

3. ICE still has not provided Mr. Romeu with any explanation for revoking his OSUP. Instead, it has kept him locked up for six months, subjecting him to terrible conditions of confinement and ping-ponging him back and forth across the country through a series of transfers.
4. ICE has repeatedly attempted to remove Mr. Romeu to Mexico. Yet ICE has not provided Mr. Romeu a meaningful opportunity to express or demonstrate a well-founded fear of persecution that would preclude his removal to Mexico as due process requires.
5. Further, on information and belief, Respondents have not attempted to remove Mr. Romeu to Cuba prior to seeking his removal to a third country as the Immigration and Nationality Act (INA) dictates.
6. As ICE continues to unlawfully detain him without affording him the basic procedural protections that the Constitution and the INA afford him, Mr. Romeu respectfully asks that the Court grant this Amended Petition for a Writ of Habeas Corpus and order his release.

JURISDICTION AND VENUE

7. This action arises under the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101, et seq.
8. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331 (federal questions), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201-02 (declaratory relief).
9. Venue is proper because, at the time Mr. Romeu's initial petition was filed, his immediate custodian at the Aurora Detention Center was located in this

District and a "substantial part of the events or omissions giving rise to the claim" occurred in this District. 28 U.S.C. § 1391(e)(1); *Santillanes v. U.S. Parole Comm'n*, 754 F.2d 887, 888 (10th Cir. 1985) ("It is well established that jurisdiction attaches on the initial filing for habeas corpus relief" and "is not destroyed by a transfer of the petitioner.").

PARTIES

10. Petitioner Humberto Romeu-Perez is a native and citizen of Cuba. ICE is currently holding him in Aurora, Colorado. Ex. A.
11. Respondent Kristi Noem is the U.S. Secretary of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, the agency responsible for Mr. Romeu's detention. Secretary Noem has ultimate custodial authority over Mr. Romeu and is sued in her official capacity.
12. Respondent Todd M. Lyons is the Acting Director of ICE, responsible for ICE's detention and removal operations and all its other functions. He is sued in his official capacity.
13. Robert Hagan is the Field Office Director of ICE's Denver Field Office. He is responsible for ICE operations in the Denver Field Office's area of responsibility, including at the Aurora Detention Center where Mr. Romeu is currently detained. He is sued in his official capacity.
14. Respondent Johnny Choate is the Warden of the Denver Contract Detention Facility and is Mr. Romeu's immediate custodian. He is sued in his official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for a writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
16. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).
17. Mr. Romeu has been detained since June 21, 2025. He filed a pro se petition for a writ of habeas corpus on October 20, 2025. See ECF No. 1. On October 22, 2025, the Court ordered Respondents to show cause within 30 days why a writ of habeas corpus should not be granted. See ECF No. 3. On November 20, 2025, upon realizing that Respondents had not been served with the October 22, 2025 Order to Show Cause, the Court issued a new Order giving Respondents an additional 30 days to explain why the petition should not be granted. See ECF No. 6.
18. As Mr. Romeu’s Amended Petition raises new arguments, he respectfully requests that the Court issue a new order requiring Respondents to show cause why a writ

of habeas corpus should not be granted within three days or another, reasonable period of time not to exceed twenty days.

TRANSFER OUTSIDE THE DISTRICT; ALL WRITS ACT

19. The All Writs Act, 28 U.S.C. § 1651(a), empowers the federal courts to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”
20. Courts in this district have recently invoked the All Writs Act to prevent the transfer of individuals detained within the judicial district. *See Arostegui-Maldonado v. Baltazar*, No. 25-cv-2205-WJM-STV, -- F. Supp. 3d --, 2025 WL 2280357, at *15-16 (D. Colo. Aug. 8, 2025) (listing cases); *see also Guevara Gomez v. Crawford*, No. 1:25-cv-1781-PTG-LRV (E.D. Va. Oct. 16, 2025).
21. Mr. Romeu requests that this Court invoke the All Writs Act to prevent any additional transfer out of the District of Colorado during the pendency of his habeas action. Mr. Romeu's repeated transfers between various facilities across the country since June has disrupted his mental health and counsel's ability to communicate with his client. *See Ozturk v. Trump*, 779 F. Supp. 3d 462, 497 (D. Vt. 2025) (noting that presence in the judicial district where an action is pending “facilitate[s]” the petitioner's “ability to work with [his or] her attorneys, coordinate the appearance of witnesses,” and generally present claims related to detention); *Suri v. Trump*, -- F. Supp. 3d --, 2025 WL 1310745, at *13 (E.D. Va. May 6, 2025).

