UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.

Guerlie PIERRE,

Petitioner/Plaintiff,

v.

Field Office Director for the Miami Field Office, U.S. Immigration and Customs Enforcement,

Respondent/Defendant.
_____/

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT

1. Petitioner Guerlie Pierre is a 51-year-old Haitian woman who, in 2024, was granted protection under the Convention Against Torture (CAT) by an immigration judge. This grant of protection means ICE cannot deport her to Haiti or any country where she would be likely to suffer severe pain or suffering. Exhibit 1 (IJ Decision). Immigration and Customs Enforcement (ICE) did not appeal the immigration judge's decision.
2. Earlier today, in the presence of undersigned counsel, Respondent re-detained Ms. Pierre without notice or lawful basis and without following ICE's own rules for revoking an Order of Supervision (OSUP). Exhibit 2 (OSUP).
3. She files this action to challenge her unlawful re-detention by Respondents and to prevent her imminent and unlawful deportation to Haiti or any third country where she will likely be harmed or likely returned to Haiti.

4. Ms. Pierre is not a citizen of any country besides Haiti, and ICE has not identified any safe third country to which she can be deported.

5. ICE informed undersigned counsel that ICE was detaining Ms. Pierre to send her to a third country. But when undersigned counsel asked what third country, ICE said that they did not have a third country in mind.

6. Ms. Pierre, through undersigned counsel, submitted a packet of evidence and argument demonstrating why Ms. Pierre should not be detained and that she has been in compliance with her OSUP. Exhibit 3.

7. ICE refused to accept the packet or to consider it. Only after undersigned counsel insisted that ICE allow the packet to be filed did ICE allow undersigned counsel to leave the packet on a table at the Field Office.

8. ICE's detention and threatened deportation of Ms. Pierre violate the Convention Against Torture, as implemented, the Administrative Procedure Act (APA), and the Fifth Amendment of the Constitution.

9. Ms. Pierre seeks injunctive, habeas, and declaratory relief and asks the Court to order her immediate release from ICE custody, order that she not be transferred to a place outside of this district during the pendency of this case, and order that she not be removed during the pendency of this case.

VENUE

10. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1), (b)(2) and (e)(1). Venue is proper under 28 U.S.C. § 1391(b)(1) because Respondent resides in this district and is a resident of Florida, the State in which this district is located. Venue is proper under (b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in

this district. Respondents are detaining Ms. Pierre at the Miami Field Office in Miramar, Florida. Venue is proper under (e)(1) because Respondent is an officer or employee of the United States acting in an official capacity, and resides in this district, and a substantial part of the events or omissions giving rise to the claim occurred in this district. Respondent is the only individual who has had custody and control over Ms. Pierre since she was re-detained by ICE on December 3, 2025.

11. The ICE field office director is Ms. Pierre's custodian and the person who could produce hers for court.

JURISDICTION

12. This action arises under the INA, 8 U.S.C. § 1101 *et seq.*; the APA, 5 U.S.C. § 551 *et seq.*; and the U.S. Constitution.

13. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question). The Court may grant relief pursuant to the U.S. Constitution, art. I, § 9, cl. 2 (Suspension Clause); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. §§ 702, 706 (judicial review of agency actions).

14. This Court has jurisdiction over Ms. Pierre's claims to be in unlawful detention as well as her requested *temporary* relief that this Court order ICE not to transfer her or deport her during the pendency of this case. *See A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1370 (2025) (enjoining the federal government from deporting the plaintiffs pending a decision by the Fifth Circuit).

PARTIES

15. Guerlie Pierre is a 51-year-old woman from Haiti who has been living and working in the United States for over two decades. In 2024, an immigration judge granted her CAT protection. Respondent and his agents are currently detaining her in immigration custody at the Miami Field Office in Miramar, Florida.

16. Respondent Field Office Director for the ICE Miami Field Office, Garrett J. Ripa, is sued in his official capacity. Respondent Ripa is a legal custodian of Ms. Pierre and has authority to produce her for court and to release her.

STATEMENT OF FACTS

17. Ms. Pierre was born in Haiti in 1974. She attended college and learned English. She has lived and worked in the United States since 1993.

