

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

SERGIO CRUZ CRUZ,

Petitioner,

v.

PAMELA BONDI, Attorney General of the United States, KRISTI NOEM, Secretary, United States Department of Homeland Security, TODD LYONS, Acting Director for New England, U.S. Immigration and Customs Enforcement, and WARDEN, Wyatt Detention Center, Central Falls, RI,

Respondents.

Civil Action No. 25-cv-262-JJM-PAS

**OPPOSITION TO AMENDED PETITION FOR  
WRIT OF HABEAS CORPUS AND MOTION TO DISMISS**

Pursuant to the Court's September 9, 2025 Order, Pamela Bondi, Attorney General of the United States, Kristi Noem, Secretary, United States Department of Homeland Security ("DHS"), and Todd Lyons, Acting Director for New England, U.S. Immigration and Customs Enforcement ("ICE"), respectfully submits this Opposition to Petitioner's Amended Petition for Writ of Habeas Corpus, and Motion to Dismiss Petition.<sup>1</sup>

<sup>1</sup> The U.S. Attorney's Office does not represent the Warden of Wyatt Detention Facility.

## I. INTRODUCTION

Petitioner Sergio Cruz Cruz, a native and citizen of Mexico who was previously removed from the United States in 2014, is currently being held in immigration custody at the Wyatt Detention Facility in Central Falls, RI. Petitioner is held pursuant to 8 U.S.C. § 1231, which authorizes detention of individuals subject to a final order of removal from the United States.

Petitioner has been in ICE custody since ICE encountered and detained him on May 24, 2025. That same day a reinstatement of his prior order of removal was issued. On July 29, 2025, after an Immigration Judge issued a decision in a “Reasonable Fear Review” in Petitioner’s favor, Petitioner was placed in “withholding only” proceedings where he seeks withholding of his removal to Mexico based on a fear of persecution. Those proceedings are currently pending in immigration court. In total, Petitioner has been detained under § 1231 for less than six months as of the date of this filing, and he has had one post-custody review pursuant to 8 C.F.R. 241.4. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (post-removal-period detention of less than six months is presumptively reasonable).

While he pursues legal relief in immigration court, Petitioner now asks this Court to (1) “Declare” that the 2014 removal order and the 2025 reinstatement of that removal order were in violation of the law and the Constitution; (2) “Declare” that ICE’s custody review did not comply with 8 C.F.R. § 241.4 and therefore denied him due process in violation of 5 U.S.C. § 706(a)(2)(A) and the

Constitution; and (3) “Order” that he be released<sup>2</sup> from custody. ECF 21, *Amended Petition for Writ of Habeas Corpus and Related Relief*.

The Court should dismiss the Amended Petition. First, to the extent Petitioner challenges his 2014 order of removal and its 2025 reinstatement, the Court is barred from considering this claim. Second, Petitioner timely received a custody review in accordance with applicable regulations, and therefore, he was not denied due process. Lastly, Petitioner’s pre-removal detention while his withholding only proceedings progress is not indefinite or unduly prolonged in violation of the Constitution. In short, Petitioner has provided no legal or factual basis in support of his requested relief, he has not exhausted his administrative remedies, and the petition filed by Petitioner is premature.

## II. GOVERNING LEGAL STANDARDS

### A. Standard for a Motion to Dismiss Under Rule 12(b)(6).

Federal Rule of Civil Procedure 12(b)(6) provides for dismissal where the complaint fails to state a claim upon which relief can be granted. To withstand a motion to dismiss under Federal Rule 12(b)(6), “the complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” *Cunningham v. Nat’l City Bank*, 588 F.3d 49, 52 (1st Cir. 2009)

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<sup>2</sup> In his petition, Petitioner has asked the Court to order his release; however, if the Court were to find that Petitioner merits habeas relief, the Court nonetheless should deny Petitioner’s request that he be ordered released immediately. The remedy for unreasonably prolonged detention is for the Court to issue an order directing the immigration court to conduct a bond hearing, rather than an order that the detainee be released.

(internal quotation marks omitted) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662 (2009); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007)). The Court, however, need not credit or accept mere conclusory statements or conclusions of law. See *Iqbal*, 556 U.S. at 678.

