

Habeas Petition

JUDGE KATHLEEN CARDONE

United States District Court For The
Western District Court Of Texas
Albert Armendariz SR,
United States Courthouse
525 Magoffin Avenue
Room 105
El Paso, TX 79901

Date: 01 / 12 / 2026.

FILED
JAN 14 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

Jorge Luis Correa Reyes

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

V.

_Pam Bondi, Attorney General,
_Kristi Noem, Secretary Of The
Department OF Homeland Security,
_Maria Deanda Ybara, U.S. ICE
Field Office Director For,
"EOIR" Field Office,
_Angel C. Garite, Assistant
Field Office Director Of El Paso SPC.

Respondents

EP 26 CV 0053

Civil Action No. _____.

Petition For A Writ Of Habeas Corpus

Pursuant To 28 U.S.C. §2241, By

A Person Subject To Indefinite

Immigration Detention.

BACKGROUND

_Petitioner, Jorge Luis Correa Reyes, hereby petitions this Court for a writ of habeas corpus to remedy Petitioner's unlawful mandatory detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondent. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

CUSTODY

1. _Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (ICE). Petitioner is detained at the:

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

_Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. _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.* This Court has subject matter jurisdiction under 28 U.S.C. §2241, Art. I §9, cl. 2 of the United States Constitution ("Suspension Clause"); and 28 U.S.C. §1331, as Petitioner is presently in custody under color of the authority of the United States., and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that §2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.")' *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

VENUE

3. _Venue lies in the Western District Court Of Texas, because Petitioner is currently detained in the territorial jurisdiction of this Court.

EXHAUSTION OF REMEDIES

4. _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's deportation officer Herrera, D. has informed him that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit ("HQPDU") has decided to keep him in custody under mandatory detention because they are not releasing anybody in the united states under the new administration.

_Petitioner has sent a letter requesting review and release from (ICE) custody after his (90-days).

_The custody review regulations do not provide for appeal from a ("HQPDU") custody review decision. See 8 C.F.R. §241.4(d).

5. _ No statutory exhaustion requirements apply to Petitioner's claim of unlawful detention.

PARTIES

6. _Petitioner Jorge Luis Correa Reyes, is a detainee in the Immigration and Custom Enforcement (ICE) custody on September 29, 2025. i been a subject for mandatory detention for over six months several times in the past.

7. _Respondent Pam Bondi, is the Attorney General of the United States and is responsible for the administration of (ICE) and the implementation and enforcement of the Immigration & Naturalization Act ("INA"). As such, Pam Bondi, has ultimate custodial authority over Petitioner.

8. _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 Mrs, Kristi Noem, is the legal custodian of Petitioner

9. _Respondent Maria Deanda Ybara, is the ICE Field Office Director of the Western District

Court Of Texas Field Office of ICE and is Petitioner's immediate custodian. *See Vásquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

10. Respondent Angel C. Garite, is the Assistant Field Office Director of:

Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

STATEMENT OF THE FACTS

11. -Petitioner was born in Cuba on  1973.

-Petitioner was paroled into the united states on 1995 at Florida.

-Petitioner was convicted with Trafficking, Position with Intent on 1995.

-Petitioner has a final removal order in 1998.

-Petitioner was taken into ICE custody previously three different times:

1-first time on 1998 for fifteen months.

2-second time on 2003 for three months.

3-third time on 2019 for one month.

Petitioner is sick and disable due to the kidney failure on 2020.

Petitioner goes to the hospital three times a week for dialysis.

12. Petitioner was taken into Immigration and Custom Enforcement (ICE) custody on September 29, 2025 and remains in custody for over six months under mandatory detention at the El Paso Service Processing Center.

13. Petitioner's deportation officer Herrera, D. requested from him to fill out travel documents for Cuba. Petitioner has filled out each document application, signed it, finger print it and took the needed photographs as well.

