UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No. 2:25-CV-01152-JES-DNF

RAUL PEREZ PANEQUE,
JORGE GARCIA MUNIZ,
ROLANDO MARTINEZ GARCIA,
ROBERTO FRANCO RODRIGUEZ;
DAVID FERRER LESCAILLE;
GABRIEL PEREZ ROMERO;

Petitioners,

v.

GARRETT RIPA, in his official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office;

KRISTI NOEM, in her official capacity as the Secretary of the U.S. Department of Homeland Security;

TODD M. LYONS, in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as Acting Attorney General of the United States.

WARDEN, Florida Soft Side South facility, in his official capacity.

Respondents.
____/

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioners are nationals of Cuba who have resided in the United States for the past forty-five (45) years. Petitioners first arrived in the United States as part of the Mariel boatlift and were paroled into the United States in 1980. They were either placed in removal proceedings before the Executive Office for Immigration Review ("EOIR"), or were previously in exclusion proceedings before the legacy-Immigration and Naturalization Service ("INS"), and ordered removed.

2. Following their proceedings, Petitioners were released under Orders of Supervision ("OSUP"), after Immigration and Customs Enforcement's ("ICE") made a determination that each Petitioner did not present a danger to the community, did not present a flight risk, and was not likely to be removed in the reasonably foreseeable future. *See* 8 C.F.R. §§ 241.4(e), 241.13(f)-(h). Petitioners have maintained clean records since being placed under supervision, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States. Once an OSUP has been granted, ICE's own regulations govern when, how, and who can revoke it. *See* 8 C.F.R. §§ 241.4(l), 241.13(i). These regulations provide core procedural protections; they guard against arbitrary revocation by low-level officers and require both notice and an opportunity to be heard. As shown *infra*, for historical and policy reasons embodied in federal regulations, Mariel Cubans have a distinct overlay of procedural protections than those generally available within the regulatory framework for OSUP revocation.

3. In October and November of 2025, Petitioners appeared for their regularly scheduled reporting in compliance with their OSUPs. Despite their compliance with ICE requirements, they were taken into custody without explanation and are currently being detained at the Florida Soft Side South facility in Ochopee, Florida, also known as Alligator Alcatraz

(hereinafter "Alligator Alcatraz.") During legal visits with the Petitioners, ranging in age from their late fifties to their late seventies, the Petitioners were seen to be shackled at the wrists and ankles during their detention.

4. At the time of their arrests, ICE did not explain its reasons for revoking Petitioners' OSUPs. Nor did ICE officers ask Petitioners any questions. If ICE had asked questions, as required by their own regulations, they would have learned that one Petitioner has heart disease and diabetes; that another Petitioner has prostate cancer and is at risk of rapid deterioration if he does not receive his bimonthly medical checks; that another Petitioner is the primary caretaker for his U.S. citizen in-laws, including a disabled veteran; that all Petitioners have complied with ICE's OSUP requirements; and that ICE's prior determination that their removal is not reasonably foreseeable has not materially changed.

5. Respondents violated federal regulations by revoking Petitioner's OSUPs under 8 C.F.R. §241.4(l) (governing procedures for OSUP revocation) or, more to the point, under 8 C.F.R. §212.12 (governing the continued detention of Mariel Cubans specifically during removal efforts or parole revocation.) Petitioners never violated the terms of their supervision, and the conditions supporting their release remain unchanged. ICE provided no written explanation, no finding of violation, and no opportunity to respond before canceling their supervision orders and taking them into custody, in violation of both agency regulations and their Fifth Amendment rights. Arbitrary or unexplained revocation is unlawful.

6. Notably, the Petitioners' detention highlights a fundamental misapplication of ICE's cited authority. Generic Notices of Revocation of Release rely on 8 C.F.R. § 241.4, which governs custody determinations generally. However, 8 C.F.R. § 241.4(b) explicitly excludes Mariel Cubans from its scope. The re-detention, parole, or revocation of parole for Mariel Cubans

is instead governed by 8 C.F.R. § 212.12. By relying on § 241.4 rather than following § 212.12, ICE failed to apply the regulatory provisions specifically designed to protect Mariel Cubans, compounding the procedural and due process violations identified above. Even if 8 C.F.R. § 241.4 applied, Respondents did not comply with those regulatory requirements either.

