

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

EDISNOY CASALS-SOCARRAS, ONIEL
PADILLA-FERRAN, YOENMY MONTES-DE
OCA GOMEZ, YERESLAN GONZALEZ-
VOLERO, ROILER PEREZ, JUAN CARLOS
SANCHEZ-RODRIGUEZ, JULIO CESAR
GONZALEZ-VALDEZ, and ADRIEL GARCIA-
CRUZ,

Civil Action No. 4:21-cv-11

**PETITION FOR A WRIT OF
HABEAS CORPUS**

Director, Atlanta Field Office, United States
Immigration and Customs Enforcement; TAE D.
JOHNSON, Senior Official Performing the Duties
of the Director, United States Immigration and
Customs Enforcement; DAVID PEKOSKE, Acting

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

INTRODUCTION

1. For months, the United States Government has claimed that Cubans will be removed in the reasonably foreseeable future. Yet, of the almost two thousand Cubans awaiting deportation, hundreds of whom are currently detained, only 48 have been removed in nearly eleven months. Petitioners, who are all Cubans awaiting deportation, have been detained for 16 to 21 months, with no end in sight.

VENUE

7. Venue is proper in this District under 28 U.S.C. §§ 1391, 2241 because at least one Respondent is in this District, all Petitioners are detained in this District, Petitioners' immediate custodian is located in this District, and a substantial part of the events giving rise to the claims in this action took place in this District.

PARTIES

8. Petitioner Edisnoy Casals-Socarras is currently detained by Respondents at SDC. He has been in ICE custody since approximately September 2019. His removal order became final on or about May 28, 2020, seven months and 26 days ago.
9. Petitioner Oniel Padilla-Ferran is currently detained by Respondents at SDC. He has been in ICE custody since approximately August 2019. His removal order became final on or about June 18, 2020, seven months and five days ago.
10. Petitioner Yoenny Montes-De Oca Gomez is currently detained by Respondents at SDC. He has been in ICE custody since on or about September 10, 2019. His removal order became final on or about March 4, 2020, approximately ten months and 19 days ago.
11. Petitioner Yereslan Gonzalez-Volero is currently detained by Respondents at SDC. He has been in ICE custody since on or about September 9, 2019. His removal order became final on or about May 14, 2020, approximately eight months and nine days ago.
12. Petitioner Roiler Perez is currently detained by Respondents at SDC. He has been in ICE custody since on or about June 4, 2019. His removal order became final on or about May 8, 2020, approximately eight months and 15 days ago.

13. Petitioner Juan Carlos Sanchez-Rodriguez is currently detained by Respondents at SDC. He has been in ICE custody since on or about April 8, 2019. His removal order became final on or about July 9, 2020, approximately six months and 14 days ago.

14. Petitioner Julio Cesar Gonzalez-Valdez is currently detained by Respondents at SDC. He has been in ICE custody since on or about April 18, 2019. His removal order became final on or about February 5, 2020, approximately 11 months and 18 days ago.

15. Petitioner Adriel Garcia-Barron is currently detained by Respondents at SDC. He has been in ICE custody since on or about April 18, 2019. His removal order became final on or about February 5, 2020, approximately 11 months and 18 days ago.

In an email following up on his OSUP request, Mr. Padilla-Ferran's counsel also requested a custody review under *Fraihat*. ICE has not communicated a decision on his request.

25. Petitioner Montes-De Oca Gomez filed a bond motion to the immigration court through counsel, which was denied. He has also submitted to ICE multiple *pro se* requests for release on or about September 10, 2020 and November 21, 2020.

26. Petitioner Gonzalez-Volero requested bond from the immigration judge twice, once through counsel and once *pro se*, and was denied both times. He also submitted a request for release to ICE. He has not received a response.

27. Petitioner Perez requested bond twice before the immigration judge

STATEMENT OF FACTS

I. PETITIONERS

31. Petitioners all have removal orders which became administratively final more than 180 days ago. They have all been ordered removed to Cuba.

32. Petitioners have been in immigration detention for between 16 and 21.5 months.

33. Petitioners have been detained for between 6.5 and 11.5 months since their removal orders became administratively final.

