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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

DANIEL CORTINA CAMOT,

Petitioner,

v.

CASE NO.: 3:26-cv-2234

WARDEN, OF THE EL PASO SERVICE PROCESSING CENTER, acting in his official capacity; MARY DE ANDA-YBARRA, Field Office Director of the El Paso Field Office, acting in her official capacity; DAVID J. VENTURELLA, Senior Official Performing the Duties of the Director of the United States Immigration and Customs Enforcement, acting in his official capacity; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security, acting in his official capacity; TODD BLANCHE, Attorney General of the United States, acting in his official capacity; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and DEPARTMENT OF HOMELAND SECURITY,

Respondents.
_____/

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

INTRODUCTION

1. DANIEL CORTINA CAMOT ("Petitioner") a citizen and national of Cuba, first arrived in the United States approximately twenty-eight (28) years ago. (*See* Ex. 1, Cuban passport).

2. On December 3, 1998, following a criminal conviction, Petitioner was ordered to be removed from the United States; however, the Order of Removal has never been executed.

3. On August 12, 1998, Petitioner was convicted of a single count of trafficking in cocaine (*See* Ex. 2, Record of Conviction). He was sentenced to five years in state prison followed by 5 years of probation. He completed the prison portion of his sentence on July 22, 2002. (*See* Ex. 3, Florida Department of Corrections form) and the probation portion of his sentence on April 12, 2007 (*See* Ex. 4, Notification of Offender Status).

4. After completing his criminal sentence on April 9, 2002, he was taken into immigration custody pursuant to a final order of removal. Petitioner was released from detention after approximately three months of detention. Since his release in 2002, Petitioner has fully complied with his Order of Supervision and has consistently appeared for Immigration and Customs Enforcement ("ICE") reporting appointments for nearly twenty-five (25) years. From November 12, 2002, until November 25, 2025, Petitioner reported to Respondents at ICE Miramar ERO as required and complied with all terms and conditions of his Order of Supervision. (*See* Ex. 5, Order of Supervision Check in Sheet). Despite consistently presenting himself at their supervision office, Petitioner was detained by Respondents on November 25, 2025. Petitioner has been continuously detained since then, for a period of approximately nine months.

5. Petitioner is detained at the El Paso Camp East Montana, 6920 Digital Road, El Paso, Texas. (*See* Ex. 6, ICE Detainee Locator). Since being placed in immigration detention at the El Paso Camp East Montana, Petitioner has required hospitalization for medical conditions. As a result, his physical and mental health have deteriorated. Petitioner has suffered from respiratory and kidney issues requiring hospitalization and treatment outside the facility.

6. Since his conviction nearly twenty-eight (28) years ago, Petitioner has demonstrated sustained rehabilitation and exemplary moral character. Petitioner has lived as a law-abiding and productive member of his community; maintaining continuous employment, paying his taxes, and incurring no subsequent criminal history. He has also fully complied with all ICE reporting requirements, attending all required supervision appointments since he was issued an order to appear for them in 2002 (*See* Ex. 5, *supra*).

7. Petitioner has now been detained for nine months at the El Paso Camp East Montana. Third countries will not accept Petitioner.

8. On July 22, 2026, Petitioner filed a request for custody redetermination with the El Paso Field Office (*See* Ex. 7 Composite, Request for Custody Redetermination and Confirmation Receipt from USPS Tracking).

9. Respondents have failed to provide a response to the Request for Custody Redetermination. Attempts have been made via email to ascertain if a decision has been made. (*See* Ex. 8, Emails to the El Paso Field Office). Respondents have not answered any emails regarding the Request for Custody Redetermination.

10. Petitioner challenges his prolonged detention as a violation of the Immigration and Nationality Act and the Due Process Clause of the United States Constitution. He respectfully requests that this Court order Respondents to show cause why the writ should not be granted within three days and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243, and grant him a Writ of Habeas Corpus, ordering Respondents to release him or alternatively release him under supervision.

11. ICE will not be reasonably able to remove Petitioner based on his present medical condition or his advanced age (63 years old).

JURISDICTION AND VENUE

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

16. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), as Petitioner is presently in custody under or by color of the authority of the United States and challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

17. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See e.g., Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001). The Supreme Court upheld the federal courts' jurisdiction to review such claims in *Jennings v. Rodriguez*, __ U.S. __, 138 S. Ct. 830, 839-41 (2018).

18. 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.

19. Venue is proper because Petitioner is detained at El Paso Camp East Montana, 6920 Digital Road, Texas, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or issue an 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.* (emphasis added).

21. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

22. Petitioner, DANIEL CORTINA CAMOT, is a native and citizen of Cuba, detained by Respondents at the El Paso Camp East Montana within the Western District of Texas. He brings this petition pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued detention.