7. Moreover, Respondents' actions contravene the *Accardi* doctrine, which requires agencies to follow their own binding regulations. By disregarding the mandatory procedures of 8 C.F.R. §§ 241.4(b)(2), 241.13, 212.12, ICE's detention is procedurally defective and therefore unlawful.

8. Lastly, Petitioners are being detained at Alligator Alcatraz without legal authority. Respondents have elsewhere claimed that Florida is detaining people at the facility pursuant to the 287(g) program, codified at 8 U.S.C. §1357(g). But Section 1357(g) does not provide any authority for state policy to conduct large-scale detention operations, and has never before been used for that purpose. What is more, Respondents have no valid contract or inter-governmental services agreement authorizing ICE to delegate the housing and care of immigrant detainees to a Florida state agency.

9. Petitioners are seven (7) men of advanced age whose children, grandchildren, and great-grandchildren were born in the United States. Petitioners suffer from a host of medical conditions, including high blood pressure, heart disease, gout, diabetes, and cancer, and are not receiving adequate medical treatment. They spent the Christmas holiday shackled in the middle of the Everglades, away from their families. Amnesty International[1] has documented systemic abuses

[1] Amnesty Int'l, *Torture and Enforced Disappearances in the Sunshine State: Human Rights Violations at "Alligator Alcatraz" and Krome in Florida* (Dec. 4, 2025), https://www.amnestyusa.org/wp-content/uploads/2025/12/Torture-and-Enforced-Disappearances-in-the-Sunshine-State-Human-Rights-Violations-at-Alligator-Alcatraz-and-Krome-in-Florida.pdf.

at the site of Petitioners' confinement, a state-run facility facing mounting criticism for human rights violations, including torture and other inhumane conditions, *inter alia*.

CUSTODY

10. Petitioners satisfy the "in custody" requirement for habeas review because they are currently being physically detained by ICE-ERO at Alligator Alcatraz in Ochopee, Florida.

JURISDICTION

11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1331 (federal question) and the U.S. Constitution, art. I, § 9, cl. 2 (Suspension Clause). While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus claims by aliens challenging "the constitutionality of the entire statutory scheme under the Fifth Amendment."[2] This case arises under the United States Constitution; the Immigration and Nationality Act ("INA"), 8 U.S.C. §§1101 *et seq.*, and the Due Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. §1651.

12. Furthermore, 28 U.S.C. §2241 authorizes district courts to grant writs of habeas corpus to individuals "in custody in violation of the Constitution or laws or treaties of the United States." federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention; as well as claims by noncitizens seeking to protect their due process rights. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore*

---

[2] *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018). District courts also have jurisdiction to review "collateral challenges to unconstitutional practices and policies" used by Respondents in reaching their decision. *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 896 (1991).

v. Kim, 538 U.S. 510, 516-17 (2003); *Zadvydas*, 533 U.S. at 687. Petitioners are currently detained by U.S. Immigration and Customs Enforcement ("ICE") within this judicial district, satisfying the "in custody" requirement at the time of filing. See *Zadvydas*; *Demore*.

13. This Court further has jurisdiction under Article I, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion.

14. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioners are not challenging the validity of a final order of removal, but rather the legality of detention in violation of federal regulations and the due process under the Fifth Amendment. See *Clark v. Martinez*, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens).

15. Interpreting §1252(g) as barring judicial review of these claims risks conflicting with the Supreme Court's instruction that § 1252(g) is not a broad jurisdictional limitation on "all claims arising from deportation proceedings." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 487 (1999); *see also Grigorian v. U.S. Atty. Gen.*, No. 1:25-cv-22914 (S.D. Fla. Sept. 9, 2025). Indeed, the Supreme Court has emphasized that 28 U.S.C. § 2241 provides federal courts with jurisdiction to consider challenges to the lawfulness of immigration-related detention. *Zadvydas*, 533 U.S. at 687.

