JUDGE LEON SCHYDLOWER

RECEIVED
AUG 24 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY DEPUTY CLERK

UNITED STATES DISTRICT COURT

for the

Roberto Sanchez Perez
A [redacted]

Petitioner

v.

Warden of Camp Montana, Director of ICE Todd M. Lyons, DHS Secretary Markwayne Mullin Regional Director of ICE Mary de Ybarra, Todd Blanche

Respondent
(name of warden or authorized person having custody of petitioner)

Case No. EP26CV2205
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Roberto Sanchez Perez
   (b) Other names you have used:
2. Place of confinement:
   (a) Name of institution: Camp East Montana Detetnion facility
   (b) Address: 6920 Digital Road
   El paso TX 79901
   (c) Your identification number: [redacted]
3. Are you currently being held on orders by:
   ☑ Federal authorities ☐ State authorities ☐ Other - explain:
4. Are you currently:
   ☐ A pretrial detainee (waiting for trial on criminal charges)
   ☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
   If you are currently serving a sentence, provide:
   (a) Name and location of court that sentenced you:
   (b) Docket number of criminal case:
   (c) Date of sentencing:
   ☐ Being held on an immigration charge
   ☑ Other *(explain)*:

Decision or Action You Are Challenging

5. What are you challenging in this petition:
   ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention
☑ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other *(explain)*:

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Camp East Montana Detention Facility
6920 Digital Road, TX 79936

(b) Docket number, case number, or opinion number:

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Petitioner is challenging his unlawful by D.H.S. ICE

(d) Date of the decision or action:

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not appeal:

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☑ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a third appeal: Is challenging unlawful D.H.S. ICE

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☑ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☑ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☑ Yes ☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 07/13/26

(b) Date of the removal or reinstatement order: 1996

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☑ No

If "Yes," provide:

(1) Date of filing:

(2) Case number:

(3) Result:

(4) Date of result:

(5) Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☑ No

If "Yes," provide:

(1) Name of court:

(2) Date of filing:

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☑ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

(b) Name of the authority, agency, or court:

(c) Date of filing:

(d) Docket number, case number, or opinion number:

(e) Result:

(f) Date of result:

(g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: D.H.S. ICE has violated petitioner's Due process of law, 5th Amendment of the U.S. Constitution, and Equal protection Rights.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:
Petitioner entered U.S. on 26 of may 1988. I came into the U.S.A. via visa claim by a citizen. ICE has issue a final Administrative Removal Order on 1996 to Cuba and was unable to remove petitioner to Cuba or to a third country back then. ICE release on order of supervision on 07/08/2004 ICE re-detained petitioner on 07/13/2026 without any plan, no travel document, no acceptance by any country and no timeline for removal. No SLRFF.

(b) Did you present Ground One in all appeals that were available to you?
☐ Yes ☑ No

GROUND TWO: Petitioner's detection is unlawful and unwarranted thus his fifth Amendment Rights, Due process of law and Equal Protetcion Rights.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:
Petitioner was release on 07/08/2004 which indicative of no significant Likelihood of removal in the foreseeable future. Petitioner complied with all OSUP requirements until I violate my probation with a technical violation not a new charge there is no significant likelihood of removal in the foreseeable future and ICE cannot produce any travel document by Cuba or ether by Mexico or identified a 3dr Country because there is no likelihood of removal, there is no reason for this detention and Petitioner should be release.

(b) Did you present Ground Two in all appeals that were available to you?
☐ Yes ☑ No

GROUND THREE: D.H.S. has violated Petitioner 5th Amendment of the U.S. Constitution and Due process of Law. ICE has not shown any evidence that Petitioner removal is likely in the Forseeable future D.H.S. ICE has failed to follow its own regulation in revoking Petitioner Order of supervision. Petitioner's detention is anlawful.

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:
ICE agents including immigration Court failed to remove me in 1996 when I had the order for lien removal they had 31 years to removal to deport me so I believe there is no foreseeable future in removing Alien foris faidhi and and my detention is unlawful and unreasonable.