In deciding a motion to dismiss under Rule 12(b)(6), the court may consider the challenged pleading, together with any documents incorporated by reference in that pleading and matters subject to judicial notice. This category of documents may be considered without converting the motion to one for summary judgment, and includes documents annexed to the complaint, as well as documents referenced in, or integral to, the pleading. *Trans-Spec Truck Service, Inc. v. Caterpillar, Inc.*, 524 F.3d 315, 321 (1st Cir. 2008) (internal citations omitted).

#### **B. Standard for a Motion for Summary Judgment Under Rule 56.**

Summary judgment is appropriate when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” *Mulvihill v. Top-Flite Golf Co.*, 335 F.3d 15, 19 (1st Cir. 2003) (quoting Fed. R. Civ. P. 56(c)).<sup>3</sup>

#### **C. Applicable Provisions of the Immigration and Nationality Act.**

The Immigration and Nationality Act (“INA”) includes several provisions governing ICE’s authority to detain individuals during the pendency of

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<sup>3</sup> The government frames this motion under Rule 56 in the alternative, given the submission of extrinsic evidence regarding Petitioner’s status.

immigration proceedings. 8 U.S.C. § 1231 provides the authority for detention of an individual who has a final order of removal. *See* § 1231(a)(2). In addition, 8 U.S.C. § 1231(a)(5) specifically addresses the situation where someone has been ordered removed, has had the order of removal effectuated, but has illegally reentered the United States. This provision states that if an individual has reentered the United States without authorization after having been removed under an order of removal, the prior order of removal is reinstated, is not subject to being reopened or reviewed, and the individual “is not eligible and may not apply for any relief under this chapter” and “shall be removed under the prior order at any time after the reentry.” § 1231(a)(5); *see also Johnson v. Guzman Chavez*, 594 U.S. 523, 542 (2021).

Under § 1231, once an individual is ordered removed, removal is to take place within 90 days. 8 U.S.C. § 1231(a)(1)(A). During this removal period, under the express terms of the statute, detention is mandatory. *Id.* at § 1231(a)(2) (“During the removal period, the Attorney General shall detain the alien.”).

The statute provides that the removal period may be extended “in at least three circumstances, such that an alien remains detained after 90 days have passed.” *Guzman Chavez*, 594 U.S. at 528. Under § 1231(a)(1)(C), the removal period may be extended if the individual fails to make a timely application for travel documents or acts to prevent removal. Under § 1231(c)(2)(A), ICE may stay the immediate removal if it decides that such removal is not practicable or proper, or if the individual is needed to testify in a pending prosecution. Under §

1231(a)(6), ICE is expressly given the choice to either detain beyond the removal period or release under supervision an individual if he is (1) inadmissible, (2) removable as a result of violations of status requirements, entry conditions, or the criminal law, or for national security or foreign policy reasons, or (3) a risk to the community or unlikely to comply with the removal order. *See also* 8 C.F.R. § 241.4.

An individual subject to a reinstated removal order may seek to prevent removal to a specific country through statutory withholding of removal or relief under the Convention Against Torture (“CAT”). *G.P. v. Garland*, 103 F.4th 898, 900 (1st Cir. 2024); *see Guzman Chavez*, 594 U.S. at 530; § 1231(b)(3)(A). If the request for “withholding” is granted, the individual cannot be removed to the specific country at issue, but the final order of removal remains in effect, and the individual can be removed to a different country. *See Guzman Chavez*, 594 U.S. at 531-32; *G.P.*, 103 F.4th at 902. During the time when the individual is seeking “withholding only” relief, the individual continues to be detained pursuant to § 1231. *Guzman Chavez*, 594 U.S. at 542.

Importantly, the statute does not specify a time limit on how long ICE may detain an individual during this post-removal period, and unlike other provisions of the INA, it does not provide for a bond hearing regarding a detainee’s potential release while awaiting removal. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 576 (2022); *G.P.*, 103 F.4th at 900-01. However, DHS regulations provide that the agency conduct periodic post-removal order custody reviews to

determine whether an individual subject to a final order of removal should continue to be detained. *See* 8 C.F.R. § 241.4; *G.P.*, 103 F.4th at 901. Additionally, in *Zadvydas*, the Supreme Court “read an implicit limitation into the statute ... in light of the Constitution’s demands” and held that it authorizes detention only for “a period reasonably necessary to bring about [an] alien’s removal from the United States.” 533 U.S. at 689