14. Immigration and Custom Enforcement (ICE) has conducted a custody review on

December 29, 2025, after being (90-days) in detention. deportation officer has informed the petitioner that Immigration and Custom Enforcement Headquarters Post-Order Detention Unit ("HQPDU") has decided to continue his detention to arrange his removal back to his country.

15. -ICE had order to remove petitioner to a third country that is willing to accept him in order to be safe, on December 10, 2025 immigration and customs enforcement 'ICE' officers have attempted to persuade petitioner to voluntarily go to me Mexico. Mexico has NOT accepted petitioner, nor issue a travel document for petitioner from Mexico. petitioner was informed that he will be dropped inside the Mexican border line only his own risk.

16. _To petitioner knowledge, the government of Cuba has not issued any travel documents for him. Indeed, neither Immigration and Custom Enforcement (ICE) gave no information concerning the existence or status of efforts to deport Petitioner besides keeping him in custody for a mandatory detention. nor Cuba have provided any indication that Cuba would accept Petitioner in the reasonably foreseeable future.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

17. _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. In *Clark v. Martinez*, 543 U.S. 371 (2005), the U.S. Supreme Court held that *Zadvydas* applies to aliens found inadmissible as well as removable.

18. _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).

19. _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 six months if ICE is “unable to present document confirmation that the Cuba 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

20. _Petitioner re-alleges and incorporates by reference paragraphs 1 through 19 above.

21. 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*. Petitioner’s ninety-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have both passed. Respondents are unable to remove Petitioner to Cuba, because there is no repatriation agreement between the United States and Cuba, and Cuba will not accept its citizens who have been ordered removed from the United States. In *Martinez*, the U.S. Supreme Court held that the continued indefinite detention of someone like Petitioner under such circumstances is unreasonable and not authorized by 8 U.S.C. §1231(a)(6).

COUNT TWO SUBSTANTIVE DUE PROCESS VIOLATION

22. _Petitioner re-alleges and incorporates by reference paragraphs 1 through 21 above.
23. _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).
24. _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."). Because Petitioner is unlikely to be removed to Cuba, her continued indefinite detention violates substantive due process.

COUNT THREE PROCEDURAL DUE PROCESS VIOLATION

25. _Petitioner re-alleges and incorporates by reference paragraphs 1 through 24 above.
26. _Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that s/he should not be detained. Petitioner in this case has been denied that opportunity. There is no administrative mechanism in place for the Petitioner to obtain a decision from a neutral arbiter or appeal a custody decision that violates *Martinez*. *See generally* 8 C.F.R. §212.12. The custody review procedures for Cubans are constitutionally insufficient both as written and as applied. A number of courts have identified a substantial bias within ICE toward the continued detention of aliens, raising the risk of an erroneous deprivation to constitutionally high levels. *See, e.g., Phan v. Reno*, 56 F. Supp. 2d 1149, 1157 (W.D. Wash. 1999)

("INS does not meaningfully and impartially review the Petitioners' status."); *St. John v. McElroy*, 917 F. Supp. 243, 251 (S.D.N.Y. 1996) ("Due to political and community pressure, INS, an executive agency, has ever incentive to continue to detain aliens with aggravated felony convictions, even though they have served their sentences, on the suspicion that they may continue to pose a danger to the community."); *see also Rivera v. Demore*, No. C 99-3042 THE, 199 WL 521177, *7 (N.D. Cal. Jul. 13, 1999) (procedural due process requires that aliens release determination be made by impartial adjudicator due to agency bias).

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 reasonably conditions of supervision;
- 3) _Order Respondents to refrain from transferring the Petitioner out of the jurisdiction of the ICE EL PASO SPC, Director during the pendency of these proceedings and while the Petitioner remains in Respondent's 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 prope

_I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this on _____ / _____ / _____.

Jorge Luis Correa Reyes
A# ,
Immigration and Custom Enforcement
El Paso Service Processing Center
8915 Montana Ave,
El Paso, TX 79925

Date: 01, 12, 2026.

Full Name: Jorge Luis Correa Reyes Signature: 