UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

OLGER JARA CASTRO, Petitioner(s) v. RAUL MALDONADO, Warden, Metropolitan Detention Center; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; and PAMELA BONDI, U.S. Attorney General; Respondents(s).	)	Case No. 2:26-cv-1775

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

1. On January 16, 2026, Petitioner Olger Jara Castro ([redacted]) was arrested and detained by the Department of Homeland Security ("DHS") pursuant to a removal order from 1998. Petitioner had never before been detained or released on an Order of Supervision by DHS.
2. When a noncitizen is ordered removed, the Attorney General shall remove the noncitizen from the United States within a period of 90 days. *See* 8 U.S.C. § 1231. This 90-day period is known as the "removal period." *Id.*
3. During the "removal period," the U.S. government shall detain the noncitizen. *See* 8 U.S.C. § 1231(a)(2)(A).

4. The "removal period" begins on the latest of three possible dates. *See* 8 U.S.C. 1231(a)(1)(B).[1]

5. Petitioner's "removal period" began on April 24, 1998 because: (i) Petitioner's order of removal became administratively final on April 24, 1998; (ii) no stay of removal has been ordered in this case; and (iii) the noncitizen has not been released from non-immigration detention. *See id.* Thus, Petitioner's "removal period" ended on July 23, 1998.

6. A noncriminal noncitizen "may be detained beyond the removal period" under certain circumstances. *See* 8 U.S.C. § 1231(a)(6).

7. The Supreme Court has stated in seven separate opinions that § 1231(a)(6) authorizes the Government to *continue* detaining a noncitizen after the removal period. *See Zadvydas v. Davis*, 533 U.S. 678, 682-3 (2001) ("After entry of a final removal order and during the 90-day removal period, however, aliens must be held in custody…[s]ubsequently [section 1231(a)(6)] provides, the Government 'may' *continue* to detain an alien who still remains here or release the alien under supervision"); *Demore v. Kim*, 538 U.S. 510, 527 (2003) ("The Court in *Zadvydas* read § 1231[(a)(6)] to authorize *continued* detention of an alien…"); *Clark v. Martinez*, 543 U.S. 371, 373 (2005) ("These cases concern the [§ 1231(a)(6)] authority to *continue* to detain an inadmissible alien subject to a removal order *after* the 90-day removal period has elapsed"); *Jennings v. Rodriguez*, 583 U.S. 281, 298 (2018) ("…the alien must be detained during the [removal period]…After the

[1] 8 U.S.C. § 1231(a)(1)(B) – 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 noncitizen, the date of the court's final order;

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

[removal period] elapses, however, § 1231(a)(6) provides only that certain aliens '*may* be detained' while efforts to complete removal *continue*"); *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) ("*Continued* detention under this provision creates the 'post-removal-period.'"); *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 577 (2022) ("...the Government *continued* to detain Arteaga-Martinez pursuant to 1231(a)(6)") (emphasis added to all citations); *and Garland v. Aleman Gonzalez*, 596 U.S. 543, 547 (2022).

8. The Supreme Court has never stated § 1231(a)(6) authorizes DHS to detain noncitizens that were never detained during the removal period after expiration of the removal period. *See supra.*

9. The regulatory scheme codified pursuant to § 1231(a)(6) does not support the contention § 1231(a)(6) provides separate authority to detain noncitizens for the first time after expiration of the removal period. *See* 8 CFR § 241.4(a) (indicating 8 U.S.C. § 1231(a)(6) grants the authority to "continue a [noncitizen] in custody") *and* 8 CFR §§ 241.13(a), 241.14(a)(1), 241.5(a) (all contingent upon 8 CFR § 241.4); *see also* Detention of Aliens Ordered Removed, 65 FR 80281-01 at *80282 (2000) ("The Attorney General construes [8 U.S.C. § 1231(a)(6)] to authorize her to continue to detain, beyond the 90-day removal period, certain classes of noncitizens designated in 8 U.S.C. § 1231(a)(6).")

10. Petitioner was never detained during the removal period. Petitioner's detention could only have been authorized by a broad reading of the phrase "may be detained beyond the removal period" in § 1231(a)(6). *See generally* 8 U.S.C. § 1231(a).

11. The canon of constitutional avoidance comes into play when, after the application of ordinary textual analysis, a statute is found to be susceptible of more than one construction. *See Clark v. Martinez*, 543 U.S. 371, 385 (2005).

12. A broad reading of § 1231(a)(6) causes serious Constitutional problems. *See* U.S. Const. Amend. V ("No person shall be...deprived of life, liberty, or property, without due process of law").
13. Petitioner's detention constitutes a deprivation of his right to Due Process under the 5th Amendment.
14. Courts have broad discretion in conditioning a judgment for Habeas Corpus relief. *See* 28 U.S.C. § 2243 ("The court shall summarily hear and determine the facts, and dispose of [the application for a Writ of Habeas Corpus] as law and justice require").
15. Therefore, as law and justice require, the Court should order Petitioner's release pursuant to the Court's broad discretionary power under 28 U.S.C. § 2243.