### III. RELEVANT FACTUAL BACKGROUND

Petitioner Sergio Cruz Cruz is a native and citizen of Mexico. (ECF 1, *Petition for Writ of Habeas Corpus*, ¶ 4; Exhibit 1 - Declaration of Assistant Field Office Director Keith Chan (the “Chan Decl.”), ¶ 6). On or about February 6, 2014, U.S. Customs and Border Protection (“CBP”) officers encountered and arrested Petitioner at or near San Diego, CA. (Chan Decl., ¶ 7). The next day a Notice and Order of Expedited Removal (the “2014 Expedited Removal Order”) was issued, finding that the Petitioner was inadmissible, and providing that Petitioner be removed from the United States. (Chan Decl., ¶ 8). Petitioner was then removed. (Chan Decl., ¶ 8).

Subsequently, at an unknown place and time, Petitioner reentered the United States after removal. (Chan Decl., ¶ 8). On or about May 24, 2025, CBP officers encountered Petitioner at or near Waltham, MA. (Chan Decl., ¶ 9). Later that day, a Notice of Intent/Decision to Reinstate Prior Order was issued, reinstating the 2014 Expedited Removal Order. (Chan Decl., ¶¶ 9-10). Petitioner was

transferred to ICE custody and subsequently detained at the Wyatt Detention Facility in Central Falls, RI. (Chan Decl., ¶ 9).

On July 7, 2025, an Asylum Officer with U.S. Citizenship and Immigration Services (“USCIS”) conducted a Reasonable Fear Interview of Petitioner. (Chan Decl., ¶ 11). Petitioner claimed a fear of returning to Mexico, but the Asylum Officer issued a negative reasonable fear determination. (Chan Decl., ¶ 11).

Petitioner requested that an Immigration Judge review the Asylum Officer’s decision, and on July 29, 2025, at the conclusion of the Reasonable Fear Review where the Petitioner had the benefit of representation by counsel, the Immigration Judge issued a decision vacating the Asylum Officer’s negative reasonable fear determination. (Chan Decl., ¶ 12-13). That same day, the Chelmsford Immigration Court placed the Petitioner in “withholding-only” proceedings. (Chan Decl., ¶ 14). ICE reviewed Petitioner’s custody status and on August 21, 2025, determined that Petitioner would not be released from custody based upon ICE’s review of Petitioner’s file and the factors for consideration set forth at 8 C.F.R. § 241.4(e), (f), and (g). (Exhibit 2 - Decision to Continue Detention). Petitioner’s “withholding-only” proceedings are currently pending, and the next hearing is scheduled for October 21, 2025, at 2:30 p.m., in the Chelmsford Immigration Court. (Chan Decl., ¶ 14).

#### IV. ARGUMENT

Petitioner has not alleged a legal or factual basis that would entitle him to habeas relief. First, to the extent he seeks to challenge the 2014 Expedited Removal Order and its reinstatement, the Court is barred from consideration of such

a claim. Second, Petitioner was afforded procedural due process under the INA and ICE regulations, 8 C.F.R. 241.4. As a matter of statutory law, he is not entitled to release or a bond hearing. Moreover, pursuant to regulation, he received notice of ICE's file custody review, was given an opportunity to submit materials in support of release, and he timely received a custody review. Lastly, his detention while his withholding only proceedings are pending does not offend the Constitution. His continued detention does not violate due process under *Zadvydas*. Specifically, he has not exhausted his administrative remedies, and he has failed to show that there is "no significant likelihood of [his] removal in the reasonably foreseeable future." *G.P.*, 103 F. 4th at 902. Even if he could make such a showing, his petition is premature because six months, the presumptively reasonable detention period under *Zadvydas*, has not elapsed. The Court should dismiss his petition.

**A. Petitioner Cannot Challenge His Removal Order or Its Reinstatement in a Habeas Petition Before the District Court.**

Any attack on the merits of Petitioner's immigration case is statutorily barred. Under 8 U.S.C. § 1252, any habeas challenge to a final order of removal may be maintained only in a federal Court of Appeals. *See Gicharu v. Carr*, 983 F.3d 13, 16 (1st Cir. 2020); *Busillo v. I.N.S.*, No. Civ.A-06-63-S, 2006 WL 1495579, at \*2 (D.R.I. May 25, 2006). Further, under § 1231(a)(5), if an individual reenters the United States after having been removed, the prior order of removal is reinstated and "is not subject to being reopened or reviewed." In addition, to the extent Petitioner is challenging the outcome of his

custody review by ICE, 8 U.S.C. § 1252(a)(2)(B) prohibits challenges to the government's discretionary decision to continue detention: "Notwithstanding any other provision of law...including section 2241 of Title 28, or any other habeas corpus provision...no court shall have jurisdiction to review...any other decision or action of the Attorney General or the Secretary of Homeland Security...which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security..." Accordingly, while Petitioner is availing himself of the opportunity to seek relief before the Immigration Court, he cannot challenge ICE's custody determinations or the merits of his immigration case in this Court.

