

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
GEORGIA, WAYCROSS DIVISION

Denis Jose Gonzalez Diaz v. Warden, Folkston ICE Processing
Facility, et al.

Gonzalez Diaz · No. 5:26-cv-301 · Decided March 13, 2026

SUMMARY

The court orders service of a habeas corpus petition under 28 U.S.C. § 2241 filed by Denis Jose Gonzalez Diaz, who seeks release and declaratory and injunctive relief from immigration detention. The order sets deadlines for the respondent's answer and any reply, provides for an informal telephonic conference, and establishes procedures for requesting interim relief.

CASE DETAILS

COURT	United States District Court for the Southern District of Georgia, Waycross Division
WRITING FOR THE COURT	Benjamin W. Cheesbro
JURISDICTION	United States District Court for the Southern District of Georgia, Waycross Division
DECIDED	March 13, 2026
DOCKET	5:26-cv-301
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 seeking release from immigration detention and declaratory and injunctive relief. The court ordered service and directed the Warden-Respondent to answer; it did not finally resolve the petition.
STANDARD OF REVIEW	Initial habeas screening under Rules 1(b) and 4 of the Rules Governing Section 2254 Cases, as applied to the § 2241 petition: dismissal or other action was not warranted because it did not plainly appear that petitioner was not entitled to relief.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- federal habeas corpus
- immigration detention
- removal proceedings
- injunctions
- civil procedure

PRACTICE AREAS

Immigration

Federal habeas corpus

Immigration detention

Civil procedure

QUESTIONS PRESENTED

1. Whether the § 2241 petition should be screened out at the initial stage because it plainly appeared that petitioner was not entitled to relief.
2. What response, service, and record-production requirements should govern the Warden-Respondent's response to the habeas petition.
3. What showing petitioner must make in a separate motion to obtain interim release from detention while the habeas petition is pending.

HOLDINGS

1. Because it did not plainly appear that petitioner was not entitled to relief, the court allowed the habeas petition to proceed and ordered service and an answer.
2. The Warden-Respondent must answer within seven business days, address the petition's allegations, certify the true cause of detention, show cause why the petition should not be granted, and provide relevant available detention records.
3. A petitioner seeking release from detention while the habeas petition is pending must demonstrate both a likelihood of success on the merits of a substantial constitutional claim and extraordinary and exceptional circumstances making release necessary to preserve the effectiveness of the requested habeas relief.

KEY QUOTATIONS

“I find that it does not plainly appear Petitioner is not entitled to relief.” (at 1)

“Importantly, a petitioner who seeks release from detention while the Petition is pending must demonstrate in the motion for interim relief: (1) a likelihood of success on the merits of a substantial constitutional claim; and (2) extraordinary and exceptional circumstances exist that make release necessary to preserve the effectiveness of the habeas corpus relief sought.” (at 2-3)

FACTUAL BACKGROUND

The petition concerns petitioner's detention by immigration authorities at the Folkston ICE Processing Facility. Petitioner sought release from detention, declaratory relief, and injunctive relief under § 2241. The order does not make factual findings concerning the circumstances or legality of the detention.

PROCEDURAL HISTORY

Denis Jose Gonzalez Diaz filed a § 2241 habeas petition challenging his detention and seeking release and other relief. After reviewing the petition, the court concluded that it did not plainly appear that petitioner was not entitled to relief, ordered service on the United States Attorney's Office, required the Warden-Respondent to answer within seven business days, and set deadlines for a reply and an informal telephonic conference.

DISPOSITION

other

CASES CITED

- Wilcox v. Ford, 813 F.2d 1140 (11th Cir. 1987)
- Gomez v. United States, 899 F.2d 1124 (11th Cir. 1990)
- Wilson v. Sec’y, Dep’t of Corr., No. 17-10060-D, 2017 WL 11815408, at *1 (11th Cir. May 10, 2017)
- Mapp v. Reno, 241 F.3d 221, 225 (2d Cir. 2001)

OPINION

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PER CURIAM.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION
DENIS JOSE GONZALEZ DIAZ,
Petitioner, CIVIL ACTION NO.: 5:26-cv-301 v.
WARDEN, FOLKSTON ICE PROCESSING
FACILITY, et al., Respondents.