23. Respondent, WARDEN or Officer in Charge of the El Paso Camp East Montana, in his official capacity, is the immediate custodian and the official responsible for Petitioner's physical detention.

24. Respondent, MARY DE ANDA-YBARRA, in her official capacity as Field Office Director ("FOD"), El Paso Field Office, US. Immigration and Customs Enforcement is responsible for the custody, detention, and removal operations for individuals detained within the geographic area encompassing Petitioner's place of confinement.

25. Respondent, DAVID J. VENTURELLA, in his official capacity as Senior Official Performing the Duties of the Director of ICE, directs the agency that exercises authority over the detention, custody, and supervision of noncitizens pursuant to the INA.

26. Respondent, MARKWAYNE MULLIN, in his official capacity as U.S. Secretary of

Homeland Security, is the highest official within the DHS, which is charged with administering and enforcing federal immigration laws, including detention authority under the INA.

27. Respondent, TODD BLANCHE, in his official capacity as Attorney General of the United States, acting in his official capacity, presides over the Executive Office for Immigration Review, which oversees the Immigration Judge that may hear Petitioner's request for release from custody.

28. Respondent, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, is an agency within the Department of Homeland Security charged with the enforcement of immigration laws, including the detention and removal of noncitizens.

29. Respondent, EXECUTIVE OFFICE FOR IMMIGRATION REVIEW ("EOIR"), is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including authority of hearing custody redeterminations in bond hearings for noncitizens who are detained by the DHS.

30. Respondent, DEPARTMENT OF HOMELAND SECURITY, is the federal department responsible for administering and enforcing the INA, including statutory authority governing the detention of certain noncitizens.

UNDISPUTED FACTS

31. Petitioner is a 63-year-old native and citizen of Cuba. Petitioner has a final order of removal from December 3, 1998, following his conviction for a felony on August 5, 1998.

32. Since July 17, 2002, Petitioner has complied with all terms and conditions of his Order of Supervision issued by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner was detained by Respondents on November 25, 2025, while reporting to his scheduled ICE supervision appointment.

33. Since his release on an Order of Supervision, Petitioner has been a law-abiding citizen (*See* Ex. 9, Eleventh Judicial Circuit of Florida Clerk's Office Criminal History Search).

34. Respondents do not have the power or authority to unilaterally elect a country to deport the Petitioner to, especially considering the particularities of this case. The prolonged detention of the Petitioner therefore represents a continued threat to his wellbeing based on his health and advanced age and is a violation of due process.

35. If released from detention, Petitioner would seek refuge at the home of his United

States citizen wife. Petitioner would be residing in a sanitary environment as opposed to the El Paso Camp East Montana.

LEGAL ARGUMENT

1. Petitioner is Entitled to Immediate Release or a Bond Hearing Under Section 1231(a)(6).

Petitioner's detention is governed by 8 U.S.C. §1231. Specifically, pursuant to 8 U.S.C. §1231(a) (1) (A), Respondents shall remove him from the United States within a period of 90 days (referred to in the statute as the "removal period"). The pertinent section of the statute that applies to Petitioner is § 1231(a)(6), which permits - but does not require - the government to continue to detain beyond the removal period certain "[i]nadmissible and criminal aliens." Such persons "may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3)."[1]

Under section 1231(a)(1)(A) Petitioner's removal period commenced upon November 25, 2025, the date ICE officials took Petitioner into custody during a regularly schedule check-in appointment. More than nine (9) months have passed. Multiple courts have held that noncitizens are eligible for release under section 1231(a)(6) following the 90-day removal period. *See Diouf v. Napolitano,* 684 F.3d 1081, 1092 (9th Cir. 2011); *accord Guerrero-Sanchez v. Warden York Cty. Prison,* 905 F.3d 208, 224 (3d Cir. 2018); *see also* 8 C.F.R. §§241.4; 241.5(b) (regulations establishing bond eligibility for noncitizens after the conclusion of the removal period).

In *Diouf,* the Ninth Circuit addressed concerns that prolonged detention under § 1231(a)(6) without adequate procedural protections would raise serious constitutional concerns. To alleviate these concerns and avoid a constitutional violation, the Court applied the canon of constitutional avoidance and held that § 1231(a)(6) required an individualized bond hearing, before an immigration judge, for non-citizens facing prolonged detention, with the non-citizen being entitled to release on bond unless the government establishes that he is a flight risk or will be a danger to the community.

Petitioner has now been detained post-removal order more than six months and should be released as there is no significant likelihood of removal in the foreseeable future due to his

[1] Paragraph 3 of section 1231(a) provides for supervision without detention, including mandatory check-ins with ICE officers and compliance with restriction on the noncitizen's conduct and activities. *See* 8 U.S.C. §1231(a)(3). Petitioner is amenable to such supervision.

continued medical issues. Therefore, he must be provided with an individualized hearing to determine whether the government can meet its burden considering Section 1231's purpose.

