 in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).
14 In the immigration context, the Supreme Court only recognizes two purposes for civil detention:
15 preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690;
16 *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other
justification.

17 35. The first justification of preventing flight, however, is "by definition . . . weak or
18 nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where
19 removal is not reasonably foreseeable and the flight prevention justification for detention
20 accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation
21 to the purpose for which the individual [was] committed.'" *Id.* (quoting *Jackson v. Indiana*, 406
22 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive
23 detention based on dangerousness" is permitted "only when limited to specially dangerous
24 individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

25 36. Thus, under *Zadvydas*, "if removal is not reasonably foreseeable, the court should hold
26 continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700. If removal
27 is reasonably foreseeable, "the habeas court should consider the risk of the [noncitizen's]

1 committing further crimes as a factor potentially justifying the confinement within that reasonable
2 removal period.” *Id.* at 700.

3 37. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds
4 six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating
5 that “Congress previously doubted the constitutionality of detention for more than six months”
6 and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable
7 and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

8 **CLAIMS FOR RELIEF**

9 **COUNT ONE**

10 **Violation of Fifth Amendment Right to Due Process**

11 38. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully
12 set forth herein.

13 39. The Due Process Clause of the Fifth Amendment forbids the government from depriving
14 any “person” of liberty “without due process of law.” U.S. Const. amend. V.

15 40. Petitioner has been detained by Respondents for over 17 months. Over 10 months of this
16 prolonged detention has taken place *after* his removal period began.

17 41. Upon personal belief the Petitioner’s removal order became administratively final after his
18 CAT Deferral was granted on February 18, 2025 . The removal period began on that day and thus
19 elapsed on August 18, 2025.

20 42. Petitioners’ prolonged detention is not likely to end in the reasonably foreseeable future,
21 as ICE has already attempted to remove him to Mexico and was unsuccessful. The Petitioner has
22 further provided ICE and DHS with three alternative countries where he is willing to be removed,
23 yet a resolution has not been reached Where, as here, removal is not reasonably foreseeable,
24 detention cannot be reasonably related to the purpose of effectuating removal and thus violates
25 due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

26 43. For these reasons, Petitioner’s ongoing prolonged detention violates the Due Process
27 Clause of the Fifth Amendment.

COUNT TWO
Violation of 8 U.S.C. § 1231(a)

44. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

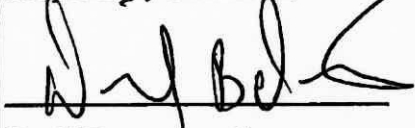
45. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention “beyond the removal period” only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also* *Zadvydas*, 533 U.S. at 699 (“[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.”). Because Petitioner’s removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner’s ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,



David Betancourt Gomez

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Dated this 11 of Dec., 2025.