34. Petitioner Edisnoy Casals-Socarras has been in ICE custody for approximately 16 months and 12 days since September 2019. His removal order became final approximately seven months and 26 days ago on or about May 28, 2020. His wife, who is also in the Unit they have been in, has been in ICE custody for approximately 16 months and 12 days since September 2019. Her removal order became final approximately seven months and 26 days ago on or about May 28, 2020.

39. Petitioner Juan Carlos Sanchez-Rodriguez has been in ICE custody for approximately 21 months and 15 days since approximately April 8, 2019. His removal order became final approximately six months and 14 days ago on or about July 9, 2020. Petitioner Sanchez-Rodriguez suffers from asthma, placing him at heightened risk of suffering serious illness or death from COVID-19.⁴ If released, he will live with and be supported by his aunt, Jeisy Sanchez Serantez, a lawful permanent resident who lives in Miami, Florida.

40. Petitioner Julio Cesar Gonzalez-Valdez has been in ICE custody for approximately 21 months and five days since on or about April 18, 2019. His removal order became final approximately 11 months and 18 days ago on or about February 5, 2020. If released, he will live with and be supported by his lifelong

44. As of September 2020, approximately 1,800 Cubans were in ICE custody.⁶

45. On April 2, 2020, the Cuban government “suspended the arrival and departure of all

Oct. 1, 2020), ECF No. 16-1 (representing on October 1, 2020, that Cuba’s travel restrictions had been extended through October 16 and that the Cuban petitioner was likely to be removed in the reasonably foreseeable future); Dec. of Deportation Officer Carroll E. Campbell, *Hernandez Gomez v. Washburn*, No. 4:20-cv-00239 (M.D. Ga. Nov. 6, 2020), ECF No. 6-1 at 2 (representing on November 6, 2020, that Cuba’s travel restrictions had been extended through November 11 and that Officer Campbell was “confident” that the Cuban Petitioner

57. Petitioners' detention under § 1231 is no longer presumptively reasonable because they have been detained pursuant to a final removal order for over six months.
58. There is no significant likelihood that the Government will be able to remove Petitioners to Cuba in the reasonably foreseeable future.
59. Nor is there any other "sufficiently strong special justification" for Petitioners' prolonged detention beyond the six-month limit. *See Zadvydas*, 533 U.S. at 690-91.
60. Thus, Petitioners' detention violates § 1231, and they are entitled to immediate release from custody.

COUNT TWO
VIOLATION OF THE DUE PROCESS CLAUSE

U.S. at 690-91; *Foucha*, 504 U.S. at 81-83; *Kansas v. Hendricks*, 521 U.S. at 346, 364-69 (1997); *United States v. Salerno*, 481 U.S. 739, 750-52 (1987).

65. Petitioners' prolonged civil detention has extended well beyond the end of the removal period, and will continue into the indefinite future. Their detention is no longer reasonably related to the primary statutory purpose of ensuring imminent removal.

66. The *pro forma* internal post-order custody reviews ICE conducted in Petitioners' cases do not meet the minimum procedural safeguards required by due process. *See Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011).

67. Thus, Petitioners' detention violates both substantive and procedural due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within three days (unless for good cause additional time, not exceeding twenty days, is allowed), and set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243;
3. Declare that Petitioners' detention without a bond hearing violates the Immigration and Nationality Act;
4. Declare that Petitioners' prolonged detention violates the Due Process Clause of the Fifth Amendment;
5. Enjoin Respondents from unlawfully detaining Petitioners further;
6. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioners from their custody;

7. In the alternative, grant a writ of habeas corpus ordering Petitioners' release within 30 days

unless Respondents provide them with individualw 4.....Eal i.004 Tc 0.194 Tw 4.28 0 Td [(i)5

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*pro hac vice application
forthcoming
+Not admitted in DC; working
remotely from and admitted in
Louisiana only
++Not admitted in DC; working
remotely from and admitted in
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Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioners because I am one of the Petitioners' attorneys. I have discussed with the Petitioners the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Caitlin J. Sandley

Date: January 22, 2021