18. Ms. Pierre became a lawful permanent resident in 2001.

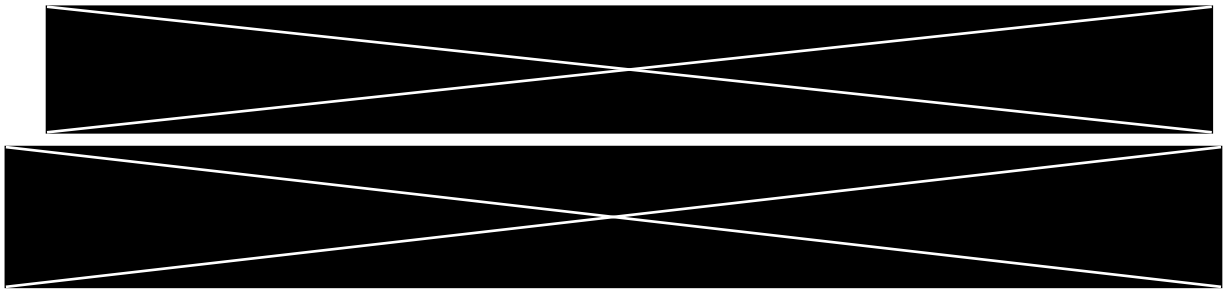
19. Ms. Pierre gave birth to two children in the United States. Her son Jothson was killed in a car accident at the age of 26.

20. Ms. Pierre's daughter Jaxmine was also in a car accident and is severely injured. Ms. Pierre is her caretaker and provides her housing.

21. Ms. Pierre is also the primary caretaker of her daughter's five-year-old son, Deion, who is autistic.

22. Ms. Pierre has held the same job for many years and volunteers extensively in her church, where she works as an usher, entertainment activity organizer, play actress, choir singer, and Bible Study participant.

23. ICE began proceedings to deport Ms. Pierre to Haiti following her arrest for [redacted] Ms. Pierre has had no criminal history since that case. The



25. Ms. Pierre's prison sentence was reduced because of her good behavior.

26. In 2013, after Ms. Pierre completed her sentence, ICE detained her and started removal proceedings against her.

27. ICE did not identify any country other than Haiti as a country to which ICE could deport her.

28. On April 7, 2015, ICE released Ms. Pierre from detention.

29. Ms. Pierre has never violated the terms of her release from immigration detention. After her release in 2015, she was placed in the Intensive Supervised Appearance Program (ISAP). She was initially put on an ankle monitor and required to report in person. Exhibit 3, Tab 8.

30. Because she was compliant, the ankle monitor was removed and ISAP terminated the in-person reporting. She was permitted to report by telephone. *Id.*

31. Under the automated system, she received calls and was required to call back and verify her identity. She complied with all the automatic calls and every other requirement under the ISAP program. *Id.*

32. In 2024, ICE issued her an Order of Supervision and terminated her supervision under ISAP. Exhibit 2.

33. Ms. Pierre's immigration court case went up to the U.S. Court of Appeals for the Second Circuit, which remanded the case for a new hearing.

34. On February 6, 2024, an immigration judge granted Ms. Pierre protection under the Convention Against Torture.

35. ICE did not appeal the immigration judge's decision.

36. On December 3, 2025, without warning, ICE re-detained Ms. Pierre at the Miami Field Office in Miramar in the presence of undersigned counsel.

37. When undersigned counsel informed the ICE officer that Ms. Pierre had won her CAT case before the immigration judge, the ICE officer told her that ICE was detaining her to remove her to a third country. But when undersigned counsel asked what third country ICE planned to remove her to, the ICE officer admitted that no third country had been identified.

38. Undersigned counsel attempted to submit a packet of evidence demonstrating that Ms. Pierre is the primary caretaker of her autistic grandson and her injured daughter (and that she is neither a danger nor a flight risk and that no country she has contacted has agreed to accept her), ICE initially refused to even accept the packet. Ultimately, ICE allowed undersigned counsel to leave the packet on a table in the hallway.

39. The ICE officer said that someone was taking care of Ms. Pierre's autistic grandson when she was previously detained. When undersigned counsel pointed out that this was not true because Ms. Pierre's grandson is five years old and had not yet been born when Ms. Pierre was in detention from 2013 to 2015, the ICE officer refused to listen and just kept insisting that someone else had taken care of the child when Ms. Pierre was previously in detention.

40. Since Ms. Pierre is the person who picks up her grandson from school and takes care of him, Ms. Pierre is gravely concerned about his safety and well-being.

41. Ms. Pierre has contacted eleven (11) other countries to see if they would accept her. *See* Exhibit 3, Tab 22. None of the countries stated that they would take her. The following

countries have expressly declined to accept Ms. Pierre: Bahamas, France, Chile, Hungary, Jamaica, and Switzerland. *Id.* at 2.

42. These rejections and the fact that ICE has no third country identified means that Ms. Pierre is not likely to be deported in the reasonably foreseeable future.

APPLICABLE LAW

43. Under CAT, ICE cannot remove a person to a country where they will likely be tortured, which is defined as severe pain or suffering. 8 C.F.R. § 1208.17.

44. Once the immigration judge grants protection under CAT, ICE cannot deport the person to the country, or countries, to which deportation was deferred. If ICE would like to deport the person to another country that "will accept the alien into that country," 8 U.S.C. § 1231(b)(2)(E)(vii), ICE cannot deport the person if they will likely face torture. People must have the opportunity to apply for CAT protection from any country to which ICE seeks to deport them.

45. Because people who are granted CAT protection cannot be deported to their home countries, they often cannot be removed. *See Munoz-Saucedo v. Pittman*, 2025 WL 1750346, (D.N.J. June 24, 2025) (holding that it is undisputed that Petitioner received "a withholding of removal under 8 U.S.C.§ 1231(b)(3)(A), and cannot be deported to his country of origin, Mexico . . . *This substantially increases the difficulty of removing him*"). (emphasis added).

46. As the Supreme Court recognized in *Zadvydas*, people held in post-order detention must be able to challenge their detention if their removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001).

47. In *Zadvydas*, the Supreme Court granted writs to two cases considering both statutory and related constitutional questions regarding 8 U.S.C. § 1231(a)(6). Both cases related to petitioners with a history of felonies such as drug crimes, gang-related violence, and aggravated burglary. *Id.* at 685. Holding that a statute permitting indefinite detention for noncitizens would raise a serious substantive due process problem, the Court found that ICE only has the authority to detain a person if ICE can deport him in the reasonably foreseeable future. *Id.* at 699.

48. As a matter of statutory interpretation, the Supreme Court in *Zadvydas* "limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention." *Id.* at 689. The detention statute 8 U.S.C. § 1231(a)(6) is construed to contain an implicit "reasonable time" limitation, the application of which is subject to "federal-court review." *Id.* at 682.

49. In *Munoz-Saucedo*, the petitioner was a citizen from Mexico who, like Ms. Pierre, had been granted withholding of removal by an immigration judge for fear of being harmed or killed. *Munoz-Saucedo v. Pittman*, 2025 WL 1750346, (D.N.J. June 24, 2025) at *1. The petitioner could not be deported back to Mexico, the only country of which he was a citizen. *Id.* The court held that the six-month presumption in *Zadvydas* could be rebutted by the petitioner who could show that, even before six months had elapsed, it was not reasonably foreseeable that ICE could deport him. The court analogized the presumption in *Zadvydas* to the presumption in *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), which was considered a "similar" and "*rebuttable*" presumption. *Munoz-Saucedo*, 2025 WL 1750346, at *5. Holding that the petitioner had successfully overcome the presumption that his 164-day detention remained reasonable, the court in *Munoz-Saucedo* rejected the government's

argument that *Zadvydas* precluded petitioner from challenging his prolonged detention before the six-months were up. *Id.* at *6. The court found petitioner's "continued detention unreasonable and no longer authorized," under 8 U.S.C. § 1231(a)(6). *Id.* at *7.

50. Ms. Pierre's deportation is not reasonably foreseeable because 1) she was previously in detention for many more than six months and ICE did not identify a third country to which she could be removed; 2) she has been granted CAT protection from being deported to the one country that could be expected to accept her; 3) despite her efforts, no other country has agreed to accept her; 4) no alternate country has even been identified by ICE; and 5) ICE has had at the very least since February 6, 2024, to find an alternate country.

51. Under these narrow circumstances, this Court can now consider her challenge to the lawfulness of her detention.

EQUAL ACCESS TO JUSTICE ACT

52. The Equal Access to Justice Act, 28 U.S.C. § 2412, permits this Court to award attorney fees and costs to Ms. Pierre if she prevails because this action is a civil action brought against agency officials and an agency of the United States.

CLAIMS FOR RELIEF

COUNT ONE

Respondents-Defendants' Failure to Comply with Their Own OSUP Revocation and Re-detention Procedures Violates the Administrative Procedure Act

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. The fundamental aim of the Administrative Procedure Act ("APA") is to ensure that federal agencies engage in "reasoned decisionmaking" bounded by the law. *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 104 (1983). Under the APA, "final agency action for which there is no other adequate remedy in a court [is] subject to judicial review."

5 U.S.C. § 704. In turn, reviewing courts must "hold unlawful and set aside agency action" that is, *inter alia*, "without observance of procedure required by law." 5 U.S.C. § 706(2)(D).

55. At minimum, the APA requires that agencies comply with the procedures that they themselves establish for decisionmaking, including their own internal policies. 5 U.S.C. § 706(2)(D); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (remanding where agency failed to follow its own regulations and internal manual, stressing that "[w]here the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures...."); *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) ("Agencies must respect their own procedural rules and regulations.").

56. In this case, the relevant statutory and regulatory scheme operates as follows. Under 8 U.S.C. § 1231(a)(1)(A), ICE must detain noncitizens with removal orders during an initial 90-day "removal period." After that removal period, ICE may only continue to detain individuals who are (i) inadmissible, (ii) removable due to certain enumerated violations, or (iii) "ha[ve] been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

57. Alternatively, ICE may release these individuals, "subject to terms of supervision" set out in 8 U.S.C. § 1231(a)(3). *Id.* The implementing regulations provide for release under two circumstances. First, under 8 C.F.R. § 241.4, if the release "will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight," or, second, under 8 C.F.R. § 241.13, if there is "no significant likelihood" that the individual can be removed "in the reasonably foreseeable future." Individuals released under either provision may be subject to OSUPs. 8 C.F.R. § 241.5; 8 C.F.R. § 241.13(j)(1).

58. Regardless of whether an individual was released under 8 C.F.R. § 241.4 or § 241.13, ICE may only subsequently revoke their OSUP and re-detain them if they have violated a condition of their release or relevant circumstances have changed. 8 C.F.R. § 241.4(l)(2); 8 C.F.R. § 241.13(h)(4)(i); *see also* DETENTION AND DEPORTATION OFFICER'S FIELD MANUAL, Chp. 17.12(b), (c);[1] *Sis v. Sessions*, No. 17-CV-24424, 2018 WL 1055695 (S.D. Fla. Jan. 29, 2018), *report and recommendation adopted*, No. 17-24424-CIV, 2018 WL 1054561 (S.D. Fla. Feb. 23, 2018) (noting that OSUP revocation was justified where "changed circumstances exist").

59. In addition, these individuals must be "notified of the reasons for revocation" and afforded "an initial informal interview promptly after [re-detention] to have an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(l)(1); 8 C.F.R. § 241.13(h)(4)(i)(3).

60. Respondent-Defendant failed to comply with these procedures. First, Ms. Pierre has not violated any terms of her OSUP and circumstances have not changed in any way suggesting that she would now present a flight risk or danger to the community, or that her removal order could be effectuated. And despite ICE's indication that a third-country removal will be attempted, there is no reason to believe this is any more likely to be feasible now than before, and no such country has been identified. Conversely, her compliance with all the conditions of her release and the immigration judge's decision to grant her CAT deferral make the factors favoring her release even stronger.

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[1] Available at https://www.ice.gov/doclib/foia/dro_policy_memos/09684drofieldpolicymanual.pdf.

61. Second, Ms. Pierre was never given any notice whatsoever that her OSUP would be revoked or that she would be re-detained.

62. Respondent-Defendant's revocation of Ms. Pierre's OSUP and decision to re-detain her are thus directly contrary to their own procedures and, in turn, the APA.

COUNT TWO

Respondent-Defendant's Unexplained Departure from the Prior Decision to Release Ms. Pierre Is Arbitrary and Capricious in Violation of the Administrative Procedure Act

63. The allegations in the above paragraphs are realleged and incorporated herein.

64. Under the APA, reviewing courts must also "hold unlawful and set aside agency action" that is "arbitrary, capricious, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

65. "The 'arbitrary-and-capricious standard' requires that agency action be reasonable and reasonably explained.'" *Bidi Vapor LLC v. FDA*, 47 F.4th 1191, 1202 (11th Cir. 2022) (quoting *Fed. Commc'ns Comm'n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021)). An agency's "unexplained departure from prior agency determinations is [thus] inherently arbitrary and capricious...." *National Treasury Employees Union v. Federal Labor Relations Auth.*, 404 F.3d 454, 457 (D.C. Cir. 2005); *see also National Cable & Telecomms. Ass'n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005) ("Unexplained inconsistency is ... a reason for holding an interpretation to be an arbitrary and capricious change from agency practice under the [APA]."); *Atchison, Topeka & Santa Fe Ry. Co. v. Wichita Bd. of Trade*, 412 U.S. 800, 808 (1973) (noting an "agency's duty to explain its departure from prior norms").

66. Respondent-Defendant's unexplained—and inexplicable—decision to revoke Ms. Pierre's OSUP and re-detain her is wholly inconsistent with its prior decision to place her on an OSUP. Nothing has changed that could warrant a departure from that decision. Ms. Pierre has complied with all the conditions of her OSUP, has engaged in no conduct indicating that she is a flight risk or danger to the community, and is even less likely to be able to be removed now than before, given the immigration judge's recent grant of CAT deferral. There is also no reason to believe that third-country removal is any more realistic than before. Respondent-Defendant's decision to revoke Ms. Pierre's OSUP and re-detain her is thus unreasoned and inexplicably inconsistent with their prior decision. For both reasons, it is arbitrary and capricious in violation of the APA.

COUNT THREE

Respondents-Defendants' Failure to Follow Their Own Procedures Violates Ms. Pierre's Fifth Amendment Right to Procedural Due Process

67. The allegations in the above paragraphs are realleged and incorporated herein.

68. The Fifth Amendment's Due Process Clause "applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. All "persons" includes noncitizens with final orders of removal. *Id.* at 693-94. Procedural due process constrains government decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

69. Immigration agencies must follow regulations designed to protect individuals' liberty and property interests, and when they fail to do so, this constitutes a per se violation of procedural due process. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266-68 (1954) (reversing dismissal of habeas petition in which the petitioner alleged that

BIA had failed to follow its own regulations); *Leslie v. Att'y Gen.*, 611 F.3d 171, 178 (3d Cir. 2010) (finding that immigration judge's regulatory violation violated petitioner's due process rights, as "rules promulgated by a federal agency that regulate the rights and interests of others are controlling upon the agency"); *Nelson v. I.N.S.*, 232 F.3d 258, 262 (1st Cir. 2000) ("An agency has the duty to follow its own federal regulations.... Failure to follow applicable regulations can lead to reversal of an agency order [on due process grounds]...."); *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993) (where a "regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute, and [the agency] fails to adhere to it, the challenged [action] is invalid...."); *see also Sameena Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.") (internal quotations omitted).

70. The regulations governing the revocation of OSUPs and re-detention of individuals subject to 8 U.S.C. § 1231(a) are designed to protect the liberty and property interests that OSUPs help to secure. *See Zadvydas*, 533 U.S. at 690; *Board of Regents of State Colleges*, 408 U.S. 564, 577 (1972). When ICE fails to follow these regulations, courts have repeatedly found that this amounts to a due process violation. *See Ceesay v. Kurzdorfer*, No. 25-cv-267-LJV, 2025 WL 1284720 at *13-14, 21 (W.D.N.Y. May 2, 2025) (ordering release of petitioner whose OSUP ICE revoked in violation of the procedures at 8 C.F.R. § 241.4); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388-89 (D. Mass. November 8, 2017) (same); *see also Bonitto v. Bureau of Imm. & Cust. Enf.*, 547 F. Supp. 2d 747, 756 (S.D. Tex. 2008) (concluding that ICE could not "constitutionally continue to detain [petitioner] without complying with

the procedures laid out in the regulations"); *Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403-04 (S.D.N.Y. 2004) (granting habeas petition in light of due process violation where petitioner was deported fewer than seventy-two hours after her arrest and regulation mandated a seventy-two-hour rule).

71. In this case, as detailed above, Respondent-Defendant failed to follow the procedures set out in 8 C.F.R. § 241.4 or § 241.13 when revoking Ms. Pierre's OSUP and re-detaining her without any notice and without any justification, given her compliance with the conditions of her release and the lack of any relevant changed circumstances. This failure violates Ms. Pierre's Fifth Amendment right to procedural due process.

COUNT FOUR

Respondents-Defendants' Failure to Provide Any Pre-Deprivation Notice or Opportunity to Be Heard Violates Ms. Pierre's Fifth Amendment Right to Procedural Due Process

72. The allegations in the above paragraphs are realleged and incorporated herein.

73. Separate and apart from Respondent-Defendant's violation of their own procedures, their revocation of Ms. Pierre's OSUP without any notice or pre-deprivation opportunity to be heard independently violates her procedural due process rights.

74. "[A]t a minimum, the Due Process Clause requires notice and the opportunity to be heard incident to the deprivation of life, liberty or property at the hands of the government." *Grayden v. Rhodes*, 345 F.3d 1225, 1232 (11th Cir. 2003) (citing *Mullane v. Cent. Hanover Bank & Tr. Co.*, 339 U.S. 306, 313 (1950)). As OSUP revocation and re-detention implicate fundamental liberty interests, they must be accompanied by, at the very least, notice of the reasons for revocation and a pre-deprivation opportunity to be heard. *See Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022) ("[A]n individual whose release is sought to be revoked

[by ICE] is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing"); *see also Saravia for A.H. v. Sessions*, 905 F .3d 1137, 1145 (9th Cir. 2018) (upholding preliminary injunction requiring hearings for class of minors re-detained by ICE after initial release from immigration detention); *Torres-Jurado v. Biden*, 19 Civ. 3595, 2023 WL 7130898 at *3 (S.D.N.Y. Oct. 29, 2023) (enjoining ICE from revoking petitioner's stay of removal without adequate notice and opportunity to be heard); *Ortega v. Bonnar*, 415 F. Supp.3d 963, 970 (N.D. Cal. 2019) (enjoining ICE from re-detaining the petitioner without adequate notice and a hearing); *Rombot*, 296 F. Supp. 3d at 389 (emphasizing that ICE does not have "a carte blanche to reincarcerate someone [with a removal order] without basic due process protection").

75. Here, Respondent-Defendant provided Ms. Pierre no notice whatsoever that her OSUP would be revoked and she would be re-detained, much less a meaningful pre-deprivation opportunity to respond. This violates her Fifth Amendment Right to procedural due process.

COUNT FIVE

Violation of the Convention Against Torture

76. The allegations in the above paragraphs are realleged and incorporated herein.

77. In unlawfully detaining Ms. Pierre for removal, Respondent violates the Convention Against Torture, 8 C.F.R. § 1208.17, which prohibits Respondent from deporting people to places where they will likely be tortured.

78. An immigration judge granted Ms. Pierre CAT protection, and ICE did not appeal the decision. *See* Exhibit 1. Respondents have no legal authority to re-detain or deport Ms. Pierre to Haiti or any other country where she would likely be subjected to severe pain or suffering. Her re-detention for deportation violates CAT.

COUNT SIX

Ms. Pierre's Detention with No Significant Likelihood of Removal in the Reasonably Foreseeable Future Violates 8 U.S.C. § 1231

79. The allegations in the above paragraphs are realleged and incorporated herein.

80. Ms. Pierre's detention is also contrary to the Immigration and Nationality Act. As explained in paragraph 42, 8 U.S.C. § 1231(a)(1)(A) provides that noncitizens with removal orders must be detained during an initial 90-day "removal period." After that removal period, they may only continue to be detained for certain reasons, including if they are removable on certain grounds or have been determined to be a flight risk or danger to the community. 8 U.S.C. § 1231(a)(6). However, they cannot continue to be detained indefinitely. In *Zadvydas v. Davis*, the Supreme Court interpreted 8 U.S.C. § 1231(a)(6) as containing an "implicit 'reasonable time' limitation" of six months of detention. 533 U.S. at 682, 700-701. "[T]he six month period ... include[s] the 90–day removal period plus 90 days thereafter." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002); *id.* at 1052 n.3 (same).

81. If, after six months, a noncitizen detained under this provision shows "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden then shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701. If unrebutted, continued detention is "unreasonable and no longer authorized by statute." *Id.* at 699-700.

82. Here, even if Ms. Pierre's re-detention were lawful (which it is not), her continued detention would still violate 8 U.S.C. § 1231(a) for two reasons. First, Ms. Pierre was previously in immigration detention for more than six months, the presumptively reasonable period of removal. total period of detention should be considered in the

aggregate for purposes of the six-month threshold under 8 U.S.C. § 1231(a)(6). The statute refers to a "post-removal *period*" (not periods), suggesting a single period of detention. If an individual is repeatedly detained post-removal, the harm addressed in *Zadvydas*—prolonged deprivation of liberty—accumulates regardless of breaks in custody. *See* 533 U.S. at 690. If only continuous detention counts toward the six-month threshold, the government could simply reset the clock by briefly releasing and then re-detaining someone, undermining the protections of *Zadvydas*. This would be an absurd reading of the statute.

83. Second, even if the Court were today to start counting the days she has been in detention, the facts that ICE cannot send Ms. Pierre to Haiti and has not identified a third country to which she can be deported establishes that deportation is not reasonably foreseeable. Nothing in *Zadvydas* prevents a person from establishing deportation is not likely before the six-month mark.

COUNT SEVEN

Respondents-Defendants' Re-Detention of Ms. Pierre Violates Her Fifth Amendment Right to Substantive Due Process

84. The allegations in the above paragraphs are realleged and incorporated herein.

85. "'[S]ubstantive due process' prevents the government from engaging in conduct that 'shocks the conscience,' … or interferes with rights 'implicit in the concept of ordered liberty.'" *United States v. Salerno*, 481 U.S. 739, 746 (1987) (internal citations omitted). It is beyond dispute that constitutional substantive due process protections extend to noncitizens. *See Reno v. Flores,* 507 U.S. 292, 306 (1993). The purposeless re-detention of Ms. Pierre violates substantive due process.

86. Because "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects," *Zadvydas*, 533 U.S. at 690, the Constitution only permits civil detention when it serves a "legitimate nonpunitive objective," *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). Detention must always be reasonably related to that objective, and "where detention's goal is no longer practically attainable, detention no longer bears reasonable relation to the purpose for which the individual was committed." *Zadvydas*, 533 U.S. at 690 (internal citations and quotations omitted). At that point, it simply becomes "the exercise of power without any reasonable justification," violating the Fifth Amendment's due process guarantee. *County of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998).

87. The Supreme Court has made clear that detention beyond six months pursuant to 8 U.S.C. § 1231(a)(6) is presumptively unconstitutional. *Zadvydas*, 553 U.S. at 699-700. As explained above, Ms. Pierre has already been detained past this six-month threshold. Moreover, even without a presumption, Ms. Pierre's detention is not reasonably related to any legitimate government purpose, as there is no significant likelihood of her removal and she has been fully compliant with the conditions of her OSUP. She has been deprived of her "strong interest in liberty," *Salerno*, 481 U.S. at 750, with no government interest whatsoever. This deprivation violates Ms. Pierre's right to substantive due process.

PRAYER FOR RELIEF

WHEREFORE, Guerlie Pierre respectfully requests that the Court:

1. Assume jurisdiction over this matter;
2. Stay her transfer to any place outside the Southern District of Florida pending the Court's adjudication of this Petition;

3. Stay her removal from the United States pending the Court's adjudication of this Petition;
4. Grant a hearing;
5. Declare Ms. Pierre's detention unlawful;
6. Grant Ms. Pierre a Writ of Habeas Corpus ordering Respondents to immediately release her;
7. Award Ms. Pierre reasonable costs and attorney's fees; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

s/ Rebecca Sharpless
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Guerlie Pierre, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 3rd day of December 2025.

s/ Rebecca Sharpless
Rebecca Sharpless