EXHAUSTION

22. The decision to continue Mr. Romeu's detention is subject to challenge through a petition for a writ of habeas corpus, and he need not exhaust any administrative remedies, such as requesting discretionary parole from Respondents, which might be available to him before seeking this Court's review as Congress has not specifically mandated it. See *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("Where Congress specifically mandates, exhaustion is required. But where Congress has not clearly required exhaustion, sound judicial discretion governs.").

23. Moreover, because seeking redress from DHS or ICE "would provide no real opportunity to present [the] constitutional issues" raised in this Amended Petition, requiring exhaustion "makes little sense" and should be excused. *Son Vo v. Greene*, 109 F. Supp. 2d 1281, 1282 (D. Colo. 2000) (quoting *Xiao v. Barr*, 979 F.2d 151, 154 (9th Cir. 1992)).

LEGAL BACKGROUND

Post-Order Detention

24. Under 8 U.S.C. § 1231(a), ICE shall remove noncitizens subject to final orders of removal within a 90-day "removal period" that begins on the latest of the following: (i) the date the order of removal becomes administratively final; (ii) if the removal order is judicially reviewed and the court stays removal, the date of the court's final order; or (iii) the date the noncitizen is released from non-immigration detention or confinement. 8 U.S.C. § 1231(a)(1).

25. The statute mandates detention for noncitizens subject to final orders of removal during the 90-day removal period. 8 U.S.C. § 1231(a)(2).
26. Section 1231(a)(6) authorizes, but does not require, detention beyond the 90-day removal period for noncitizens who are inadmissible under 8 U.S.C. § 1182, subject to removal under 8 U.S.C. § 1227(a)(1)(C), (a)(2), or (a)(4), or whom DHS determines are a risk to the community or unlikely to comply with the order of removal. 8 U.S.C. § 1231(a)(6).
27. If ICE opts to release a noncitizen with a final order of removal, their release shall be subject to an Order of Supervision (OSUP), including a requirement to “appear before an immigration officer periodically for identification.” 8 U.S.C. § 1231(a)(3), (6).
28. Federal regulations set forth the conditions under which DHS may revoke an OSUP and the procedures it must follow to do so. 8 C.F.R. § 241.4(l). DHS may revoke an Order of Supervision if: “(i) The purposes of release have been served; (ii) The [noncitizen] violates any condition of release; (iii) It is appropriate to enforce a removal order or to commence removal proceedings against a [noncitizen]; or (iv) The conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2); *see also* 8 C.F.R. § 241.4(l)(1) (allowing noncitizens who violate the conditions of their OSUP to be returned to custody).
29. However, upon revocation, the noncitizen must be “notified of the reasons for revocation of his or her release or parole.” 8 C.F.R. § 241.4(l)(1)-(3). Further, the noncitizen must be afforded “an initial informal interview promptly after his or her

return to [DHS] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.” *Id.*

30. If the noncitizen is not released following this informal interview, ICE’s Headquarters Post-Order Detention Unit (HQPDU) must schedule a review. “The normal review process will commence with notification to the alien of a records review and scheduling of an interview, which will ordinarily be expected to occur within approximately three months after release [on OSUP] is revoked.” 8 C.F.R. § 241.4(l)(3). The review includes a “final evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.” *Id.*

Identifying Countries of Removal

31. Federal statute provides specific instruction as to how to identify a country of removal. 8 U.S.C. § 1231(b); *Jama v. Immigration and Customs Enforcement*, 543 U.S. 335, 337, 339-41 (2005). For noncitizens who are not in the process of arriving in the United States, 8 U.S.C. § 1231(b)(2)(A)-(E) sets forth a mandatory, sequenced procedure for designating a country of removal.