VENUE

16. Venue is proper because Petitioners are detained in ICE custody at Florida Soft Side South in Ochopee, Florida, within the geographical confines of the Middle District of Florida. *See* 28 U.S.C. § 1391(e)(1)(B), 28 U.S.C. § 1391(e)(1)(C); 28 U.S.C. §2241(d).

PARTIES

17. Antonio Ochoa Banega, ("Mr. Ochoa"), is a citizen of Cuba who entered the U.S. during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was arbitrarily taken into custody in November 2025 at his last ICE check-in.

18. Raul Perez Paneque ("Mr. Perez Paneque") is a citizen of Cuba who entered the United States during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was arbitrarily taken into custody in November 2025 at his last ICE check-in.

19. Jorge Luis Garcia Muniz ("Mr. Muniz"), is a citizen of Cuba who entered the United States during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was arbitrarily taken into custody in November 2025 at his last ICE check-in.

20. Rolando Martinez Garcia, ("Mr. Martinez"), is a citizen of Cuba who entered the U.S. during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was arbitrarily taken into custody in October 2025 at his last ICE check-in.

21. Roberto Franco Rodriguez, ("Mr. Franco"), is a citizen of Cuba who entered the U.S. during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was arbitrarily taken into custody in November 2025 at his last ICE check-in.

22. David Ferrer Lescaille, ("Mr. Ferrer"), is a citizen of Cuba who entered the U.S. during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite

complying with his order of supervision, he was arbitrarily taken into custody in November 2025 at his last ICE check-in.

23. Gabriel Antonio Perez Romero, ("Mr. Perez Romero"), is a citizen of Cuba who entered the U.S. during the Mariel boatlift in 1980. He is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was arbitrarily taken into custody in November 2025 at his last ICE check-in.

24. Respondent Pamela Bondi is the Attorney General for the United States Justice Department. Ms. Bondi is the official ultimately responsible with proper enforcement of federal immigration law. She is sued in her official capacity.

25. Respondent, Warden of Florida Soft Side South facility, also known as Alligator Alcatraz, is sued in his official capacity.

26. Respondent Garrett J. Ripa is the Acting Field Office Director for the ICE Miami Office of Enforcement and Removal Operations ("ICE ERO"). In this capacity, he has jurisdiction over Petitioners and is a legal custodian of Petitioners. Mr. Ripa is sued in his official capacity, as well as any other individual officially occupying the office of Miami ICE Field Office Director subsequent to his departure from that office.

27. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), the arm of the U.S. government responsible for enforcement of immigration laws. ICE is a subdivision of DHS. Ms. Noem is the ultimate legal custodian of Petitioner. Ms. Noem is sued in her official capacity.

FACTUAL AND PROCEDURAL HISTORY

First Petitioner: Antonio Ochoa Banega

28. Petitioner, Antonio Ochoa Banega ("Mr. Ochoa"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Mr. Ochoa first arrived in the United States around May 11, 1980 as part of the Mariel boatlift. Upon arrival, Petitioner was paroled on or about June 22, 1980, into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act ("INA") and is considered to have been admitted as a refugee. See Exh. "A," Mr. Ochoa's I-94 dated August 22, 1980. After his entry, Mr. Ochoa's immigration parole has been renewed annually by the U.S. Government until April 1, 1992. See Exh. "B," Mr. Ochoa's Parole Revocation Letter dated April 1, 1992. On April 23, 1992, the immigration judge issued a removal order. See Exh. "C," Mr. Ochoa's Order of Immigration Judge dated April 23, 1992. Petitioner recalls he was forced to sign a deportation order, despite not fully understanding its contents or implications.

29. Following those removal proceedings, Mr. Ochoa was released under an Order of Supervision. He has complied with all conditions imposed by immigration authorities. Since 2003, Mr. Ochoa has maintained a completely clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

30. On October 28, 2025, Mr. Ochoa appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Florida Soft Side South facility in Ochopee, Florida.