**B. Petitioner Has Been Afforded Procedural Due Process While His Withholding Only Proceedings Are Pending.**

"In the context of immigration detention, procedural due process requires that a detained alien be afforded only those rights provided by statute and regulations thereunder." *United States v. Benito Vasquez*, --- F.Supp.3d ---, 2025 WL 1737216, at \*1 (D.Mass. June 23, 2025). In this case, Petitioner has not demonstrated that his continued detention while his withholding only proceedings are pending violates the INA or applicable regulations.

Petitioner, an inadmissible alien subject to reinstatement of the 2014 Expedited Removal Order, is held pursuant to 8 U.S.C. § 1231.<sup>4</sup> (Chan Decl., ¶¶ 4, 8, 10). The statute specifically states that Petitioner "may be detained beyond

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<sup>4</sup> The first 90 days of Petitioner's detention, up to and including August 22, 2025, was mandatory under the statute. See 8 U.S.C. § 1231(a)(2).

the removal period...” and contains no language regarding a bond hearing. § 1231(a)(6). See *Guzman Chavez*, 594 U.S. at 526 (holding that ICE is authorized to detain individuals seeking withholding of removal under § 1231, and that those seeking this type of relief in immigration court “are not entitled to a bond hearing while they pursue withholding of removal.”); see also *Arteaga-Martinez*, 596 U.S. at 576 (expanding upon the holding in *Guzman-Chavez* and determining that section 1231(a)(6) does not require “the Government to offer detained noncitizens bond hearings after six months of detention in which the Government bears the burden of proving by clear and convincing evidence that a noncitizen poses a flight risk or a danger to the community.”).

In *Guzman Chavez*, the Court considered the claims of individuals in precisely the situation presented by the Petitioner in this case: individuals who had been removed from the United States, reentered without authorization, were discovered by ICE, had their prior removal orders reinstated, expressed a fear of returning to their home countries, were referred to an immigration judge for withholding-only proceedings, were detained by ICE, and sought release on bond while their withholding-only proceedings were pending. See 594 U.S. at 532. The Supreme Court rejected the habeas claims of the petitioners, holding that § 1231 provides the authority for the detention of such individuals, and thus no bond hearing was required. *Id.* at 526 (“We conclude that § 1231, not § 1226, governs the detention of aliens subject to reinstated orders of

removal, meaning those aliens are not entitled to a bond hearing while they pursue withholding of removal.”).

Importantly, in its analysis, the *Guzman Chavez* Court recognized the different posture of individuals held under other provisions of the INA, prior to a final order of removal, from those held under § 1231. In finding that the statute does not require a bond hearing, the Court wrote:

Respondents’ contrary reading would undermine Congress’s judgment regarding the detention of different groups of aliens who posed different risks of flight; aliens detained under § 1226 before having been ordered removed and those held under § 1231 after already having been ordered removed. Aliens who have not been ordered removed are less likely to abscond because they have a chance of being found admissible, but aliens who have already been ordered removed are generally inadmissible. The only apparent relief they can hope to obtain is a grant of withholding-only relief, and they would seem to still have a chance to get that relief if they absconded and were again apprehended. In addition, aliens who reentered the country illegally after removal have demonstrated a willingness to violate the terms of a removal order, and they therefore may be less likely to comply with the reinstated order. Congress had obvious reasons to treat these two groups differently.