(b) Did you present Ground Three in all appeals that were available to you?
☐ Yes ☑ No

GROUND FOUR: D.H.S. ICE has no legal grounds to continue Petitioner's detention, Which is clearly an abuse power and is in violation of the 5th Amendment of the U.S. Constitution and Due process of law

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

D.H.S. ICE has acted unlawfully re-detaining Petitioner. ICE has failed to obtain any travel documents or provide a timeline of foreseeable removability. ICE has confirmed Cuba will not accept Petitioner, and ICE cannot produce any travel document to any third country.

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes ☑ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Request for Relief

15. State exactly what you want the court to do: Petitoner comes before this court in good faith, asking that this motion be granted and to order Petitioner immediate releaserulling in his favor, thus protecting Petitioner Due process of law, 5th Amendment of the U.S Constitulon, and Equal protection Rights.

Petitioner respecfully request a Temporary Order and Preliminary Injunction against respondents and not be transferred o outside western district of texas or U.S until this Petitioner is decided.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

_____

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 08/20/2026

_____
Signature of Petitioner

_____
Signature of Attorney or other authorized person, if any

JUDGE LEON SCHYDLOWER

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United States District Court
Western District Court of Texas
El Paso Division

Roberto Sanchez Perez
A [redacted]

Petitioner,

EP26CV2205

V. Case No: _____

Warden of Camp East Montana,
DHS Secretary Mark Wayne Mullin,
Director of ICE Todd M. Lyons,
US Attorney General Todd Blanche,
Regional Director of ICE Mary de Anda Ybarra,
Respondents.

_____/

Memorandum of law

COMES NOW Petitioner Roberto Sanchez Perez a pro se comes before the court in good faith and amends 2 (5th) ground to his petition for writ of habeas corpus in support of this petition.

Petitioner Raises the Zadvydas v Davis claim while is a statutory challenge under Section 1231 (a), whether his detention, at this point "bears a reasonable relation to the purpose for which he is committed" is a question of due process under the fifth Amendment.

Similarly, due process is the proper vehicle to challenge respondents failure to follow their own regulation in violation of the Accardi Doctrine. See Ayala Chapa v Bondi 132 F 4th 796 799 & N3 (5th) Cir 2025

Petitioner argues; once a non-citizen is ordered removed from the United States the INA requires that removal generally occur within ninety days. 8 U.S.C. Section 1231 (a)(1)(A).

The removal period maybe extended in at least three circumstances, relevant here, a non-citizen maybe detained beyond the removal period if he is "(1) inadmissible, (2) removable as a result of a violation of statutes requirements, entry conditions or the criminal or for national security or foregoing policy reason; or (3) a risk to the community or unlikely to comply with the removal order. If any of these grounds apply, the statute imposes no limit on the time a person may be detained. Because "[a] statue permitting indefinite detention... would raise a serious constitutional problem" the Supreme Court has "read an implicit limitation" into the statute and has held that non-citizen may only be detained for a period reasonably necessary" to effectuate their removal. Zadvydas, 533 U.S. 689.

Petitioner argues that Cuba is a country that historically refuses repatriation of its emigres from the United States and a third country not of petitioner origin and/or citizenship is illegal and unconstitutional, petitioner removal is not likely to happen in the foreseeable future and "if removal is not practically attainable detention no longer serves its statutory purpose of assuring the alien presence at the moment of removal.

Petitioner detention is clearly without a valid reason it's a violation of the due process and the fifth amendment of the United States Constitutional as well as a violation of Equal protection Rights.

Petitioner is challenging the legality of this detention under a framework devised by the Supreme Court for District court to apply. see Zadvydas 533 U.S. AT 682 (Stating the court limitation on post-removal detention "is subject to federal-court review"). A decision in petitioner favor would not impair ICE's ability to execute the removal order. The INA does not strip the court of jurisdiction over this action.