31. Upon information, knowledge, and belief, Mr. Ochoa received a document titled "Notice of Revocation of Release." The notice is not in Mr. Ochoa's possession, as it was retained

by ICE. The notice indicated that Mr. Ochoa's case had been reviewed and that ICE had determined he would be detained based on ICE's conclusion that there is a significant likelihood of removal in the reasonably foreseeable future. The notice cites to ICE's authority pursuant to 8 C.F.R. §§ 241.4 and 241.13 and stated that Mr. Ochoa is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely. The notice further indicated that, if release is not granted following the interview, Mr. Ochoa will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

32. In detaining Mr. Ochoa, ICE violated his due process in failing to comply with the statutory requirements required to revoke an Order of Supervision outlined in 8 C.F.R. §§ 241.4, 212.12, *inter alia*. Mr. Ochoa has never violated the terms of his supervision, and the conditions supporting Mr. Ochoa's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

33. Since receiving his order of supervision, Mr. Ochoa has complied with all requirements of his release, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization and has consistently paid his taxes. Had Mr. Ochoa been provided with an interview as required by law, he would have offered evidence of his medical needs, his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

34. Mr. Ochoa suffers from significant and ongoing medical conditions that require consistent treatment and monitoring. He experiences chronic dizziness, excessive sweating, and

memory problems, for which he is currently receiving therapeutic treatment. Mr. Ochoa has a serious vascular condition affecting his left leg. In or about 2022, he was hospitalized at Mount Sinai Medical Center in Aventura, Florida, after medical imaging revealed a blocked artery in his left leg that was restricting blood flow. He underwent surgical intervention to address this condition and continues to experience complications related to his left leg, including nerve pain associated with the sciatic nerve. Mr. Ochoa has been diagnosed with high blood pressure and high cholesterol, both of which require daily prescription medication. He also suffers from ongoing breathing difficulties and recurrent nosebleeds, for which he uses prescribed nasal medication. Continued detention places Mr. Ochoa's health at risk, as his medical conditions require regular access to appropriate care, medication management, and therapeutic services.

35. Mr. Ochoa has strong family ties in the United States. He is the father of two children and has four grandchildren and four great-grandchildren all of whom reside in the United States. His continued detention has caused significant emotional distress to both Mr. Ochoa and his family.

Second Petitioner: Raul Perez Paneque

36. Petitioners, Raul Perez Paneque ("Mr. Perez Paneque"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Petitioner first arrived in the United States as part of the Mariel boatlift and was paroled on or about June 13, 1980, into the United States pursuant to section 212(d)(5) of the Immigration and Nationality Act ("INA"). See Exh. "D," Mr. Perez Paneque's Notice to Appear dated September 30, 2009. Since his entry, Petitioner's immigration parole has been renewed annually by the U.S. Government until around 2009. See id.

37. On September 30, 2009, Petitioner was issued a Notice to Appear ("NTA") for removal proceedings. Id. The removal charges were based on Petitioner's convictions for burglary of unoccupied structure, possession of cocaine, and petit larceny between the years of 1993 and 1998 in Miami-Dade County, Florida. Id.

38. At some point during his immigration proceedings before the Executive Office for Immigration Review ("EOIR"), Petitioner was forced to sign a deportation order, despite not fully understanding its contents or implications. Petitioner recalls that during those proceedings, the Immigration Judge ("IJ") stated words to the effect of "ordered removed, no removal," indicating that although a removal order was entered, the U.S. government did not intend or was unable to carry out his deportation.

39. Following those removal proceedings, Petitioner was released under an Order of Supervision ("OSUP"), under which he has complied fully with all conditions imposed by immigration authorities. See Exh. "E," Mr. Perez Paneque's Order of Supervision dated November 2, 2010. Since 1999, Petitioner has maintained a clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

40. On November 10, 2025, Mr. Perez Paneque appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with Immigration and Customs Enforcement's ("ICE") requirements, he was taken into custody without explanation and is currently being detained at Florida Soft Side South in Ochopee, Florida.

41. After being detained, Mr. Perez Paneque was provided with a document titled "Notice of Revocation of Release." See Exh. "F," Mr. Perez Paneque's Notice of Revocation of Release dated November 10, 2025. This notice indicated that his case had been reviewed and it had been determined that he will be detained after ICE has concluded that there is a significant

likelihood of removal in the reasonably foreseeable future. Id. The letter cited to ICE's authority pursuant to 8 C.F.R. §§ 241.4 and 241.13 and that Mr. Perez Paneque is entitled to a prompt informal interview during which he may respond and provide evidence demonstrating that his removal is unlikely. Id. The notice indicated that if release is not granted following this interview, he will receive notification of a subsequent review, which is scheduled to occur three months from the date of the notice. Id.