2. Petitioner's Prolonged Detention Without a Bond Hearing Violates Due Process

Petitioner's continued detention without a bond hearing violates due process. "Freedom from imprisonment - from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Moreover, in *Zadyvdas,* the Supreme Court recognized that the Fifth Amendment's Due Process Clause imposes limitation on the government's discretionary detention authority under Section 1231(a)(6). 533 U.S. at 689. The Court held that prolonged detention under Section 1231(a)(6) is no longer permissible if it is not reasonably related to the statutory purpose of ensuring the individual's prompt removal. *See id.* at 699-701. To state a claim under *Zadvydas*, an individual detained under Section 1231(a)(6) must show "post-removal order detention in excess of six months" and "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11 Cir. 2002) (citing *Zadvydas* 533 U.S. at 701).

In the immigration context, the Supreme Court has only recognized two valid purposes for civil detention – to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Denmore*, 538 U.S. at 528. Because Petitioner's ongoing deprivation of liberty is not sufficiently related to either of these purposes, and because he has not been afforded the necessary procedural safeguards, his detention violates due process.

Every federal appeals court to consider the issue has concluded – either as a matter of constitutional avoidance applied to statutory construction or by reaching the due process question – that mandatory detention without a bond hearing pending removal is impermissible once it exceeds a reasonable time limitation. *See Sopo,* 82 F.3d 1199; *Reid v. Donelan,* 819 F.3d 486 (1st Cir. 2016); *Lora v. Shanahan,* 804 F.3d 601) (2nd Cir. 2015); *Rodriguez v. Robbins,* 804 F.3d 1060 (9th Cir. 2015); *Diop v. ICE/Homeland Sec.,* 656 F.3d 221 (3rd Cir. 2011); *Ly v. Hansen,* 351 F.3d 263 (6th Cir. 2003).

In *Jennings v. Rodriguez,* the Supreme Court held that the Ninth Circuit erred in applying the canon of constitutional avoidance to interpret 8 U.S.C. §§ 1226(c) and 1225(b) to require an individualized bond hearing for all noncitizens detained for over six months. 138 S. Ct. at 836.

The Supreme Court remanded to the Ninth Circuit to address in the first instance whether prolonged detention without a bond hearing pending removal proceedings violates due process *Id.* at 851. The decisions of the First, Second, Third, Sixth, and Eleventh Circuits remain persuasive authority with respect to the due process analysis. These courts identified "serious constitutional concerns." *Sopo,* 825 F.3d at 1213, with a reading of the statutory scheme that would permit prolonged detention absent any periodic review by a neutral decision-maker. Post-*Jennings,* courts have held that a statutory detention scheme that does not allow for such review violates due process. *See Guerrero-Sanchez v. Warden York Cty. Prison,* 905 F.3d 208, 222 (3rd Cir. 2018) (noting that the Third Circuit's earlier constitutional precedent was not abrogated by *Jennings* and reaffirming that "when detention becomes unreasonable, the Due Process Clause demands a hearing, at which the Government bears the burden of proving that continued detention is necessary"); *Hamama v. Adducci,* 349 F. Supp. 3d 665, 685 (E.D. Mich. 2018) (prolonged and indefinite detention of a nationwide class of Iraqi nationals including Section 1225, 1226 and 1231 detainees likely violated the detainees' due process rights "[r]egardless of which provision applies").

Petitioner's detention without a bond hearing should be presumed unreasonable because it has already exceeded 180 days. Due process requires, at a minimum, a bond hearing after detention has become unreasonably prolonged. *See Diop,* 656 F.3 at 234. In determining the reasonableness of immigration detention, courts have found that reasonableness is a "function of the length of the detention," *Chavez-Alvarez v. Warden York Cty. Prison,* 783 F.3d 469, 477 (3rd Cir. 2015) (detention is presumptively unreasonable if it lasts six months to a year); *accord Sopo,* 825 F.3d at 1217-18, and the prospect of future detention pending the resolution of challenges to the individual's removal. *Chavez-Alvarez,* 783 F.3d at 477-478 (finding detention unreasonable after nine months, when parties "could have reasonably predicted that an appeal would take a substantial amount of time); *accord Sopo,* 825 F.3d at 1218; *Reid v. Donelan,* 819 F.3d 486, 500 (1st Cir. 2016). The "conditions of confinement" also bear on the reasonableness analysis. *Chavez-Alvarez,* 783 F.3d at 478; *accord Sopo,* 825 F.3d at 1218 ("whether the facility for the civil immigration detention in meaningfully different from a penal institution for criminal detention" is a factor in reasonableness determination).