Petitioner points to the merits of his Due Process claim "once a non-citizen's order of removal becomes administratively final, the government shall remove the person within90 days."Sing v U.S. Attorney Gen 945 F3J 1310, 1313 (11th Cir 2019)(quoting 8 U.S.C. Section 1231(a)(1)(A)).

The government must detain the non-citizen during the 90 day removal period, which begins when the removal under becomes administratively final, but not cannot detain indefinitely.

In Zadvydas v Davis the supreme Court held "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statue" 533 U.S. 679, 700-01 (2001). If removal is not practically attainable, detention no longer serves its statutory purpose of "assuring the aliens presence at the moment of removal" Id at 699. The court found it unlikely Congress "believed that all reasonably foreseeable removal could be accomplished in 90 days" Id at 701. So for the sake of uniform administration in the federal courts, "it established a presumptively reasonable period of detention" of six months (the 90 day removal period plus an additional 90 days). Id court use a burden shifting framework to dodge the constitutionality of additional detention.

The government may argue that petitioner petition is premature because his current detention has not exceeded 180 days. They assume a six month presumptively reasonable period of detention starts each time a non-citizen is detained. That assumption is inconsistent with Zadvydas. It would effectively allow DHS/ICE to detain non-citizens indefinitely and avoid judicial scrutiny by releasing and re-detaining them every 180 days. "Supreme Court stated rationale for establishing a presumptively reasonable six-month period for detention pending removal supports our conclusion that period commences at the beginning of the removal period". Akinwale v Ashcroft, 287 F3d 1050, 1052 n.3 (11th Cir 2002). Courts typically consider the cumulative time spent in detention when evaluating a ***habeas*** claim challenging detention as unreasonable per Zadvydas. Vo v. Bondi, No. 2:25-CV-02244, 2025 U.S. Dist. LEXIS 261020, 2025 WL 3653722, at *3 (W.D. Wash. Dec. 17, 2025) ("The presumptively reasonable period of detention does not reset each time a non-citizen is detained; rather, the ***aggregate*** time in detention post removal order is considered."); see, e.g., Giorges v. Kaiser, No. 25-cv-7683, 2025 U.S. Dist. LEXIS

201578, 2025 WL 2898967, at *8 n.5 (N.D. Cal Oct. 10, 2025); Bulle v. Wesling, No. 26-CV-019, 2026 U.S. Dist. LEXIS 12549, 2026 WL 183840, at *4 (D.R.I. Jan. 23, 2026).

Because the six-month period for presumptively reasonable detention has expired, Zadvydas's burden shifting framework applies. Petitioner has carried his initial burden by showing good cause to believe there is no significant likelihood of removal in the foreseeable future. ICE has been unable to remove him, and ICE has confirmed that the Cuban Government will not accept Petitioner for repatriation.

ICE has alleged third country removal a possibility but the attempt to carry out these removals have been and informal effort to compel voluntary departure, not an above board removal attempt that complies with statutory and constitutional requirements. See Andriasian v. Immigr. and Naturalization Serv. 180 F.3d 1033, 1041 (9th Cir 1999)("failing to notify individuals who are subject to deportation that they have the right to apply for asylum in the United States and for withholding of deportation to the country to which they will be deported violates both INS regulations and constitutional rights to Due Process") See also D.V.D. v. U.S. Dept of Homeland Security, --- F.Supp.3d---, 2026 WL 521557 (D. Mass Feb 25, 2026)(setting aside DHS's current third country removal policy because it violates non-citizens' right to seek fear based relief under convention against torture. ICE makes no attempt to show it has a plan to lawfully remove Petitioner. ICE has failed to obtained or even allege a country of removal, valid travel document, or provide any timeline for foreseeable removal.

Petitioner's detention is clearly without a valid reason with no change in circumstances thus making it unlawful and unconstitutional.

Respectfully submitted this 08/19/2026

Roberto Sanchez Perez
A[redacted]
Camp East Montana Detention Facility
6920 Digital Road
El Paso, TX 79936
Pro Se Petitioner