42. In detaining Mr. Perez Paneque, ICE violated his due process in failing to provide him with a meaningful opportunity to be heard. ICE also failed to comply with the regulatory requirements required to revoke an Order of Supervision. Mr. Perez Paneque has never violated the terms of his supervision, and the conditions supporting Mr. Perez Paneque's release on supervision has not changed. Thus, any subsequent detention by ICE was and is unlawful.

43. Since receiving his order of supervision, Mr. Perez Paneque has complied with all requirements of his supervised release, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization and has consistently paid his taxes. Had Mr. Perez Paneque been provided with an interview as required by law, he would have offered evidence of his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

44. On November 10, 2025, Mr. Perez Paneque appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Alligator Alcatraz in Ochopee, Florida. Revocation of Mr. Perez Paneque's Order of Supervision

was without cause and he was not provided with an opportunity to review and oppose the arbitrary revocation of his Order of Supervision, against his due process rights.

45. Mr. Perez Paneque suffers from ongoing gastrointestinal health issues, including acid reflux and chronic constipation, both of which require medical treatment and prescribed medication. Prior to his detention, he received medical treatment for elevated blood sugar levels and experienced a fainting spell that required hospitalization, demonstrating the seriousness of his medical conditions and the need for ongoing medical monitoring. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health.

Third Petitioner: Jorge Luis Garcia Muniz

46. Petitioner, Jorge Luis Garcia Muniz ("Mr. Garcia"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Petitioner first arrived in the United States around May 7, 1980 as part of the Mariel boatlift and is considered to have been admitted as a refugee. Upon arrival, Mr. Garcia was paroled on or about May 14, 1980, into the United States pursuant to section 212(d)(5) of the INA. See Exh. "G," Mr. Garcia's I-94 dated May 7, 1980. Since his entry, Mr. Garcia's immigration parole has been renewed annually by the U.S. Government until April 5, 1989. See Exh. "H," Mr. Garcia's Parole Revocation Letter dated April 5, 1989. On August 9, 1989, the immigration judge issued a removal order under section 212(A) of the INA. See Exh. "I," Mr. Garcia's Removal Order dated August 9, 1989.

47. Following those removal proceedings, Mr. Garcia was released under an Order of Supervision on December 8, 2017, under which he has complied fully with all conditions imposed by immigration authorities. See Exh. "J," Mr. Garcia's Order of Supervision dated December 8, 2017. Since 2017, Mr. Garcia has maintained a clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

48. In late October or early November 2025, Mr. Garcia appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Alligator Alcatraz in Ochopee, Florida.

49. Upon information, knowledge, and belief, Mr. Garcia received a document titled "Notice of Revocation of Release" upon his detention. The notice is not in Mr. Garcia's possession, as it was retained by ICE. The notice indicated that Mr. Garcia's case had been reviewed and that ICE had determined he would be detained based on ICE's conclusion that there is a significant likelihood of removal in the reasonably foreseeable future. The notice cited ICE's authority pursuant to 8 C.F.R. §§241.4, 241.13 and stated that Mr. Garcia is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely. The notice further indicated that, if release is not granted following the interview, Mr. Garcia will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

50. In detaining Mr. Garcia, ICE violated his due process in failing to provide a meaningful opportunity to be heard and by not complying with the requirements for revoking an Order of Supervision outlined in 8 C.F.R. §§ 241.4, 212.12, *inter alia*. Mr. Garcia has not violated the terms of his supervision, and the conditions supporting Mr. Garcia's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

51. Since receiving his order of supervision, Mr. Garcia has complied with the requirements of his Order of Supervision, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization. Had Mr. Garcia been provided with an interview as

required by law, he would have offered evidence of his medical needs, his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

52. Mr. Garcia has meaningful family ties in the United States, including one sister, two children, and three grandchildren who reside in the country. He also suffers from high blood pressure, a chronic condition that requires daily medication. Since being detained, he has not had consistent access to his prescribed blood-pressure medication, placing his health at risk. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health.