STATEMENT OF FACTS

16. Petitioner Olger Jara Castro ([redacted]) is male, native and citizen of Ecuador.
17. In or about 1997, Petitioner entered the United States crossing over the United States-Mexico order. Petitioner entered the United States without inspection by immigration authorities.
18. Petitioner has resided in the United States since 1997
19. On April 24, 1998, Petitioner was ordered removed from the United States by an immigration judge sitting in 26 Federal Plaza, 12th Floor, New York, NY 10278.
20. Petitioner did not appeal his order of removal. Petitioner remained in the United States.
21. In 2025, Petitioner filed an application for protection under the Violence Against Women Act ("VAWA").
22. On January 16, 2026, Petitioner attended a biometrics appointment pursuant to his VAWA application in Long Island, New York.

23. Petitioner was detained at that biometrics appointment by Immigration and Customs Enforcement and has been detained ever since.

24. Upon information and belief, Petitioner is currently detained in the Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232.

25. Petitioner has a U.S. citizen child over the age of 21.

26. Petitioner has never been arrested for, charged with, or convicted of any crime in the United States or any other country.

PARTIES

27. Petitioner Olger Jara Castro ([redacted]) is a noncitizen from Ecuador who is currently detained by ICE. Upon information and belief, Petitioner is currently detained in Metropolitan Detention Center at 80 29th St., Brooklyn, NY 11232.

28. Defendant Raul Maldonado is the Warden of Metropolitan Detention Center in Brooklyn. He is being sued in his official capacity. He is Petitioner's immediate custodian

29. Defendant Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. He is being sued in his official capacity. He is Petitioner's legal custodian.

30. Defendant Pamela J. Bondi is the United States Attorney General. She is being sued in her official capacity. She oversees Immigration Judges and the Board of Immigration Appeals. She is Petitioner's legal custodian.

JURISDICTION

31. Officials and agencies of the United States have been named as defendants. The Court has personal jurisdiction over the defendants under 28 U.S.C. § 1346(a)(2).

32. The Court has subject matter jurisdiction to hear Petitioner's request for relief under 28 U.S.C. § 2241 and Article I, § 9 cl. 2 of the United States Constitution.

33. This Court may grant relief under the Habeas Corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C § 1651.

VENUE

34. Venue is proper in the Eastern District of New York because, upon information and belief, Petitioner is confined in this district at 80 29th St., Brooklyn, NY 11232. 28 U.S.C. § 1391(b)(2); *see Rumsfield v. Padilla*, 542 U.S. 426, 442 (2004) (the Writ of Habeas Corpus is "issuable only in the district of confinement.")

REQUIREMENTS OF 28 U.S.C § 2243

35. The Writ of Habeas Corpus provides a "swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963)

36. The Court must grant this Petition for Writ of Habeas Corpus or issue and Order to Show Cause ("OSC") 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.*

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process
(Procedural Due Process)

1. The allegations in paragraph 1 through 36 are realleged and incorporated herein.
2. Procedural Due Process guarantees fair process. *See U.S. v. Salerno*, 481 U.S. 739, 746 (1987); *see also Mathews v. Eldridge,* 424 U.S. 319, 335 (1976) (articulating factors).

3. Petitioner is being deprived of his right to liberty, the risk of deprivation is high, and there would be great value in additional procedural safeguards.
4. The Government has little interest in Petitioner's continued detention.
5. Continued detention of Petitioner is a violation of Procedural Due Process.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

1. The allegations in paragraph 1 through 36 are realleged and incorporated herein.
2. The Due Process Clause covers a substantive sphere "barring certain government actions regardless of the fairness of the procedures used to implement them." *See Matzell v. Annucci*, 64 F.4th 425, 436 (2d Cir. 2023)
3. ICE's decision to detain Petitioner is so arbitrary that it constitutes a gross abuse of government authority.
4. Even in the presence of procedural protections, the government's actions are without justification. *See Southerland v. City of New York*, 680 F.3d 127, 152 (2d Cir. 2012)
5. Continued detention of Petitioner is a violation of Substantive Due Process.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred out of New York;

(3) Declare that Petitioner's detention is unlawful;

(4) Issue an Order to Show Cause ordering Defendants to show cause why this Petition should not be granted within three days;

(5) Order Petitioner's release pursuant to the Court's broad discretionary under 28 U.S.C. § 2243;

(6) In the alternative, hold a bail hearing and order Petitioner's release through the Court's inherent authority under *Mapp v. Reno*, pending adjudication of this Petition;

(7) In the second alternative, this Court should order the noncitizen released on supervision under 8 U.S.C. § 1231(a)(3);

(8) Award attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law;

(9) Order any further relief this Court deems just and proper.

Respectfully submitted this 25th Day of March 2026.

Respectfully submitted,
EDWARD J. CUCCIA, PC

/s/ Edward J. Cuccia

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

I represent Petitioner and submit this verification on their 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 25th day of March, 2026.

/s/ Edward J. Cuccia
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