32. The first option that DHS must exhaust is the country designated by a noncitizen as the country of removal. 8 U.S.C. § 1231(b)(2)(A).

33. DHS may only “disregard a designation” under 8 U.S.C. § 1231(b)(2)(A) if:

- i. the noncitizen does not promptly designate a country of removal;
- ii. the government of the country of removal does not timely respond to an inquiry regarding whether the country of removal will accept the noncitizen;

- iii. the government of the country of removal is not willing to accept the noncitizen; or
- iv. DHS concludes that removing the noncitizen to the country of removal “is prejudicial to the United States.” 8 U.S.C. § 1231(b)(2)(C)(i)-(iv).

34. If a noncitizen is not removed to the designated country of removal, DHS “shall remove the [noncitizen] to a country of which the [noncitizen] is a subject, national, or citizen,” unless this identified country is unresponsive or unwilling to accept the noncitizen. 8 U.S.C. § 1231(b)(2)(D).

35. Only if DHS has tried and failed to remove a noncitizen to the designated country of removal or, failing that, the country to which they are a subject, national, or citizen, may DHS remove the noncitizen to one of the following countries:

- i. the country from which the noncitizen was admitted to the United States,
- ii. the country in which the noncitizen was last in prior to traveling to the United States,
- iii. a county in which the noncitizen resided before entering the United States,
- iv. the country in which the noncitizen was born,
- v. “the country that had sovereignty over” the noncitizen’s birthplace when the noncitizen was born,
- vi. the country in which the noncitizen’s birthplace is located when the noncitizen was ordered removed,

vii. and if any of the previously identified countries are "impracticable, inadvisable, or impossible to remove" the noncitizen, DHS may remove the noncitizen to "another country whose government will accept the noncitizen into that country." 8 U.S.C. § 1231(b)(2)(E)(i)-(vii).

36. While there is a level of discretion implicit in § 1231(b)(2), there is nonetheless a statutorily mandated and sequenced process that DHS must go through to identify a country of removal. See *Jama*, 543 U.S. at 348 (discussing the "selection process").

STATEMENT OF RELEVANT FACTS

37. Mr. Romeu is a native and citizen of Cuba. On June 15, 2009, an Immigration Judge ordered Petitioner removed from the United States, designating Cuba as the country of removal.

38. In 2019, after completing a criminal sentence, Mr. Romeu was subject to an ICE Order of Supervision (OSUP) requiring periodic check-ins. Mr. Romeu dutifully appeared for each of his check-in appointments with ICE and has not violated the conditions of his OSUP.

39. Mr. Romeu attended a scheduled check-in in August 2024. His next appointment was scheduled for November 6, 2025.

40. On June 21, 2025, five months before his scheduled check-in, five masked ICE officers arrested Mr. Romeu without a warrant at his Florida home, offering no explanation why he was being detained or why his OSUP had been revoked.

41. After six months in detention, Mr. Romeu still has not received a notification explaining why his OSUP was revoked. He has not received an informal interview

allowing him to respond to the reasons for revocation. Nor has ICE notified him of any record review or interview following the revocation of his release.

42. On information and belief, ICE has made no effort to remove Mr. Romeu to his native Cuba, the designated country of removal. Instead, Mr. Romeu has been repeatedly pressured by ICE officers to accept removal to Mexico.

43. Mr. Romeu has refused to accept removal to Mexico as he fears being persecuted or tortured in that country. Despite voicing these fears to ICE officers, he has never been provided a reasonable fear interview or any meaningful opportunity to demonstrate a well-founded fear of persecution that would preclude his removal to Mexico.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1231(b)

44. Mr. Romeu realleges and incorporates by reference the paragraphs above.

45. Section 1231(b) provides a sequenced framework that Respondents must work through before removing Mr. Romeu to a third country.

46. Mr. Romeu's removal order designates his native Cuba as the country of removal.

47. On information and belief, Respondents have not attempted to remove Mr. Romeu to Cuba before seeking his removal to a third country as required by 8 U.S.C. § 1231(b)(2).