Fourth Petitioner: Rolando Martinez Garcia

53. Petitioner, Rolando Martinez Garcia ("Mr. Martinez"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Petitioner first arrived in the United States around May of 1980 as part of the Mariel boatlift and is considered to have been admitted as a refugee. On June 20, 2005, the immigration judge issued a removal order due to criminal convictions, see Exh. "K," Automated Case Information System, at the Miami Immigration Court.

54. Following those removal proceedings, Mr. Martinez was released under an Order of Supervision. He has complied fully with all conditions imposed by immigration authorities. Since being placed on the OSUP, Mr. Martinez has maintained a completely clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

55. On November 6, 2025, Mr. Martinez appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Florida South Soft Side in Ochopee, Florida.

56. Upon information, knowledge, and belief, Mr. Martinez received a document titled "Notice of Revocation of Release" upon being detained. The notice is not in Mr. Martinez's possession, as it was retained by ICE. The notice indicated that Mr. Martinez's case had been reviewed and that ICE had determined he would be detained based on ICE's conclusion that there is a significant likelihood of removal in the reasonably foreseeable future. The notice cited to ICE's authority pursuant to 8 C.F.R. §§ 241.4 and 241.13 and stated that Mr. Martinez is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely. The notice further indicated that, if release is not granted following the interview, Mr. Martinez will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

57. In detaining Mr. Martinez, ICE violated his due process by not providing a meaningful opportunity to be heard and by failing to comply with the requirements for revocation of an Order of Supervision outlined in 8 C.F.R. §§ 241.4, 212.12, *inter alia.* Mr. Martinez has not violated the terms of his supervision, and the conditions supporting Mr. Martinez's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

58. Since receiving his order of supervision, Mr. Martinez has complied with the requirements of his Order of Supervision, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization. Had Mr. Martinez been provided with an interview

as required by law, he would have offered evidence of his medical needs, his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

59. Mr. Martinez has significant ties to the United States. He has two sisters, as well as nieces, cousins, and a child who reside in the United States. He also suffers from multiple health conditions that require him to take numerous prescribed medications. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health. Additionally, he has limited literacy and is unable to read or write, which further complicates his ability to navigate detention, understand written notices, and advocate for himself while in custody.

Fifth Petitioner: Roberto Francisco Franco Rodriguez

60. Petitioner, Roberto Francisco Franco Rodriguez ("Mr. Franco"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Petitioner first arrived in the United States around May 12, 1980 as part of the Mariel boatlift and is considered to have been admitted as a refugee. See Exh. "L," Mr. Franco's Form I-485B Card. Mr. Franco's lawful permanent residence status was approved on September 27, 1985. See Exh. "M," Mr. Franco's Memorandum of Creation of Record of Lawful Permanent Residence (September 27, 1985). After a criminal conviction from November 9, 2001, Mr. Franco was placed in removal proceedings. See Exh. "N," Mr. Franco's Immigration and Naturalization Service, Central Index System Results. On September 11, 2002, the immigration judge issued a removal order. See Exh. "O," Mr. Franco's Order of Removal (September 11, 2002).

61. Following those removal proceedings, Mr. Franco was released under an Order of Supervision on December 10, 2002. He has complied fully with all conditions imposed by

immigration authorities. See Exh. "P," Mr. Franco's Order of Supervision dated September 11, 2002. Since 2002, Mr. Franco has maintained a completely clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

62. On November 2, 2025, Mr. Franco appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Florida South Soft Side in Ochopee, Florida.