594 U.S. at 544 (internal citations omitted).

Furthermore, ICE’s recent custody review and decision to continue Petitioner’s detention does not violate the law or offend the Constitution. As acknowledged by Petitioner, he received notice of the custody review. (ECF 21-1 at 10). He was provided the opportunity to submit materials in support of release and he availed himself of this opportunity. (ECF 21-1 at 12). ICE reviewed his file within 90 days of his detention and considered the factors set forth at 8 C.F.R. § 241.4(e), (f), and (g). (Exhibit 2 - Decision to Continue Detention). After

performing this review, ICE found that Petitioner poses a significant flight risk AND that ICE “expects to receive . . . travel documents. . . and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest.” *Id.*

With respect to the custody review, Petitioner alleges specifically that his attorney did not receive a copy of the Decision to Continue Detention from ICE in violation of 8 C.F.R. § 241.4(d)(3) (although Petitioner received it and provided it to counsel), that the Decision was undated, and that there was an insufficient analysis of detention factors under 8 C.F.R. § 241.4 in the Decision. None of these complaints, even if correct, rise to the level of a due process violation.

When an alien’s counsel has completed form G-28, the regulation provides that the agency will forward a copy of any notice or decision by mail. *See* 8 C.F.R. § 241.4(d)(3). Petitioner’s counsel has alleged that he did not receive the Decision from the agency, but there is no question that Petitioner and his counsel have a copy of the Decision. In fact, the Decision is attached to Petitioner’s Amended Petition as an exhibit (ECF 21-1 at 15) and was attached to Respondents’ response to the first petition as an exhibit. (ECF 18-2). Taking counsel’s representation at face value, it nonetheless does not rise to the level of a constitutional violation. “[N]ot every procedural misstep or difficulty raises anything like a constitutional issue. Procedural due process protects a right to a fundamentally fair proceeding; but few proceedings are perfect and one can have real errors, including ones that adversely affect a party’s interests, without automatically violating

the Constitution.” *Teng v. Mukasey*, 516 F.3d 12, 17 (1st Cir. 2008) (determining that petitioner’s claim of inadequate or inaccurate transcription failed because petition could not show prejudice). Petitioner had the opportunity to submit materials in support of release and his counsel submitted a letter. (ECF 21-1 at 12). In short, Petitioner has not shown any prejudice resulting from the alleged mishap with respect to counsel’s receipt of the Decision in the mail.

Petitioner has also complained that the Decision is undated. This is not accurate. On page 3, Deputy Field Office Director Chan digitally signed the Decision on August 21, 2025, day 89 of Petitioner’s detention. (ECF 21-1 at 17). The Decision was issued within the 90-day removal period as provided by regulation. *See* 8 U.S.C. § 1231(a)(1)(A); 8 C.F.R. § 241.4(k)(1)(i).

Petitioner’s final complaint with the custody review procedures is that the Decision itself does not mention positive factors or contain analysis. Petitioner cites to no law or regulation that suggests that either is required. The regulation states, “A decision to retain custody shall **briefly** set forth the reasons for the continued detention. . . . Notwithstanding any other provisions of this section, there is no appeal from the district director’s or the Executive Associate Commissioner’s decision.” 8 C.F.R. § 241.4(d) (emphasis added). In this case, the Decision satisfies the regulation because it provides that Petitioner poses a significant risk of flight and that ICE “expects to receive . . . travel documents. . . and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest.” (ECF 21-1 at 15). It further provides that the determination was

based upon Petitioner's illegal re-entry into the country without permission. *Id.* Nothing more is required.

In support of his due process challenge, Petitioner cites to *Jimenez v. Cronen*, 317 F.Supp.3d 626 (D. Mass. 2018) as persuasive authority. That case, however, is distinguishable from Petitioner's case. There were two petitioners in *Jimenez*, one who did not receive a custody review within 90 days of his detention and one who was not provided adequate notice of her custody review such that she was denied the ability to properly participate in the review. 317 F.Supp.3d at 635. In contrast, in the case at hand, Petitioner has not established a violation of the regulation that impacted his ability to participate in his timely custody review. Also, in *Jimenez*, the Court found that ICE had made false or misleading statements as part of the litigation, and that the violation of regulations was part of a larger problem. *Id.* at 646-47 and 658. There is no evidence of that here. Lastly, as a remedy in *Jimenez*, the district court held a bail hearing and ordered the petitioners released. *Id.* at 658. Since *Jimenez* was decided, the Supreme Court decided *Guzman-Chavez*, 594 U.S. 523, and *Arteaga-Martinez*, 596 U.S. 573, both of which make clear that § 1231 does not entitle individuals to a bail hearing.

In sum, Petitioner has failed to show that his detention offends the "statutory and regulatory procedure to which the due process clause entitles him." *Benito-Vasquez*, 2025 WL 1737216, at \*2.