48. Because Respondents have failed to follow the deportation procedures in 8 U.S.C. § 1231(b), Mr. Romeu's continued detention and any attempts to remove him to an unidentified third country are unlawful.

COUNT TWO

Violation of Procedural Due Process

(Notice and Opportunity to Challenge Third Country Removal)

49. Mr. Romeu realleges and incorporates by reference the paragraphs above.
50. Since his arrest on June 21, 2025, ICE has repeatedly pressured Mr. Romeu to accept removal to Mexico despite his clearly expressed fear that he will be subjected to persecution and/or torture in that country.
51. The Government has conceded at oral argument before the Supreme Court that when it intends to remove a noncitizen to a third country, due process requires ICE to “give the person notice of the third country and give them the opportunity to raise a reasonable fear of torture or persecution in that third country.” See Tr. Of Oral Argument 33, *Bondi v. Riley*, No. 23-1270 (S. Ct. Mar. 24, 2025), available at https://www.supremecourt.gov/oral_arguments/argument_transcripts/2024/23-1270_2feh.pdf.
52. ICE has failed to provide Mr. Romeu with a “meaningful opportunity to show that, if taken [to Mexico, he] will likely be subject to persecution, torture, or death” as “[d]ue process requires.” *D.V.D. v. U.S. Dep’t of Homeland Sec.*, No. 25-cv-10676, 2025 WL 953074, at *3 (D. Mass. Mar. 29, 2025).
53. Mr. Romeu cannot be removed to a third country until Respondents comply with required due process, including both notice of a country of removal and the opportunity to raise a fear of removal to that country. He therefore asks this Court to issue an order barring his removal to any third country unless he is afforded sufficient process under the Fifth Amendment.

COUNT THREE

Violation of Procedural Due Process, Accardi Claim

54. Mr. Romeu realleges and incorporates by reference the paragraphs above.
55. The Supreme Court's decision in *United States ex. rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954) established the well-settled principle that agency actions in violation of its own regulations and procedures offends due process. 347 U.S. 260, 267-68 (1954).
56. The *Accardi* doctrine applies with particular force "[w]here the rights of individuals are affected." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). The doctrine's purpose is "to prevent the arbitrariness which is inherently characteristic of an agency's violation of its own procedures." *United States v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969).
57. In detaining Mr. Romeu, DHS failed to abide by its own regulations limiting the circumstances under which it may revoke an OSUP. See 8 C.F.R. § 241.4(l).
58. None of the circumstances justifying revocation were met when Mr. Romeu's OSUP was revoked on June 21, 2025.
60. Mr. Romeu was never notified of the reason for the revocation or provided an interview to respond to the reasons for the revocation at the time of his detention (or since), as DHS's own regulations require. See *id.*
61. Finally, DHS never conducted a custody review, to include a final evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warranted revocation and further denial of release, as required by DHS's regulations. See *id.*

62. DHS's failure to follow its own regulations clearly prejudiced Mr. Romeu by subjecting him to arbitrary detention that serves no legitimate governmental purpose or objective.

63. Thus, DHS's departure from its own regulations and procedures violated Mr. Romeu's procedural due process rights.

PRAYER FOR RELIEF

Based on the foregoing, Mr. Romeu requests that this Court:

1. Assume jurisdiction over this matter;
2. Order under the All Writs Act that Petitioner not be removed from this District while this petition is pending;
3. Declare that Mr. Romeu's detention violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
4. Declare that Mr. Romeu's detention violates the Immigration and Nationality Act;
5. Preclude Respondents from removing Mr. Romeu to a third country without following proper procedures;
6. Order Mr. Romeu's release from immigration custody, with all of his belongings including his identification documents, and that any future detention complies with the applicable regulations;
7. Grant any further relief this Court deems just and proper.

Dated: December 17, 2025

Respectfully submitted,

/s/ Kevin Hirst

KEVIN HIRST

Blessinger Legal, PLLC

7389 Route 29, Suite 320

Falls Church, VA 22042

Tel: (703) 738-4248

Email: khirst@blessingerlegal.com

Counsel for Petitioner