

**UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF LOUISIANA**

Francisco RODRIGUEZ ROMERO, *et al.*,

Petitioners,

v.

Scott LADWIG, *et al.*,

Respondents.

Case No. 3:25-cv-01106-JWD-EWD

Judge John W. deGravelles

Magistrate Judge Erin Wilder-Doomes

**MEMORANDUM OF LAW IN SUPPORT OF PETITIONERS' MOTION FOR A
TEMPORARY RESTRAINING ORDER / PRELIMINARY INJUNCTION**

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I. INTRODUCTION

Petitioners are four noncitizens detained unlawfully at the Louisiana ICE Processing Center (“Camp 57”), located inside the Louisiana State Penitentiary. Together, they have brought this action to challenge their prolonged, indefinite, and illegal detention.

Years ago (for some, decades ago), each Petitioner was placed on an Order of Supervision (“OSUP”) by Immigration and Customs Enforcement (“ICE”) (or its predecessor agency). An OSUP is a mechanism that ICE uses to release individuals from immigration detention who are not a flight risk or danger to the community, or for whom removal is not reasonably foreseeable. Accordingly, Mr. Francisco Rodriguez Romero (“Mr. Rodriguez Romero”), Mr. Ricardo Blanco Chomat (“Mr. Blanco Chomat”), Mr. Luis Gaston Sanchez (“Mr. Gaston Sanchez”), and [REDACTED] [REDACTED] settled into their communities, resumed their roles as caretakers and providers for their families, and sought attention for significant medical and psychological conditions.

In the summer of 2025, ICE suddenly revoked each Petitioner’s OSUP in violation of federal law and the due process protections of the Fifth Amendment of the U.S. Constitution. Each Petitioner was arrested and is now detained, indefinitely and illegally, at Camp 57.

Through this Motion, Petitioners seek and are entitled to an Order requiring their immediate release from immigration detention. First, Petitioners are likely to prevail on their claims that Respondents violated their Fifth Amendment rights to due process by revoking their OSUPs without cause and with no significant likelihood of removal in the reasonably foreseeable future. Second, Petitioners have been and remain irreparably harmed because of their illegal detention at Camp 57. Finally, no conceivable public interest is advanced by Petitioners’ illegal detention.

Accordingly, and for the reasons that follow, Petitioners respectfully request that their Motion for a Temporary Restraining Order/Preliminary Injunction be granted, and that this Court order their immediate release from detention.

II. STATUTORY AND REGULATORY FRAMEWORK

When a noncitizen has been ordered removed from the United States, the government must generally remove that person within a 90-day period (known as the “removal period”). 8 U.S.C. § 1231(a). After that initial removal period, ICE may only detain noncitizens if they are (1) inadmissible, (2) removable due to certain enumerated violations, or (3) “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). In *Zadvydas v. Davis*, the Supreme Court read a prohibition on indefinite post-removal-period detention into § 1231(a)(6), reasoning that detaining a noncitizen awaiting removal for over six months may raise constitutional concerns. 533 U.S. 678, 701 (2001).

ICE may also release a noncitizen from detention after the removal period, subject to certain conditions, on an Order of Supervision. 8 U.S.C. § 1231(a)(6). DHS has promulgated two regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, that govern when a noncitizen may be released from detention on an OSUP and when that release may be revoked. Section 241.4 provides general requirements governing the use of OSUPs, while § 241.13 provides procedures for OSUPs that are provided because of the likelihood that a noncitizen’s removal is not substantially likely in the reasonably foreseeable future. Release on an OSUP requires a fact-intensive inquiry into the noncitizen’s suitability for release and extensive administrative review. 8 C.F.R. § 241.4(e), (d); *see also* 8 C.F.R. § 241.4(i). Once released on an OSUP, a noncitizen must comply with the OSUP’s requirements, which can include periodic in-person reporting or obtaining advance

approval before traveling outside of a prescribed boundary. 8 U.S.C. § 1231(a)(3); 8 C.F.R. §§ 241.4(i), 241.5(a).

Regardless of the reason for the noncitizen’s release, the government may only revoke an OSUP when a noncitizen violates their “conditions of release,” or certain circumstances, such as the likelihood of their removal, have changed. 8 C.F.R. § 241.4(l)(1).¹ DHS’s regulations outline the procedural protections ICE must provide to released noncitizens whom they seek to redetain. 8 C.F.R. §§ 241.4(l), 241.13(i)(3). These regulations impose four key requirements.

First, the **designated officials and findings requirement**. Only certain ICE officials have authority to revoke release. The OSUP revocation regulations clearly explain that only the Executive Associate Commissioner² has the authority to revoke an OSUP. 8 C.F.R. § 241.4(l)(2). A lower-ranking ICE official, the “district director,” may also revoke an OSUP, but only after making findings that revocation is “in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner.” *Id.*

Second, the **notice requirement**. 8 C.F.R. § 241.4(l)(1) and 8 C.F.R. § 241.13(i)(3) both require that “[u]pon revocation, the [noncitizen] will be notified of the reasons for revocation of his or her release.” These reasons must be specific enough to allow the noncitizen an opportunity to meaningfully respond to them.

¹ Specifically, an OSUP may be revoked when the ICE Executive Associate Director or the district director determines that: (i) The purposes of release have been served; (ii) The noncitizen has violated a 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. *Id.* § 241.4(l)(2).

² This title refers to a position under the now-defunct INS. The modern-day equivalent is the Executive Associate Director of ICE. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 160 (W.D.N.Y. 2025) (“[T]he Executive Associate Commissioner [of] INS is equivalent to the Executive Associate Director [of] ICE.” (citing 8 C.F.R. § 1.2)) (alterations in original); *see also* Department of Homeland Security, ICE Leadership, <https://www.ice.gov/leadership> (last accessed December 10, 2025) (listing Marcos Charles, John Condon, and Susan Dunbar as the current Executive Associate Directors and Acting Executive Associate Directors of ICE).

Third, the **interview requirement**. 8 C.F.R. § 241.4(l)(1) and 8 C.F.R. § 241.13(i)(3) both require ICE to provide noncitizens with “an initial informal interview promptly after his or her return to Service custody.” The purpose of this interview is “to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification.” 8 C.F.R. § 241.4(l)(1).

Fourth, the **finding of likelihood of removal requirement**. When ICE seeks to revoke an OSUP not because of a violation or change in the appropriateness of release, but instead to effect removal, the agency must make a specific finding as to the likelihood of removal. ICE can only revoke an OSUP in these circumstances if it can show, “*on account of changed circumstances*,” that “there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2) (emphasis added).

ICE may revoke a noncitizen’s OSUP and take them back into custody only after complying with these requirements. *See, e.g., Villanueva v. Tate*, No. 25-CV-3364, 2025 WL 2774610, at *7 (S.D. Tex. Sept. 26, 2025); *Santamaria Orellana v. Baker*, No. 25-CV-1788, 2025 WL 2444087, at *6–8 (D. Md. Aug. 25, 2025).

III. FACTUAL AND PROCEDURAL BACKGROUND

A. Unable to remove any Petitioner, ICE placed each on an OSUP.

Each Petitioner was ordered removed from the United States years ago. *See* Dkt. 1 ¶ 52 (Mr. Rodriguez Romero was ordered removed in May 1995), ¶ 69 (Mr. Blanco Chomat was ordered removed in September 2001), ¶ 81 (Mr. Gaston Sanchez was ordered removed in September 2001), ¶¶ 103–04 (██████████ removal order and grant of protection under the Convention Against Torture, prohibiting his removal to ██████████ became final in September 2024). Pursuant to those orders, each Petitioner was detained in various immigration detention

facilities pending their removal. *See id.* ¶ 53 (Mr. Rodriguez Romero was detained for 26 months between 1995 and 1997), ¶ 70 (Mr. Blanco Chomat was detained for two months in 2003). ¶ 81 (Mr. Gaston Sanchez was detained for approximately three to four months in 2001–2002), ¶ 105 (██████████ was detained post-order for approximately three months in 2024).

While Petitioners were in immigration detention, ICE was unable to effectuate any removal, either to their country of origin or to a third country. ICE could not deport Mr. Rodriguez Romero, Mr. Blanco Chomat, or Mr. Gaston Sanchez to Cuba, and ██████████ was entitled to protection under the Convention Against Torture and could not be removed to his home country, ██████████ *See id.* ¶¶ 53, 70, 81, 104–05.

Eventually, ICE released each Petitioner into the community under an OSUP. *See id.* ¶¶ 54, 70, 83, 106. As explained *supra*, Section II, release on OSUP requires that ICE determine that the individual does not present a danger to the community or flight risk, or is not likely to be removed in the reasonably foreseeable future. *See* 8 C.F.R. §§ 241.4(e), 241.13(f)–(h). The Government made that inquiry here and, for each Petitioner, determined that an OSUP was appropriate.

B. Every Petitioner complied faithfully with the conditions of his OSUP.

Each Petitioner complied fully with every obligation of his OSUP: they appeared for each and every ICE check-in, sought and received permission before traveling, and promptly reported every change of address. *See* Dkt. 1, ¶¶ 55, 71, 84, 107. All four Petitioners maintained clean criminal records while on their OSUPs. *See id.* (stating that Petitioners complied with every requirement of their OSUP).

Each Petitioner maintained this spot-free compliance for the entire duration of their OSUPs: Mr. Rodriguez Romero, for 28 years; Mr. Blanco Chomat, for 22 years; Mr. Gaston Sanchez, for 19 months; and ██████████, for 8 months. *See id.*

Being on an OSUP allowed each Petitioner to put down roots in their communities. Mr. Rodriguez Romero became a licensed addiction counselor and got married. *See id.* ¶¶ 56, 57. Mr. Blanco Chomat had a daughter, who is a United States citizen, and took on full-time caretaking duties for his brother, who has severe intellectual and physical disabilities. *Id.* ¶¶ 67, 72, 73. Mr. Gaston Sanchez lived with and supported his brother who was battling terminal cancer. *Id.* ¶ 85. ██████████ became active in his local mosque. *Id.* ¶ 108. All four Petitioners maintained stable employment. *Id.* ¶¶ 56, 73, 85, 100.

C. ICE revoked each OSUP without notice, cause, or process.

During the summer of 2025, ICE arbitrarily and without explanation revoked each Petitioner's OSUP without notice, cause, or due process, and immediately returned each to civil immigration detention. *See id.* ¶¶ 58–60, 74–76, 86–88, 109–12. ICE has never suggested, let alone established, that any Petitioner violated a single term of their OSUP. *See id.* There have been no changed circumstances that could conceivably support a finding that any Petitioner is suddenly dangerous, poses a flight risk, or is likely to be removed in the reasonably foreseeable future. *See id.* ¶¶ 55–57, 71–73, 84–85, 107–05. Indeed, ICE failed to provide each Petitioner with any explanation, let alone specific factual findings, for his OSUP revocation, immediate arrest, and prolonged detention. *See id.* ¶¶ 58–60, 74–76, 86–88, 109–12. And no Petitioner was provided with an opportunity, let alone an informal interview, to present evidence as to why revocation was not appropriate. *See id.* ¶¶ 60, 76, 88, 112. In short, ICE ignored its own regulations by revoking each Petitioner's OSUP without a hint of due process. 8 C.F.R. §§ 241.4(l)(1)-(2), 241.13(i)(3).

Neither Mr. Blanco Chomat nor Mr. Gaston Sanchez received any paperwork associated with the revocation of their OSUPs. Dkt. 1, ¶¶ 75, 87. Mr. Rodriguez Romero and ██████████ were each given a Notice of Revocation of Release. *Id.* ¶¶ 59, 110. These Notices were written in

English, a language Mr. Rodriguez Romero does not speak and in which [REDACTED] has only limited proficiency, and ICE failed to provide any translation or interpretation services. *See id.* Beyond that, the documents were fatally flawed: neither contained the required signature of the Executive Associate Director nor the mandatory findings that would permit an inferior officer to revoke an OSUP. *Id.* ¶¶ 59, 110–11; *see* 8 C.F.R. § 241.4(l)(2) (requiring revocation to be done by the Executive Associate Commissioner or a “district director,” but only if the latter determines that the revocation “is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner”).

Petitioners’ sudden redetentions have impacted not only them but also their families and communities. Mr. Rodriguez Romero has Parkinson’s and Alzheimer’s diseases, recently attempted suicide, and requires a dozen prescription medications and medical devices daily. Dkt. 1, ¶¶ 50, 64–66. He has lost at least 14 pounds since being detained this summer and is not receiving all of his medications, putting him at risk of rapid decompensation. *Id.* Mr. Blanco Chomat’s brother, for whom Mr. Blanco Chomat was the sole, full-time caretaker, does not understand what is happening and frequently asks when “Pipo” (his nickname for Mr. Blanco Chomat) is coming home. *Id.* ¶¶ 67, 79. Mr. Gaston Sanchez’s brother, battling terminal cancer, is likewise without Mr. Gaston Sanchez’s support, *id.* ¶ 85, while Mr. Gaston Sanchez himself struggles with chronic pain and mental health struggles in detention. *Id.* ¶ 99. [REDACTED] is suffering acute depression in detention, where he receives his medication inconsistently. *Id.* ¶ 107. He is meanwhile separated from the local mosque where he attended prayer regularly, and being denied halal meals that are appropriate for his specific religious beliefs. *Id.* ¶¶ 108, 117.

D. As before, each Petitioner faces a specific barrier to removal.

When ICE decided, months or years ago, to release each Petitioner from detention pursuant to an OSUP, it did so because each faced a specific, diplomatic barrier to removal. *See* Dkt. 1, ¶¶ 53, 70, 81, 104–05. Nothing has changed. Mr. Rodriguez Romero, Mr. Blanco Chomat, and Mr. Gaston Sanchez are still from Cuba, a country that has refused to accept them in the many decades since they received their removal orders. *Id.* ¶¶ 52, 69, 81. ██████████ is still protected under CAT, cannot be removed to his home country of ██████████ and ICE has taken no steps to remove him to a third country. *Id.* ¶¶ 103, 109–16.

There is likewise no reasonable prospect of third country removal for any Petitioner.³ First, ICE has not provided anyone with travel documents, scheduled meetings with consulate offices, or provided any other documentation that indicates a third country has accepted Petitioners and is prepared to receive them. *See id.* ¶¶ 62–63, 78, 87, 92–98, 115–16. Although Mr. Rodriguez Romero, Mr. Blanco Chomat, and Mr. Gaston Sanchez were all initially told that they would be deported to Mexico, ICE has since stated that Mexico will not accept men over 60 years old. *Id.* ¶¶ 62, 78, 96; *see also* Dkt. 1-2, Ex. A (authenticated emails with ICE officer). And, resolving any potential doubt on the subject, when ICE transported Mr. Gaston Sanchez to Arizona to remove him to Mexico, Mr. Gaston Sanchez could not be deported and was ultimately returned to Camp 57. *See* Dkt. 1, ¶¶ 91–98; Dkt. 1-2. No other third country has been identified as an option for removal for these Cuban Petitioners.⁴

³ In certain circumstances, noncitizens who have been ordered removed from the United States may be removed to countries to which they have no status or other ties. *See* 8 U.S.C. § 1231(b); 8 C.F.R. § 1240.12(d); *see also* *D.V.D. v. U.S. Dep’t of Homeland Sec.*, 778 F. Supp. 3d 355, 367 (D. Mass. 2025) (discussing such “third country removals” and the procedures required by the Government when it seeks to remove an individual to a third country).

⁴ ICE told Mr. Rodriguez Romero that it had asked Cuba to accept him, but later informed him the country had refused. Dkt. 1, ¶ 62. An ICE officer told Mr. Gaston Sanchez that the agency would deport him to “Africa,” a continent which cannot issue travel documents nor visas, or El Salvador, over two months ago. *Id.* ¶ 92. No further statements from the agency show that they have taken any steps to explore these vague options. *Id.*

██████████'s circumstances make third country removal for him unlikely, too. When he was placed on an OSUP in November 2024, ██████████ was asked to name five countries for potential removal. *See* Dkt. 1, ¶ 111. He named Canada, the United Kingdom, Australia, France, and Germany. *Id.* Although ██████████'s July 2025 Notice of Revocation of Release lists those five countries, it merely states that his case is “under current review by” those countries “for issuance of a travel document.” *Id.* There is no evidence, however, that *any* of those countries will actually accept ██████████ now, when they apparently refused to do so between September to November 2024. Unsurprisingly, since being redetained, ██████████ has seen no progress on his removal. *Id.* ¶¶ 115–16.

All four Petitioners remain in prolonged civil immigration detention at Camp 57. *See id.* ¶¶ 61–63, 77–78, 89–98, 113–16. Counting their prior periods of detention, each has languished more than six months in custody, awaiting a removal that has no indication of materializing. *See id.* ¶¶ 53, 61, 70, 77, 81, 89, 105, 113. There is no reason to believe ICE can or will deport any of them in the reasonably foreseeable future.

IV. ARGUMENT

Under Rule 65 of the Federal Rules of Civil Procedure, Petitioners are entitled to preliminary relief, including a temporary restraining order, by showing: (1) a substantial likelihood of success on the merits of their claims for relief; (2) a substantial threat of irreparable injury absent the injunction; (3) the threatened injury outweighs any damage that injunction may cause the opposing party; and (4) the injunction will not disserve the public. *Lake Charles Diesel, Inc. v. Gen. Motors Corp.*, 328 F.3d 192, 195 (5th Cir. 2003). When, as here, the Government is the opposing party, the third and fourth factors merge. *Nken v. Holder*, 556 U.S. 418, 435–46 (2009).

Each of these factors weigh in favor of granting a Temporary Restraining Order/Preliminary Injunction here.

A. Petitioners are likely to succeed on the merits of their claims.

Petitioners raise three claims, each under the due process clause of the Fifth Amendment to the U.S. Constitution. They are likely to succeed on all three claims, because ICE's decision to revoke their OSUPs without the required notice, cause, or process, as provided in the relevant regulations, has resulted in their arbitrary and illegal detention.

1. Petitioners' detention is unlawful because their OSUPs were revoked in violation of ICE's binding procedural regulations.

Petitioners are likely to succeed on the merits of their procedural due process claims. Petitioners' first claim is that ICE violated their procedural due process rights by revoking their OSUPs without complying with its own binding regulations. *See* 8 C.F.R. §§ 241.4(l)(2), 241.13(i).

Courts across the country have held that where, as here, ICE revokes an OSUP in violation of its own regulations, detention is unlawful and immediate release is appropriate. *See, e.g., Ceesay*, 781 F. Supp. 3d at 165 (ordering release because ICE failed to comply with its regulations' designated official and interview requirements); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387–89 (D. Mass. 2017) (same); *M.S.L. v. Bostock*, No. 25-CV-01204, 2025 WL 2430267, at *9–12 (D. Or. Aug. 21, 2025) (same, with regard to designated official, notice, and interview requirements); *Villanueva*, 2025 WL 2774610, at *6–7 (same); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673, at *3, *6, *7 (D. Minn. Sept. 3, 2025) (same, with regard to notice, interview, and likelihood of removal requirements); *Phakeokoth v. Noem*, No. 25-CV-02817, 2025 WL 3124341, at *4–5 (S.D. Cal. Nov. 7, 2025) (same); *Zhu v. Genalo*, 25-CV-06523, 2025 WL 2452352, at *1, *5–9 (S.D.N.Y. Aug. 26, 2025) (same, with regard to notice and interview requirements);

Santamaria Orellana, 2025 WL 2444087, at *6–8 (same); *Perez-Escobar v. Moniz*, 792 F. Supp. 3d 224, 226 (D. Mass. 2025) (same); *Arostegui-Campo v. Noem*, No. 25-CV-3064, 2025 WL 3280886, at *1 (S.D. Cal. Nov. 25, 2025) (same); *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018) (emphasizing notice and interview requirements).

The Fifth Amendment’s procedural due process protections require the Government to follow the regulations it promulgates that limit its power and the scope of its conduct.⁵ *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *see also Gulf States Mfrs., Inc. v. Nat’l Lab. Rels. Bd.*, 579 F.2d 1298, 1308 (5th Cir. 1978) (“It is well settled that an Executive Agency of the Government is bound by its own regulations, which have the force and effect of law, and the failure of an agency to follow its regulations renders its decision invalid.”); *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (“The essence of due process is the requirement that ‘a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.’” (citation omitted)). Accordingly, it is a “denial of procedural due process for any government agency to fail to follow its own regulations providing for procedural safeguards to persons involved in adjudicative processes before it.” *Gov’t of Canal Zone v. Brooks*, 427 F.2d 346, 347 (5th Cir. 1970) (per curiam).

The Government’s obligations under this principle are at their highest when the regulations at question are designed to protect individual rights. *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures.”). The OSUP revocation regulations bear on a person’s most fundamental individual right, liberty, which can only be taken away in compliance with procedural due process. *See Santamaria Orellana*, 2025 WL 2444087, at *6 (holding that the OSUP revocation regulations

⁵ It is well settled that the Fifth Amendment’s due process clause protects all persons present in the United States, regardless of immigration status, from arbitrary deprivations of liberty and property. *Zadvydas*, 533 U.S. at 693.

“are intended to provide due process in that they are fairly construed to be part of a procedural framework designed to ensure the fair processing of an action affecting an individual” (internal quotations omitted)).

Here, ICE failed to comply with its own regulations when it revoked Petitioners’ OSUPs and redetained them earlier this year. First, ICE violated the **designated official and findings requirement** because someone other than the Executive Associate Director⁶ revoked each Petitioner’s OSUP without finding that revocation is in the public interest and that circumstances did not permit referral to the Executive Associate Director. 8 C.F.R. § 241.4(l)(2); *see* Dkt. 1, ¶ 59 (Mr. Rodriguez Romero’s revocation was signed by an inferior officer without requisite findings), ¶ 111 (same for ██████████), ¶ 75 (Mr. Blanco Chomat did not receive a revocation notice), ¶ 87 (same for Mr. Gaston Sanchez). “In the absence of some evidence showing that [Petitioners’] Order[s] of Supervision w[ere] lawfully revoked by someone with the authority to do so and for a reason lawfully permitted,” the Government “fail[s] to show that it afforded . . . due process in connection with the purported revocation.” *Villanueva*, 2025 WL 2774610, at *6; *see also Rombot*, 296 F. Supp. at 387 (ordering release when OSUP was revoked by Field Office Director without making requisite findings); *Ceesay*, 781 F. Supp. 3d at 160–62 (similar); *M.S.L.*, 2025 WL 2430267, at *9–10 (similar).

Second, ICE violated the **notice requirements** in both 8 C.F.R. § 241.4(l)(1) and § 241.13(i)(3) when it failed to provide individualized, specific reasoning for revoking Petitioners’ OSUPs. When ICE creates “absolutely no record of the decision to revoke . . . release,” as is the case for both Mr. Blanco Chomat and Mr. Gaston Sanchez’s revocations, Dkt. 1, ¶¶ 75, 87, “it

⁶ As explained in Petitioners’ Petition for a Writ of Habeas Corpus, Dkt. 1 at n.4, the regulations’ reference to the “Executive Associate Commissioner,” a position in the now-defunct Immigration and Naturalization Service, properly refers to ICE’s Executive Associate Director. *See Ceesay*, 781 F. Supp. at 160.

violates both its own regulations and constitutional procedural due process. *Santamaria Orellana*, 2025 WL 2444087, at *8 (observing that, when ICE provides no notice or reasoning at all, “no one—not the Court, not [the noncitizen], and not even [ICE]—knows with any degree of certainty what legal and factual basis was relied upon in making the determination, which hinders any meaningful challenge to the decision”).⁷ Boilerplate recitations, as were provided to Mr. Rodriguez Romero and ██████████, are constitutionally deficient because they do not provide a noncitizen with the opportunity to respond to the reasons provided for the revocation. *Sarail A.*, 2025 WL 2533673, at *10 (“Simply to say that circumstances had changed or there was a significant likelihood of removal in the foreseeable future is not enough. Petitioner must be told *what* circumstances had changed or *why* there was now a significant likelihood of removal”) (emphasis in original); *M.S.L.*, 2025 WL 2430267, at *4 (holding that a Notice of Revocation that stated the revocation was based on “a determination that there is a significant likelihood of your removal in the reasonably foreseeable future” was insufficient); *Perez-Escobar*, 792 F. Supp. 3d at 225–26 (similar).

Third, ICE violated the **interview requirement** in its regulations when it failed to provide an interview to any of the Petitioners regarding the reasons for revocation of OSUP. *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3); *Villanueva*, 2025 WL 2774610, at *7; *Zhu*, 2025 WL 2452352, at *5–8; *Ceesay*, 781 F. Supp. 3d at 162–66; *M.S.L.*, 2025 WL 2430267, at *11; *see also Sarail A.*, 2025 WL 2533673, at *10 (holding that interview requirement is not met when interview is provided without sufficient notice of reasons for redetention). Here, ICE did not, and still has not, provided

⁷ The verbal reasons for revocation that ICE gave Mr. Blanco Chomat and Mr. Gaston Sanchez, as well as the other Petitioners similarly provide no notice of any lawful reason for revocation. *See* Dkt. 1, ¶ 59 (Mr. Rodriguez Romero was verbally informed that the decision to redetain him “had already been made” and would not be reversed), ¶ 75 (ICE told Mr. Blanco Chomat “Cuba is not accepting you, so you will have to wait”), ¶ 87 (ICE told Mr. Gaston Sanchez “President Trump wanted you out of here”), ¶¶ 109–10 (arresting ICE officer told ██████████ “Trump is President now”).

Petitioners with the informal interview required by the regulations, nor with any opportunity to be heard as to their redetention. *See* Dkt. 1, ¶¶ 60, 62, 76, 88, 90, 112, 114.

Fourth, ICE violated the **finding of likelihood of removal requirement** in 8 C.F.R. § 241.13(i)(2) when it revoked each Petitioner’s OSUPs without making a finding “*on account of changed circumstances*” that “there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2) (emphasis added); *see also* *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 (D. Mass. 2025) (noting that ICE itself must affirmatively make a finding on likelihood of removal at the time of detention (quotation omitted)); *Escalante v. Noem*, No. 25-CV-00182, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (“These regulations clearly indicate, upon revocation of supervised release, it is the [ICE’s] burden to show a significant likelihood that the [noncitizen] may be removed.”); *Balouch v. Bondi*, No. 25-CV-216, 2025 WL 2871914, at *2 (E.D. Tex. Oct. 9, 2025) (same); *see also* *Sarail A.*, 2025 WL 2533673, at *6 (explaining that § 241.13(i)(2) requires that ICE provide “statistics or supporting facts” specific to the petitioners illustrating likelihood of removal in the Notice of Revocation).

ICE had no reason to believe that Petitioners could be removed in the reasonably foreseeable future when it detained them. At the time of their redetention, ICE did not provide any of the Petitioners with evidence that their country of origin or any other country had agreed to accept them. *See* Dkt. 1, ¶¶ 58–60, 75–76, 86–88, 109–12. ICE had not obtained travel documents, arranged for consular interviews, or scheduled flights for any of the petitioners. *Id.* Nor could the agency point to any other “changed circumstances” that led to a newly available, significantly likely removal option. In the intervening five-to-six months since Petitioners’ detention, no progress has been made on securing their removal. Mr. Rodriguez Romero, Mr. Blanco Chomat, and ██████████ have not been provided with any travel documents or information indicating

a change in the foreseeability of their removal. *See id.* ¶¶ 63, 78, 116. In fact, Mr. Gaston Sanchez was set to be deported to Mexico, but Mexico refused to accept him. *Id.* ¶ 78. ICE has since clarified that Mr. Rodriguez Romero, Mr. Blanco Chomat, and Mr. Gaston Sanchez’s removal to Mexico is not feasible given that Mexico will not accept them because they are over 60 years old. *See id.* ¶¶ 62, 78, 96; Dkt. 1-2. ██████████ retains his CAT protection from deportation to ██████████ and ICE has not communicated any developments in any efforts to remove him to a third country. *Id.* ¶¶ 115–16. The fact that, four to five months following ICE’s revocation of their OSUPs, every Petitioner remains detained, without a travel document or any assurances that a particular foreign nation will accept them, underscores that ICE did not have sufficient removal plans at the time it revoked their OSUPs.

Accordingly, because Petitioners’ OSUPs were revoked in clear violation of their procedural due process rights, their ensuing detention is unlawful. Immediate release of all Petitioners is therefore appropriate.

2. ICE’s revocation of Petitioners’ OSUPs violates substantive due process because it serves no lawful purpose.

To comply with substantive due process, detention must always bear “some reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018). Civil immigration detention can serve only two purposes: (1) to ensure a noncitizen’s presence for removal proceedings (to prevent flight risk) and (2) to ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91; *see also* 8 C.F.R. §§ 241.4(e), 241.13(f)–(h).⁸ Petitioners’ prolonged detention at Camp 57 does not bear any “reasonable relation” to either of those purposes and is therefore unlawful.

⁸ Punishment in civil contexts, including immigration, is strictly prohibited by our Constitution. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Wong Wing v. United States*, 163 U.S. 228, 237–38 (1896).

Each Petitioner was placed on an OSUP only after and because the Government determined he did not present a danger to the community, did not present a flight risk, or was not likely to be removed in the reasonably foreseeable future. Having already made these findings, redetention is only consistent with substantive due process if there is a change in circumstances leading ICE to believe that each Petitioner now presents a danger, presents a flight risk, or is likely to be removed in the reasonably foreseeable future. *See Phongsavanh v. Williams*, No. 4:25-CV-00426, 2025 WL 3124032, at *6 (S.D. Iowa Nov. 7, 2025) (ordering immediate release when “nothing in the record explains what has changed during the 25 years Phongsavanh was under supervision that would now justify his detention”); *see also* 8 C.F.R. § 241.13(i)(2) (allowing ICE to “revoke a [noncitizen’s] release under this section and return the [noncitizen] to custody if, *on account of changed circumstance,*” if the agency determines there is a significant likelihood of removal in the reasonably foreseeable future (emphasis added)).

For Petitioners here, there have been no changed circumstances that would align ICE’s revocation and redetention decisions with substantive due process. First, no circumstances have changed that would render any Petitioner a flight risk. To the contrary, since ICE last determined Petitioners were not a flight risk and released them pursuant to an OSUP, Petitioners have complied with all requirements of their OSUPs and have all become more deeply rooted in the United States. *See* Dkt. 1, ¶¶ 34–42, 55–57 (Mr. Rodriguez Romero), ¶¶ 67–73 (Mr. Blanco Chomat), ¶¶ 84–85 (Mr. Gaston Sanchez), ¶¶ 107–08 (██████████). Most importantly, all Petitioners attended every check-in appointment, advised ICE of every change of address, and otherwise complied with every requirement of their OSUPs. *Id.* ICE has no reason to believe that they would fail to promptly report for removal, just as they have reported for check-ins.

Second, no circumstances have changed that would render any Petitioner a danger to the community. Since ICE last determined Petitioners were not a danger and released them pursuant to an OSUP, no Petitioner has been arrested, charged or convicted of a crime. *See id.* ¶ 36. To the contrary: Petitioners have lived peacefully in their communities for months, years, even decades since being released on an OSUP. There is no factual basis for concluding they *now* present a danger.

Third, all Petitioners have a specific, diplomatic barrier to removal which remained unchanged at the time of their redetention. Either they are from a country with which the United States does not have established diplomatic relations and does not regularly deport people who have resided in the United States for decades, or they have protection precluding removal to their country of origin (*e.g.*, deferral of removal under the Convention Against Torture). *See id.* ¶¶ 53, 62–63 (Mr. Rodriguez Romero), ¶¶ 70, 75 (Mr. Blanco Chomat), ¶¶ 86–88, 92–98 (Mr. Gaston Sanchez), ¶¶ 103–05, 111–12, 114–15 (██████████). Because Petitioners cannot be deported to their countries of citizenship, ICE’s only option is to find a third country prepared to accept them.⁹ *See* 8 U.S.C. § 1231(b)(1)(C)(iv). Here, too, ICE has demonstrated no progress or ability to do so. *See* Dkt. 1, ¶¶ 62–63 (Mr. Rodriguez Romero), ¶¶ 77–78 (Mr. Blanco Chomat), ¶¶ 92–98 (Mr. Gaston Sanchez), ¶¶ 111–12 (██████████). ICE failed to remove Petitioners before, and the agency has failed to remove them now.

⁹ ICE cannot rely on changes in government priorities alone to constitute a change in circumstances. *See, e.g., Villanueva*, 2025 WL 2774610, at *5 (“[W]hile the new administration may have changed how it prioritizes the removals of noncitizens, it may not do so at the expense of fairness and due process.”); *Arostegui-Campo*, 2025 WL 3280886, at *3 (deeming ICE officer’s statement that OSUP revocation was “due to the administration” insufficient to provide notice). To release and detain noncitizens on such political whims would raise serious constitutional concerns, because it would suggest that ICE detention is being used to punish Petitioners—holding them in a “legendary” plantation-prison “for the rest of their lives” for being “the worst of the worst.” Dkt. 1, ¶¶ 45–46; *see also Foucha*, 504 U.S. at 80 (prohibiting punishment in civil detention context).

Therefore, Petitioners are likely to succeed on the merits of their argument that the revocation of their OSUP and ensuing detention is purposeless and therefore violates their substantive due process rights.

3. Petitioners' prolonged detention is unlawful because removal is not reasonably foreseeable.

Finally, Petitioners are likely to succeed on their claim that their detention violates 8 U.S.C. § 1231(a)(6) and the U.S. Constitution because their removal is not reasonably foreseeable. Petitioners all have specific, diplomatic barriers to removal; all have been detained for over six months since receiving their final orders of removal; and none have seen any progress in removal since being detained. Indeed, several Petitioners have specific evidence from ICE officers indicating they will *not* be removed anytime soon.

Supreme Court precedent and the “Constitution[] demand[]” that detention during the post-removal period be limited “to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States. It does not permit indefinite detention.” *Zadydas*, 533 U.S. at 689, 697–99 (questioning the legality of post-order detention more than six months). If a noncitizen can “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701.

At bottom, if ICE “has no idea of when it might reasonably expect [a Petitioner] to be repatriated,” then a “Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Balza v. Barr*, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted), *report & recommendation adopted*, 2020 WL 6064881 (W.D. La. Oct. 14, 2020).

Petitioners have “good reason to believe” that there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. First, all Petitioners have specific legal and diplomatic barriers to removal, which is sufficient to meet their burden that removal is not reasonably foreseeable. *See, e.g., Balza* 2020 WL 6143643, at *4–5 (finding that the “political and diplomatic standoff between the United States and Venezuela” was good reason to believe removal was not reasonably foreseeable). As establish *supra* Section III(D), ██████████ has CAT protection from his home country and no reason to believe the other countries listed on his Notice of Revocation of Release will accept him, while the Cuban Petitioners have been rejected by Cuba and Mexico. Dkt. 1, ¶¶ 53, 62–63, 70, 75, 86–88, 92–98, 111.

The fact that Petitioners were not removed when they were initially detained further demonstrates that they are unlikely to be removed now. *See Zadvydas*, 533 U.S. at 701–02 (ordering release when the government had failed to deport the petitioner three times to a number of countries); *Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318, at *2–9 (E.D. La. Jan. 8, 2004) (granting habeas relief to a petitioner after numerous countries refused to repatriate him); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418, 430 (M.D. Pa. 2004) (ordering release of petitioner after refusal of several countries to accept him).

Second, all Petitioners have been detained for more than six months since receiving their final order of removal—and some for more than two years. To determine how long a person has been detained, most courts have concluded that the detention period is cumulative.¹⁰ Courts therefore consider a petitioner’s previous periods in immigration detention, motivated, in part, by

¹⁰ Additionally, while detention is presumptively reasonable for up to six months, *Zadvydas*, 533 U.S. at 701, reasonableness is measured “primarily in terms of the statute’s basic purpose, namely, assuring the [noncitizen’s] presence at the moment of removal.” *Id.* at 699. Accordingly, a noncitizen may challenge his detention prior to the six-month mark if he “can prove” that there is no significant likelihood of his removal in the reasonably foreseeable future. *Munoz-Saucedo v. Pittman*, No. 25-CV02258, 2025 WL 1750346, at *5 (D.N.J. June 24, 2025); *accord Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d. 703, 706–07 (S.D. Tex. 2020).

a concern that the Government could otherwise detain noncitizens indefinitely by continuously releasing and redetaining them. *See e.g., Escalante*, 2025 WL 2206113, at *3 (“[i]mposing the burden of proof on the [noncitizen] each time he is redetained would lead to an unjust result and serious due process implications”); *Abuelhawa v. Noem*, No. 4:25-cv-04128, 2025 WL 2937692, at *4 (collecting cases). Petitioners’ periods of post-order detention—Mr. Rodriguez Romero for approximately 30 months, Dkt. 1, ¶¶ 53, 61; Mr. Blanco Chomat for over eight months, *id.* ¶¶ 70, 77; Mr. Gaston Sanchez for between eight and ten months, *id.* ¶¶ 81, 89; and ██████████ for approximately eight months, *id.* ¶ 115—have passed the reasonableness threshold.

Third, no Petitioner has seen any concrete progress towards removal. No Petitioner has spoken to a consular officer, received a travel document, or received notice that a third country has accepted them for removal. For Mr. Rodriguez Romero, Mr. Blanco Chomat, and Mr. Gaston Sanchez, an ICE officer explicitly told them that Mexico—the only country ICE previously mentioned as an option for removal—would not accept them due to their age. *Id.* ¶¶ 62, 78, 96. ██████████ has likewise seen no progress on his removal, as ICE has not provided any update on any country’s purported consideration of his case in the four and half months since his OSUP revocation. *Id.* ¶¶ 112, 114–16. In sum, ICE has provided Petitioners with no physical or concrete proof that removal is imminent in any case after many months of detention, nor has it provided any reason why, if removal to their countries of origin or certain third countries was not reasonably foreseeable at the time of release on an OSUP, it is reasonably foreseeable now.

The law is clear that where, as here, ICE has “failed to secure the transfer of [a noncitizen] subject to a final order of removal, and c[an] offer no promise of future success, as all the nations to which the [noncitizen] had ties ha[s] refused his admission,” release is appropriate because detention no longer serves a legitimate government purpose. *Andrade v. Gonzales*, 459 F.3d 538,

543 (5th Cir. 2006). Accordingly, because Petitioners are likely to succeed on their claims that ICE has violated their statutory and constitutional rights, they must be released.

B. Petitioners will suffer irreparable harm in the absence of a temporary restraining order.

“Perhaps the single most important prerequisite” for the issuance of preliminary relief, such as a preliminary injunction or a temporary restraining order, “is a demonstration that if it is not granted the applicant is likely to suffer irreparable harm before a decision on the merits can be rendered.” *Monumental Task Comm., Inc. v. Foxx*, 157 F. Supp. 3d 573, 582–83 (E.D. La. 2016), *aff’d sub nom. Monumental Task Comm., Inc. v. Chao*, 678 F. App’x 250 (5th Cir. 2017) (quotations omitted). The Fifth Circuit requires only a “substantial threat” of irreparable injury. *DSC Commc’ns Corp. v. DGI Techs., Inc.*, 81 F.3d 597, 600 (5th Cir. 1996). “[T]he unconstitutional deprivation of liberty, even on a temporary basis, constitutes irreparable harm.” *Kostak v. Trump*, No. 3:25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *see also Interlox Am. v. PPG Indus., Inc.*, 736 F.2d 194, 202 (5th Cir. 1984) (finding that an injury is irreparable “if it cannot be undone through monetary remedies”); *Daniels Health Scis., L.L.C. v. Vascular Health Scis., L.L.C.*, 710 F.3d 579, 585 (5th Cir. 2013) (defining irreparable injury as “harm for which there is no adequate remedy at law”).

Petitioners easily show irreparable harm here. Each is languishing in unlawful and prolonged detention, far from their families, communities, jobs, and homes. In detention, they lack access to adequate medications, medical care, or mental healthcare. Mr. Rodriguez Romero has Parkinson’s disease and Alzheimer’s disease,¹¹ in addition to bipolar disorder with psychosis, major depressive disorder, and myriad other medical issues which require various medications and

¹¹ Parkinson’s and Alzheimer’s are both progressive neurodegenerative diseases, meaning that the severity of each disease’s symptoms increases over time. *See* Dkt. 1, nn.13–14.

assistive devices that he has not been provided at Camp 57. Dkt. 1, ¶¶ 50, 64–66. Mr. Rodriguez Romero has lost significant weight due to his inability to eat because he has not been provided dentures for his bottom teeth. *Id.* ¶ 65. He also recently survived a suicide attempt; although his mental health had stabilized prior to his redetention through the consistent use of three psychiatric prescriptions, he remains at risk of rapid decompensation if his treatment is altered or interrupted in any way—which is precisely what has occurred at Camp 57. *Id.* ¶¶ 50, 66.

██████████ and Mr. Gaston Sanchez are also suffering acute medical issues, which are worsening in detention. ██████████ has both depression and hypertension which require consistent prescription medication, which he was denied for several weeks upon his arrival at Camp 57, causing him to suffer significant psychological anguish and hypertension-related headaches. *Id.* ¶ 117. He now receives his medication only intermittently, which is insufficient to treat his depressive symptoms. *Id.* Mr. Gaston Sanchez suffers from chronic back pain, which is aggravated by restrictions on his ability to move and stretch. *Id.* ¶¶ 94–99. In addition to his intensified chronic back pain, Mr. Gaston Sanchez is also suffering from increasing depression and anxiety. *Id.* ¶ 99. The worsening of these medical issues for Petitioners, causing psychological distress and the exacerbation of chronic pain, is irreparable.

Petitioners are suffering irreparable harm as they are separated from their families and communities who rely upon them. In particular, prior to his redetention, Mr. Blanco Chomat was the sole caretaker for his 65-year-old developmentally disabled brother who requires around-the-clock care. *Id.* ¶ 72. Since Mr. Blanco Chomat's mother died 14 years ago, he served as his brother's primary caretaker, living with him, cooking his meals, cleaning up after him, and providing all manner of care for him. *Id.* Since Mr. Blanco Chomat was redetained in June, his family was forced to quickly arrange alternate and more expensive care for his brother. *Id.* ¶ 79.

Meanwhile, Mr. Rodriguez Romero, Mr. Gaston Sanchez, and [REDACTED] also have families, communities, and jobs waiting for their return home. *Id.* ¶¶ 56–57, 67, 72–73, 79, 80, 100, 108. While the “unconstitutional deprivation of liberty, even on a temporary basis” is sufficient to “constitute[] irreparable harm,” *Kostak*, 2025 WL 2472136, at *3, Petitioners are suffering additional irreparable harm due to their alarming medical needs and separation from their families and responsibilities.

C. The balance of the equities and the public interest weigh heavily in favor of Petitioners’ immediate release.

Where, as here, the Government is a party to the case, the third and fourth TRO factors—the balance of the equities and the public interest—merge. *Clarke v. Commodity Futures Trading Comm’n*, 74 F.4th 627, 643 (5th Cir. 2023). Generally, “a movant must establish that her irreparable harm is greater than the hardship the government would incur from a preliminary injunction.” *Purl v. U.S. Dep’t of Health & Hum. Servs.*, 760 F. Supp. 3d 489, 504 (N.D. Tex. 2024). Courts “may not consider a party’s desire or interest in continuing to engage in an alleged violation of statute.” *Id.* (internal quotations omitted).

To be sure, “there is . . . no public interest in the perpetuation of unlawful agency action[.]” *R.J. Reynolds Vapor Co. v. Food & Drug Admin.*, 65 F.4th 182, 195 (5th Cir. 2023). “To the contrary, there is a substantial public interest ‘in having governmental agencies abide by the federal laws that govern their existence and operations.’” *Texas v. United States*, 40 F.4th 205, 229 (5th Cir. 2022) (quoting *Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 1994)).

As described *supra* Section II, Petitioners have shown that the balance of equities falls in their favor, requiring immediate release. Meanwhile, ICE cannot show any reason to justify its revocation of Petitioners’ OSUPs or their detention at Camp 57. Again, ICE has already determined that each Petitioner does not present a danger to the community, does not present a

flight risk, and is not likely to be removed in the reasonably foreseeable future. Dkt. 1, ¶¶ 34, 54, 70, 81, 105. As to those findings, nothing has changed. If anything, Petitioners' removal today is even *more* unlikely than ever, since no third country has agreed to accept them. *See id.* ¶¶ 62, 78, 96. These factors favor Petitioners' immediate release.

D. The Court should not require Petitioners to provide security prior to issuing relief.

Pursuant to Federal Rule of Civil Procedure 65, if the Court issues a preliminary injunction, the movant is required to give security in an amount that the Court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained. Fed. R. Civ. P. 65. However, “[t]he amount of security required pursuant to Rule 65(c) is a matter of discretion of the trial court, and a court may elect to require no security at all.” *O.E. v. New Orleans Region Transit Auth.*, No. 23-2578, 2024 WL 2208716, *10 (E.D. La. May 16, 2024); *see also Deep S. Today v. Murrill*, 779 F. Supp. 3d 782, 830 (M.D. La. 2025) (observing that “the court may dispense with security altogether if the grant of an injunction carries no risk of monetary loss to the defendant”). In this case, Respondents will not incur any costs or damages if the requested relief is granted in this case. Therefore, Petitioners respectfully request that the Court dispense with security.

V. CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court grant the motion for a temporary restraining order/preliminary injunction.

Dated: December 11, 2025

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