ORDER

Petitioner filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. Petitioner seeks his release and declaratory and injunctive relief. Doc. 1. Service of the Petition. I have reviewed the Petition. I find that it does not plainly appear Petitioner is not entitled to relief. See Rules 1(b) and 4 of the Rules Governing Section 2254 Cases. Based on the terms of the March 3, 2026 Memorandum of Understanding, the United States Attorney’s Office for the Southern District of Georgia has been served with a copy of this Petition, as the Rules for habeas corpus proceedings require, via email.¹ Answer Due in 7 Days. The Warden-Respondent must file an answer to the Petition within 7 business days of the date of this Order. See, e.g., 28 U.S.C. § 2243. The Answer must address the allegations in the Petition, certify the true cause of the detention, and show cause why the Petition should not be granted. The Answer shall constitute a return for the purposes of 1. The Court advises Petitioner’s counsel that, absent compelling argument to the contrary, the Warden-Respondent will be the only named Respondent. Counsel for Respondent has repeatedly assured the Court that the Warden-Respondent will be able to provide the requested relief. Nevertheless, Petitioner’s counsel shall be responsible for service upon any named Respondent other than the Warden- Respondent. See Mar. 3, 2026 Memo. of Understanding, ¶¶ 3, 4. 28 U.S.C. § 2243, as long as it certifies the true cause of detention. Counsel for the Warden- Respondent shall provide all relevant records, including orders, recordings, transcripts, and other records from

ICE, that are available to counsel at the time of the Answer. Counsel shall promptly supplement the Answer with any additional records that counsel obtains after filing the Answer. The Warden-Respondent will be permitted to file additional motions, including a motion to dismiss, at a later time. Reply Due in 3 Days. Petitioner shall file any desired Reply to the Answer within 3 days of the date the Answer is served. Informal Telephonic Conference. The Court will conduct an informal telephonic conference with the parties approximately 10 days from the date of this Order, but not before the Answer and Reply have been filed. The parties should be prepared to discuss: (1) the circumstances leading up to Petitioner's detention; (2) relevant authority; and (3) the schedule for any additional briefing, amendments, or motions. The parties should schedule this conference by emailing the undersigned's courtroom deputy clerk at: kim_mixon@gas.uscourts.gov. The Court will not schedule this informal conference until counsel for Petitioner and for Warden-Respondent have contacted Ms. Mixon. Requests for Interim Relief. This Petition will be resolved in the ordinary course. Recently, petitioners in similar circumstances have sought various forms of interim relief, including a prohibition on the petitioner's removal from the United States, a prohibition on ICE from transferring the petitioner from one detention facility to another within the United States, and interim release from detention while the habeas petition is pending. To the extent Petitioner is requesting interim relief, Petitioner shall file an independent motion titled "Motion for Interim Relief" separate from the Petition. Petitioner should not make a request for interim relief in the body of the Petition or in a request for preliminary injunctive relief (e.g., a motion for temporary restraining order or a motion for preliminary injunction, or motion for order to show cause). The Warden-Respondent shall file a response to any motion for interim relief within 7 days of the date the motion is served. If there is a motion currently pending, the Warden-Respondent shall file a response to that Motion within 7 days of the date of this Order. Importantly, a petitioner who seeks release from detention while the Petition is pending must demonstrate in the motion for interim relief: (1) a likelihood of success on the merits of a substantial constitutional claim; and (2) extraordinary and exceptional circumstances exist that make release necessary to preserve the effectiveness of the habeas corpus relief sought. See, e.g., *Wilcox v. Ford*, 813 F.2d 1140 (11th Cir. 1987); *Gomez v. United States*, 899 F.2d 1124 (11th Cir. 1990); and *Wilson v. Sec'y, Dep't of Corr.*, No. 17-10060-D, 2017 WL 11815408, at *1 (11th Cir. May 10, 2017); see also *Mapp v. Reno*, 241 F.3d 221, 225 (2d Cir. 2001). SO ORDERED, this 13th day of March, 2026. QO BENJAMIN W. CHEESBRO.

UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA