UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

DIMITRI ALBERT EDOUARD VORBE,

Petitioner,

v.

FIELD OFFICE DIRECTOR,
Miami Field Office,
U.S. Immigration and Customs Enforcement,

Respondent.
_____/

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

The petitioner, Dimitri Albert Edouard Vorbe (Mr. Vorbe), submits this Verified Petition for Writ of Habeas Corpus, by and through undersigned counsel, and alleges as follows:

INTRODUCTION

1. Mr. Vorbe (the petitioner) is a native and citizen of Haiti, and is currently detained by the respondent at the Krome Service Processing Center (Krome) in Miami, Florida. **Appx, pp. 1.**

2. On September 23, 2025, agents from U.S. Immigration and Customs Enforcement (ICE) detained the petitioner at his home in Miami, Florida, and transferred him to the Krome Service Processing Center (Krome) in Miami, Florida.

3. At the time of his detention, Mr. Vorbe was waiting to finish his continued individual hearing at the Miami Immigration Court, scheduled for January 12, 2026, where he had presented his Form I-485, Application to Register Permanent Residence or Adjust

Status, based on the approved I-130, Petition for Alien Relative, filed on his behalf by his U.S. citizen son, Nathan Vorbe.

4. On the same day as his detention, September 23, 2025, ICE served upon the petitioner, his former attorney, and filed with the immigration court, additional charges of removability via the Form I-261, Additional Charges of Inadmissibility / Deportability, charging him as removable under 8 U.S.C. § 1227(a)(4)(C) [INA § 237(a)(4)(C)] alleging that "you are an alien who the Secretary of State has reasonable ground to believe your presence or activities in the United States would have potentially serious adverse foreign policy consequences." **Appx, pp. 6-7.**

5. In support of this new charge, ICE filed with the immigration court an undated Memorandum from the Secretary of State, Marco Rubio, alleging that he is removeable under 8 U.S.C. § 1227(a)(4)(C) because, "I have reasonable ground to believe his presence or activities in the United States would have potentially serious adverse foreign policy consequence for the United States," and that "Vorbe has engaged in a campaign of violence and gang support that contributed to Haiti's destabilization. Allowing Vorbe to remain[,] undermines U.S. foreign policy interest in stabilizing Haiti and the region, as it condones his actions contrary to that objective." **Appx, pp. 8-12.**

6. No evidence of these alleged activities was submitted in support of the Memorandum.

7. The next day, September 24, 2025, DHS issued a decision withdrawing the petitioner's Temporary Protected Status (TPS) designation and denying the petitioner's re-registration application for TPS, alleging that he is inadmissible to the United States under 8 U.S.C. § 1182(a)(3)(C) [INA § 212(a)(3)(C)] ("An alien whose entry or proposed activities in

the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is inadmissible." **Appx, pp. 13-15.**

8. On October 10, 2025, the petitioner, by and through his counsel before the EOIR Krome Immigration Court, filed a motion for custody redetermination requesting that he be released on bond from civil immigration detention.

9. The petitioner has zero criminal history in the United States or in Haiti.

10. On October 15, 2025, DHS filed its opposition to the petitioner's bond redetermination request, arguing that the immigration judge lacks jurisdiction to re-determine the petitioner's custody because he is subject to mandatory detention pursuant to 8 CFR § 1003.19(h)(2)(C), as a noncitizen charged as removeable under 8 U.S.C. § 1227(a)(4) [INA § 237(a)(4)]. **Appx, pp. 16-24.**

11. At a bond hearing on October 23, 2025, the immigration judge denied the petitioner's custody re-determination request, because "[t]he Court lacks jurisdiction." **Appx, pp. 25-26.**

12. This argument fails both legally and factually as DHS is unlawfully limiting—through the use of 8 CFR § 1003.19(h)(2)(C)—the jurisdiction afforded to the immigration judge by Congress in 8 U.S.C. § 1226(c)(1)(D) [INA § 236(c)(1)(D)], which only makes a noncitizen subject to mandatory detention if they are charged as removable under § 1227(a)(4)(B), or inadmissible under § 1182(a)(3)(B), for terrorist activities.

13. 8 U.S.C. § 1226(c)(1)(D) [INA § 236(c)(1)(D)] does not make a noncitizen charged as removeable under § 1227(a)(4)(C) for foreign policy concerns subject to mandatory detention.

14. DHS' use of 8 CFR § 1003.19(h)(2)(C) to expand mandatory detention to **all** individuals charged under 8 U.S.C. § 1227(a)(4)—including subsection (C), which pertains to foreign policy concerns—is unlawful.

15. The immigration judge's authority to conduct bond redeterminations is statutory, not regulatory, and DHS cannot strip the immigration court of jurisdiction that Congress has expressly provided to the immigration court. Accordingly, 8 CFR § 1002.19(h)(2)(C) exceeds DHS' delegated authority and is therefore *ultra vires* and unenforceable.

16. The immigration court does have jurisdiction to re-determine the petitioner's custody status.

17. For these reasons, petitioner's detention is illegal, in violation of the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment, and the petitioner presents the instant writ of habeas corpus.

PARTIES

18. The petitioner, **Dimitri Albert Edouard Vorbe**, is a native and citizen of Haiti. His alien registration number ("A no.") is [redacted]. He is currently detained by the respondent and his or her agents at the Krome Service Processing Center in Miami, Florida. **Appx, p. 1.**

19. The respondent, **Field Office Director**, Miami Field Office, U.S. Immigration and Customs Enforcement is sued in his or her official capacity. In this capacity, the Field Office Director has jurisdiction over the detention facility in which the petitioner is held, is authorized to release the petitioner, and is a legal custodian of the petitioner.

JURISDICTION

20. This action arises under the Constitution of the United States of America, 28 U. S. C. § 2241 *et seq.* (habeas corpus), the Immigration and Nationality Act (INA), 8 U. S. C. § 1101 *et seq.*, and Title 8 of the Code of Federal Regulations.

21. The Court has jurisdiction over this case under 28 U. S. C. § 2241 (habeas corpus), and § 1331 (federal question).

22. The Court may grant relief pursuant to the U.S. Const., Art. I, § 9, cl. 2 (Suspension Clause), 28 U. S. C. § 1651 (All Writs Act), 28 U. S. C. §§ 2201–02 (declaratory relief), and 28 U. S. C. § 2241 (habeas corpus).

23. Additionally, "the primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases." *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

24. Venue is proper in this district under 28 U. S. C. § 2241 because this is the district where the "the custodian can be reached by service of process." *Rasul* v. *Bush*, 542 U. S. 466, 478–79 (2004).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. No exhaustion is statutorily required for the petitioner's habeas claims because "Section 2241 itself does not impose an exhaustion requirement," *Santiago-Lugo* v. *Warden*, 785 F. 3d 467, 474 (CA11 2015)."

FACTUAL BACKGROUND

26. The petitioner, Dimitri Albert Edouard Vorbe, is a native and citizen of Haiti.

27. The petitioner entered the United States on January 4, 2020, on his visitor's visa. The petitioner's B-2 status was set to expire on July 3, 2020. **Appx, p. 2**. Petitioner's former counsel, Juan C. Freire, Esq., of Rifkin & Fox-Isicoff, P.A., filed a request to extend his nonimmigrant stay with USCIS, as Haiti closed its borders on account of the COVID-19 global pandemic. As a result, the petitioner could not secure a flight to depart the United States to Haiti before July 3, 2020. On June 24, 2020, USCIS received the petitioner's Form I-539, Application for Extension of Status (Receipt number: [redacted]7), prior to the expiration of his B-2 status. **Appx, p. 3.**

28. On August 21, 2020, while the petitioner's I-539 Application was still pending, he was detained by ICE agents and held at Krome. The petitioner's then-counsel, filed a Motion for Bond, asserting that the petitioner was not a flight risk, had no history of immigration violations despite sixty-six (66) prior entries into the United States between 2015 and 2020, and that his son, Nathan, had filed an immigrant relative petition (Form I-130) on his behalf. On August 27, 2020, Immigration Judge Spath granted the Motion and ordered the petitioner's release from custody under a $5,000.00 bond. **Appx, p. 4.**

29. The petitioner posted bond and continued with his removal proceedings before the Immigration Court and Immigration Judge Rivera in Miami, Florida.

30. On December 17, 2020, USCIS approved the Form I-130 Petition for Alien Relative, filed on the petitioner's behalf by his U.S. citizen son, Nathan Vorbe. **Appx, p. 5.**

31. On March 8, 2021, petitioner submitted written pleadings to the Immigration Court, through his then-counsel, along with his Form, I-485, Application to Register Permanent Residence or Adjust Status [to Lawful Permanent Resident].

32. On June 16, 2021, the office of petitioner's then-counsel applied for

Temporary Protected Status (TPS) from Haiti with U.S. Citizenship and Immigration Services (USCIS) on his behalf.

33. Following an in-person interview with Officer Lopez at the USCIS Kendall Field Office over his TPS application, on July 17, 2023, USCIS approved the petitioner's TPS application. **Appx, p. 13.**

34. The petitioner attended an individual merits hearing conducted on September 8, 2023, before immigration judge Rivera of the Miami Immigration Court. At that hearing, the petitioner testified in support of his I-485 application, based on the approved I-130, Petition for Alien Relative, filed on his behalf by his U.S. citizen son, Nathan Vorbe.

35. At the conclusion of the individual hearing on September 8, 2023, Immigration Judge Rivera requested that petitioner's then-counsel submit the petitioner's tax returns, and he wanted the petitioner's son present at the next hearing. The matter was then reset for a continued individual hearing.

36. Since that date, the petitioner's Individual hearing was rescheduled multiple times, from February 1, 2024, to April 30, 2025, and then again to November 10, 2025. The last scheduled Individual hearing date was January 12, 2026, at 2:30 PM before Immigration Judge Jose Rivera in Miami, Florida.

37. On September 23, 2025, agents from U.S. Immigration and Customs Enforcement (ICE) detained the petitioner at his home in Miami, Florida, and transferred him to the Krome Service Processing Center (Krome) in Miami, Florida, where he is currently detained. **Appx, p. 1.**

38. On the same day as his detention, September 23, 2025, ICE served upon the petitioner, his former attorney, and filed with the immigration court, additional charges of

removability via the Form I-261, Additional Charges of Inadmissibility / Deportability, charging him as removable under 8 U.S.C. § 1227(a)(4)(C) [INA § 237(a)(4)(C)] alleging that "you are an alien who the Secretary of State has reasonable ground to believe your presence or activities in the United States would have potentially serious adverse foreign policy consequences." **Appx, pp. 6-7.**

39. In support of this new charge, ICE filed with the immigration court an undated Memorandum from the Secretary of State, Marco Rubio, alleging that he is removeable under 8 U.S.C. § 1227(a)(4)(C) because, "I have reasonable ground to believe his presence or activities in the United States would have potentially serious adverse foreign policy consequence for the United States," and that "Vorbe has engaged in a campaign of violence and gang support that contributed to Haiti's destabilization. Allowing Vorbe to remain[,] undermines U.S. foreign policy interest in stabilizing Haiti and the region, as it condones his actions contrary to that objective." **Appx, pp. 8-12.**

40. No evidence of these alleged activities was submitted in support of the Memorandum.

41. The next day, September 24, 2025, DHS issued a decision withdrawing the petitioner's TPS designation and denying the petitioner's re-registration application for TPS, alleging that is inadmissible to the United States under 8 U.S.C. § 1182(a)(3)(C) [INA § 212(a)(3)(C)] ("An alien whose entry or proposed activities in the United States the Secretary of State has reasonable ground to believe would have potentially serious adverse foreign policy consequences for the United States is inadmissible." **Appx, pp. 13-15.**

42. On October 10, 2025, the petitioner, by and through his counsel before the EOIR Krome immigration court, filed a motion for custody redetermination requesting that

he be released on bond from civil immigration detention.

43. The petitioner has zero criminal history in the United States or in Haiti.

44. On October 15, 2025, DHS filed its opposition to the petitioner's bond redetermination request arguing that the immigration judge lacks jurisdiction to re-determine custody pursuant to 8 CFR § 1003.19(h)(2)(C) because the petitioner is charged under 8 U.S.C. § 1227(a)(4) [INA § 237(a)(4)]. **Appx, pp. 16-24.**

45. At a bond hearing on October 23, 2025, the immigration judge denied the petitioner's custody re-determination request citing lack of jurisdiction. **Appx, pp. 25-26.**

46. The petitioner remains unlawfully detained at Krome.

LEGAL BACKGROUND

I. Background Constitutional Framework for Civil Immigration Detention.

47. Civil immigration detention is presumptively unconstitutional absent it authorization by a special justification enacted pursuant to an Act of Congress. *Sopo* v. *U. S. Att'y Gen.*, 825 F. 3d 1199, 1210 (CA11 2016) ("Under the Due Process Clause, civil detention is permissible only when there is a 'special justification' that 'outweighs the individual's constitutionally protected interest in avoiding physical restraint.' ") (citation omitted), vacated on mootness grounds, 890 F. 3d 952 (2018).

48. Thus, absent a statutory special justification, civil immigration detention is unlawful and unconstitutional.

49. Further, only criminal detention, following a lawful conviction by jury trial, may be utilized for punitive purposes.

50. Civil detention becomes punitive when it is being used for purposes that are not contemplated within the special statutory justification authorizing its use. See *Bell* v.

Wolfish, 441 U. S. 520, 539 (1979) ("Thus, if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to 'punishment.' Conversely, if a restriction or condition is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court permissibly may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees *qua* detainees.") (citations and footnotes omitted); *In re Grand Jury Proc.*, 877 F. 2d 849, 850 (CA11 1989) ("Civil contempt is a coercive device imposed to secure compliance with a court order and if the circumstances illustrate that the sanction will not compel compliance, it becomes punishment and violates due process.") (citation omitted); *Lynch* v. *Baxley*, 744 F. 2d 1452, 1463 (CA11 1984) ("A court must decide whether the restriction is imposed to punish or whether it is simply an incident of legitimate governmental purpose. . . . Absent an express intent to punish, that determination will turn on whether the restriction appears excessive in relation to the alternative purpose assigned to it. . . . If a restriction is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court may infer that the purpose of the government action is punishment.") (citations omitted); *United States* v. *Vasquez-Escobar*, 30 F. Supp. 2d 1364, 1365 (M.D. Fla. 1998) (ruling that improper use of civil immigration detention was unconstitutionally punitive).

51. Thus, where civil immigration detention becomes punitive in its nature, it has become unlawful and unconstitutional.

52. In sum, civil immigration detention is lawful only when: (1) it is being administered in accordance with the terms of duly enacted statutes and regulations; (2) which are based upon a special justification that outweighs the deprivation of liberty at

stake; and (3) it is being carried out in a manner that is consistent with and reasonably related to that special statutory justification.

ALLEGATIONS OF UNLAWFUL DETENTION

53. The defendant lacks any legal authority to detain the petitioner, subject to mandatory detention under 8 U.S.C. § 1226(c)(1)(D) [INA § 236(c)(1)(D)].

54. "[T]he extent of that [detention] authority is not a matter of discretion." *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001).

55. "It is central to the meaning of the rule of law, [and] not particularly controversial that a federal agency does not have the power to act unless Congress, by statute, has empowered it do so." *Succar v. Ashcroft*, 394 F.3d 8, 20 (1st Cir. 2005) (citations and quotation marks omitted) (alteration in original).

56. "[W]hen the record shows that a commissioner of immigration is exceeding his power, the alien may demand his release upon habeas corpus." *Gegiow v. Uhl*, 239 U.S. 3, 9 (1915).

57. Congress has clearly delineated who is subject to mandatory detention without bond.

58. 8 U.S.C. § 1226(c) [INA 236(c)] limits such detention to specific categories of individuals, including those described in 8 U.S.C. § 1227(a)(4)(B) [INA § 237(a)(4)(B)] (terrorist activities).

59. 8 U.S.C. § 1226(c)(1)(D) [INA § 236(c)(1)(D)] does **not** make a noncitizen charged as removeable under § 1227(a)(4)(C) for foreign policy concerns subject to mandatory detention.

60. 8 U.S.C. § 1226(c)(1)(D) [INA § 236(c)(1)(D)] only makes a noncitizen

subject to mandatory detention if they are charged as removable under § 1227(a)(4)(B), or inadmissible under § 1182(a)(3)(B), for terrorist activities.

61. DHS' use of 8 CFR § 1003.19(h)(2)(C) to expand mandatory detention to **all** individuals charged under 8 U.S.C. § 1227(a)(4)—including subsection (C), which pertains to foreign policy concerns—is unlawful.

62. The regulation at 8 CFR § 1003.19(h)(2)(C) impermissibly expands this mandatory detention to all individuals charged under INA § 237(a)(4), including subsection (C), which pertains to foreign policy concerns.

63. This regulatory overreach to limit the immigration court's jurisdiction to hear the petitioner's custody redetermination application is inconsistent with congressional intent and therefore invalid and *ultra vires*.

64. The Eleventh Circuit described this exact issue in ruling that 8 CFR § 1003.14 (describing that jurisdiction vests and proceedings commence before an immigration judge when the NTA is filed with the Immigration Court) is a claims processing rule, not a jurisdictional one:

> The problem with treating 8 C.F.R. § 1003.14 as a jurisdictional rule is this: "Congress alone controls [an agency's] jurisdiction." Union Pac. R.R. Co. v. Bhd. of Locomotive Eng'rs & Trainmen Gen. Comm. of Adjustment, 558 U.S. 67, 71, 130 S. Ct. 584, 590, 175 L.Ed.2d 428 (2009); see also Charles H. Koch Jr. & Richard Murphy, 2 Admin. L. & Prac. § 5.18 ("[A]n agency may not limit its jurisdiction through its procedural rules.") Although jurisdiction may be a "word of many, too many, meanings," Arbaugh v. Y&H Corp., 546 U.S. 500, 510, 126 S. Ct. 1235, 1242, 163 L.Ed.2d 1097 (2006) (quotation marks omitted), when it is used to refer to the agency's authority to decide a particular matter, jurisdiction means no less than the functional equivalent of a federal court's subject matter jurisdiction. See Cortez, 930 F.3d at 360; Ortiz-Santiago, 924 F.3d at 962–63. And the Supreme Court has made quite clear that an agency's power to act is "authoritatively prescribed by Congress." City of Arlington v. F.C.C., 569 U.S. 290, 297, 133 S. Ct. 1863, 1869, 185 L.Ed.2d 941 (2013).

Perez-Sanchez v. U.S. Att'y Gen., 935 F.3d 1148, 1155 (11th Cir. 2019).

65. An immigration judge's authority to conduct bond redeterminations is statutory, not regulatory.

66. The immigration judge's authority to conduct bond redeterminations is statutory, not regulatory, and DHS cannot strip the immigration court of jurisdiction that Congress has expressly provided to the immigration court.

67. Accordingly, 8 C.F.R. § 1003.19(h)(2)(C) exceeds DHS's delegated authority and is therefore *ultra vires* and unenforceable.

68. The Immigration Court retains full jurisdiction to redetermine the petitioner's custody status.

69. Even assuming arguendo that the regulation cited as limiting the Immigration Court's jurisdiction is valid, DHS has failed to meet its burden to establish that petitioner falls within its scope. DHS relies solely on a conclusory and undated letter, purporting to be from the Secretary of State alleging that petitioner's presence "would have potentially serious adverse foreign policy consequences." The letter offers no factual findings, evidence, or documentation supporting those claims.

70. Although *Matter of Ruiz-Massieu*, 22 I&N Dec. 833 (BIA 1999), recognizes that a facially bona fide State Department letter may trigger a charge under 8 U.S.C. § 1227(a)(4)(C) [INA § 237(a)(4)(C)], it does not automatically support mandatory detention.

71. The immigration judge must still assess whether DHS has met its burden to show that petitioner's presence actually poses "potentially serious adverse foreign policy consequences."

72. DHS's submission falls far short of that showing.

CLAIMS FOR RELIEF

COUNT I:
Civil Immigration Detention in Violation of Due Process

73. The allegations in paragraphs 1-72 are realleged and incorporated herein.

74. The defendant lacks any statutory or regulatory authority to subject the petitioner to mandatory detention.

75. As such, the petitioner's ongoing and continued civil immigration detention, without a custody redetermination hearing before the Immigration Judge, is unlawful, as it is in violation of the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment of the Constitution of the United States of America.

76. Therefore, the petitioner is entitled to a writ of habeas corpus ordering: (1) that he be provided a custody redetermination hearing before the Immigration Court, or the in alternative, that he be immediately released from the respondent's custody.

PRAYER FOR RELIEF

WHEREFORE, the petitioner prays that the Court grant the following relief:

(a) Assume jurisdiction over this matter;

(b) Set this matter for expedited consideration pursuant to 28 U.S.C. § 1657;

(c) Order the respondents to show cause why the writ should not be granted within three days, and allowing the petitioner three days to file a traverse, and, if necessary, set a hearing on this petition within five days of the submission of the return, pursuant to 28 U. S. C. § 2243;

(d) Order the respondents to refrain from transferring the petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while the

petitioner remains in the respondents' custody;

(e) Grant the petitioner a writ of habeas corpus ordering that the petitioner be provided a custody redetermination hearing before the Immigration Court, or in the alternative, order his immediate release from the respondents' custody;

(f) Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law; and

(g) Grant any other and further relief that the Court deems just and proper.

Dated: October 27, 2025

s/ Anthony Dominguez
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Counsel for the Petitioner

VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Anthony R. Dominguez, am submitting this verification on behalf of the petitioner because I am the petitioner's attorney in these proceedings. Based upon a review of the administrative record, discussions with the petitioner's other attorneys, and/or discussions with the petitioner, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: October 27, 2025

s/ Anthony Dominguez
Fla. Bar No. 1002234
Prada Dominguez, PLLC