In addition to an individualized hearing before a neutral decision-maker, due process requires the government to provide Petitioner with other procedural safeguards to protect against

the erroneous deprivation of liberty. First, the government must bear the burden of proof by clear and convincing evidence to demonstrate that he is a danger or flight risk. *See Singh v. Holder,* 638 F.3d 1196, 1203-05 (9th Cir. 2011); *see also United States v. Salerno,* 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where "full-blown adversary hearing" requiring "clear and convincing evidence" and "neutral decisionmaker"); *Foucha,* 504 U.S. at 81-83 (striking down civil detention scheme that placed burden on the detainee). *Zadvydas,* 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia,* they place burden on detainee). Additionally, to show that an individual's continued detention is reasonably related to the detention statutes' primary purpose of ensuring appearance during removal proceedings and effectuating her removal, *see Zadvydas,* 533 U.S. at 697, the government must also consider alternatives to detention and an individual's ability to pay bond. *See Hernandez,* 872 F.3d at 990-991; *see also id.* at 991.

For these reasons, Petitioner's continued prolonged detention runs afoul of both substantive and procedural due process.

CLAIMS FOR RELIEF

Count One

VIOLATION OF IMMIGRATION AND NATIONALITY ACT – 8 U.S.C. §1231(a)(6)

Petitioner realleges and incorporates the preceding allegations. Petitioner's detention is governed by 8 U.S.C. § 1231(a) and he is subject to the discretionary, post-removal period detention provision Section 1231(a)(6) because he has been detained far beyond the mandatory 90-day removal period.

Section 1231(a)(6) and its implementing regulations 8 C.F.R. §241.4 and §241.5 authorize release, subject to an order of supervision, following the 90-day removal period.

In *Zadvydas,* the Supreme Court ruled that when detention under that provision exceeds six months, it is no longer presumptively reasonable, and the government must release the individual unless it can show that his removal is significantly likely in the reasonably foreseeable future. *Id.* at 701.

Petitioner has been detained for over six months, there is no significant likelihood that the government will remove him in the reasonably foreseeable future, and there is ample reason to

believe it will not be able to do so.

Thus, Petitioner is entitled to immediate release from detention or, alternatively a prompt individualized hearing to assess the legality and necessity of his continued detention.

Count Two

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION

Petitioner realleges and incorporates the preceding allegations. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend. V.

Civil *immigration* detention violates due process if it is not reasonably related to its purpose. *See Zadvydas,* 533 U.S. at 690 (citing *Jackson v. Indiana,* 406 U.S. 715, 738 (1972)); *Demore,* 538 U.S. at 513. As categorical detention becomes increasingly prolonged, a "sufficiently strong special justification" is required to outweigh the significant deprivation of liberty. *Zadvydas,* 533 U.S. at 690-91.

Prolonged civil detention also violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Id.* at 690-91; *Foucha,* 504 U.S. at 81-83. To justify Petitioner's ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decision-maker, that his detention is justified by clear and convincing evidence of flight risk or danger, even after consideration of whether alternatives to detention could sufficiently mitigate that risk and taking into account his ability to pay bond. *See Salerno,* 481 U.S. at 750, 752; *Singh,* 638 F.3d at 1203; *Hernandez,* 872 F.3d at 990.

Petitioner's detention without a bond hearing could last many more months or even years while Respondents attempt to find a country willing to take Petitioner given his medical issues and advanced age.

Petitioner has not been afforded the necessary procedural safeguards to guarantee against the erroneous deprivation of his liberty, especially as his detention grows increasingly prolonged and his health continues to falter.

Prolonged detention exceeding six months in circumstances under which he is detained is unreasonable without a finding that Petitioner presents a danger or risk of flight and is depriving

Petitioner of his freedom and subjecting him to custody in violation of the Fifth Amendment of the United States Constitution.

Where continued detention is based on a violation of constitutional protections, habeas corpus is the appropriate means to address the violation and requires the agency to provide an individualized custody determination or release Petitioner from custody altogether.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an order to show cause under 28 U.S.C. § 2243 ordering Respondents to answer within 3 days;

c. Issue a writ of habeas corpus directing Respondents to release Petitioner from custody; or in the alternative, to release Petitioner from custody subject to appropriate supervision;

d. Enjoin Respondents from continuing to detain Petitioner;

e. Enjoin Respondents from transferring Petitioner out of this District while this habeas petition remains pending; and

f. Award costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

f. Grant such further relief as the Court deems just and proper.

Respectfully submitted on this 28th day of August, 2026.

DANIEL CORTINA CAMOT

By his attorney:

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Attorney for Petitioner

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 28th day of August, 2026.

/s/ Angela Alvero
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Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on August 28, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system which will serve a copy to all counsels of record, and upon receipt of summonses will serve by certified mail to all Respondents and to the United States Attorney's Office for the Western District of Texas.

Dated: August 28, 2026

Signed:

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