**C. Petitioner Was Not Denied Substantive Due Process Under *Zadvydas*.**

The Constitutional limitations on § 1231 detention are set forth in *Zadvydas*. In that case, the Supreme Court “read an implicit limitation into the statute . . . in light of the Constitution’s demands” and held that detention under § 1231 is constitutionally appropriate for the period of time that is reasonably necessary to bring about removal from the United States. See *Zadvydas*, 533 U.S. at 689; see also *Lawrence v. Gonzales*, 446 F.3d 221, 227 (1st Cir. 2006). In *Zadvydas*, where the unusual circumstances of the petitioners caused them to face “indefinite, perhaps permanent detention,” the Court read a presumptive limit to § 1231 detention at the point when a detainee is able to provide good reason to believe that there is “no significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701. Only when the petitioners met this burden did the Supreme Court shift the burden to the government to show why detention should continue. *Id.*

With respect to individuals detained while “withholding only” proceedings are still pending, the First Circuit Court of Appeals, and other circuit courts to consider analogous circumstances, have concluded that detention pursuant to § 1231 beyond six months does not warrant habeas relief under *Zadvydas*. *G.P.*, 103 F.4th at 902 (denying *G.P.* habeas relief while his “withholding only” proceedings were pending and surveying cases from other circuit courts). In such a situation, the First Circuit found that Petitioner had not exhausted his administrative remedies, and without more, failed to show that there was “no significant

likelihood of [his] removal in the reasonably foreseeable future.” *Id.* The First Circuit, finding the reasoning of the Fourth Circuit persuasive, recognized that “withholding-only proceedings are finite.’ And because they ‘have a definite ending point, then so too must the detention pending the resolution of those proceedings.” *Id.* at 903 (citations omitted). Thus, detention during “withholding only” proceedings was “not the type of indefinite and potentially permanent detention at issue in *Zadvydas*.” *Id.* at 902. In reaching this conclusion, the First Circuit also noted that G.P. was “unable to provide any decision where a court ordered a noncitizen to be released under *Zadvydas* while removal or withholding-only proceedings remained pending before the agency.” *Id.* at 903.

In this case, Petitioner has been detained for approximately four months while his “withholding only” proceedings are progressing. His petition is premature at best. The length of his detention is well within the *Zadvydas* presumptively reasonable six-month window. Moreover, even if he had been detained for six months at the time he filed the petition, he cannot meet his burden under *Zadvydas* under the facts of his case. His case is moving through immigration court without undue delay. And, as in *G.P.*, there is no way at this juncture for the Court to predict how Petitioner’s “withholding only” proceedings will be resolved. 103 F.4th at 905. If the proceedings are not resolved in his favor, then he will be removed to Mexico. If they are resolved in his favor, then ICE may pursue removal of Petitioner to another country. Either way there is an end-date to the process, and Petitioner has not, and cannot, show at this time, that removal is

not in his reasonably foreseeable future. In sum, he cannot meet his burden under *Zadvydas*.

## V. CONCLUSION

The government does not in any way challenge Petitioner's right to pursue his withholding claim before the immigration court. However, to the extent that Petitioner seeks to litigate the merits of his immigration case or ICE's custody determinations, this Court is statutorily barred from consideration of either challenge. *See* 8 U.S.C. §§ 1252, 1231(a)(5). Petitioner has not shown that ICE committed a violation of its regulations that impacted the proceedings. Nor has Petitioner shown that his detention has been unduly prolonged so as to offend the Constitution and warrant habeas relief. As a result, his request for habeas relief in this Court should be denied, and his petition should be dismissed.

Respectfully submitted,

SARA M. BLOOM  
Acting United States Attorney

By: /s/ Sandra R. Hebert  
SANDRA R. HEBERT  
Assistant U.S. Attorney  
One Financial Plaza, 17th Floor  
Providence, Rhode Island 02903  
(401) 709-5053  
(401) 709-5001 (Fax)  
Sandra.hebert@usdoj.gov

**CERTIFICATION OF SERVICE**

I hereby certify that, on October 3, 2025, I caused the foregoing document to be filed by means of this Court's Electronic Case Filing (ECF) system, thereby serving it upon all registered users in accordance with Fed. R. Civ. P. 5(b)(2)(E) and Local Rules Gen 304.

*/s/ Sandra R. Hebert*  
Sandra R. Hebert  
Assistant United States Attorney