63. Mr. Franco states that he received a document that he recalls to be titled "Notice of Revocation of Release" or "Notice of Revocation of Supervision." Mr. Franco recalls that the ICE agents on November 2, 2025, told him "we are letting you know your supervision stops today and you are going in custody today." The notice is not in Mr. Franco's possession, as he indicates ICE showed him the document but did not give it to him. Upon information, knowledge, and belief, the notice indicated that Mr. Franco's case had been reviewed and that ICE had determined he would be detained based on ICE's conclusion that there is a significant likelihood of removal in the reasonably foreseeable future. The notice cited ICE's authority pursuant to 8 C.F.R. §§ 241.4 and 241.13 and stated that Mr. Franco is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely. The notice further indicated that, if release is not granted following the interview, Mr. Franco will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

64. In detaining Mr. Franco, ICE violated federal regulations pertaining to revocation of an Order of Supervision outlined in 8 C.F.R. §§ 241.4, 212.12, *inter alia*. Mr. Franco has never violated the terms of his supervision, and the conditions supporting Mr. Franco's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

65. Since receiving his order of supervision, Mr. Franco has complied with the requirements of his Order of Supervision, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization and has consistently paid his taxes. Had Mr. Franco been provided with an interview as required by law, he would have offered evidence of his medical needs, his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

66. Mr. Franco has strong family ties in the United States, including a long-term partner, three children and three grandchildren. He also has numerous serious health problems, including high blood pressure, heart disease, type 2 diabetes, sleep apnea, neck and back pain, high cholesterol, gout and anxiety. He is prescribed many medications for these conditions, and these health problems require regular medical care and monitoring, highlighting the serious risks to his well-being while he is detained. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health.

Sixth Petitioner: David Ferrer Lescaille

67. Petitioner, David Ferrer Lescaille ("Mr. Ferrer"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Petitioner first arrived in the United States around April 29, 1980 as part of the Mariel boatlift and is considered to have been admitted as a refugee. On October 2, 2003, the immigration judge issued a removal order due to his underlying criminal record. See Exh. "Q," Mr. Ferrer's Automated Case Information System Results, showing the Petitioner was ordered removed on October 2, 2003, at the Miami Immigration Court.

68. Following those removal proceedings, Mr. Ferrer was released under an Order of Supervision on December 3, 2013, under which he has complied fully with all conditions imposed by immigration authorities. See Exh. "R," Mr. Ferrer's Order of Supervision dated December 3, 2013. Since 2013, Mr. Ferrer has maintained a completely clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

69. On November 12, 2025, Mr. Ferrer appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Florida South Soft Side in Ochopee, Florida.

70. Upon information, knowledge, and belief, Mr. Ferrer received a document titled "Notice of Revocation of Release." The notice is not in Mr. Ferrer's possession, as it was retained by ICE. The notice cited ICE's authority pursuant to 8 C.F.R. §§ 241.4, 241.13 and stated that Mr. Franco is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely. The notice further indicated that, if release is not granted following the interview, Mr. Franco will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

71. In addition, Mr. Ferrer received a document dated December 8, 2025, and titled "Notice of Removal," which indicated that ICE intends to remove him to Mexico.

72. In detaining Mr. Ferrer, ICE violated federal regulations and due process by revoking his Order of Supervision in contravention of 8 C.F.R. §§ 241.4, 212.12, *inter alia*. Mr. Ferrer has not violated the terms of his supervision, and the conditions supporting Mr. Ferrer's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

73. Since receiving his order of supervision, Mr. Ferrer has complied with the requirements of his Order of Supervision, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization. Had Mr. Ferrer been provided with an interview as required by law, he would have offered evidence of his medical needs, his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

74. Mr. Ferrer has strong family ties in the United States, including long-term partner, two children and five grandchildren. He has been diagnosed with prostate cancer and requires prescribed medication to manage his condition. This serious illness necessitates regular medical care and careful monitoring, with routine check-ins every two to three months, which he has not had access to while detained. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health and life.

Seventh Petitioner: Gabriel Antonio Perez Romero

75. Petitioner, Gabriel Antonio Perez Romero ("Mr. Perez Romero"), is a national of Cuba who has resided in the United States for the past forty-five (45) years. Petitioner first arrived in the United States around May 27, 1980 as part of the Mariel boatlift and is considered to have been admitted as a refugee. See Exh. "S," Mr. Perez Romero's Form G-166C, Memorandum of Investigation dated June 7, 1993. On August 18, 1998, the immigration judge issued a removal order due to his underlying criminal record. See Exh. "T," Mr. Perez Romero's Automated Case Information System, showing the Petitioner was ordered removed on August 18, 1998, at the Krome Immigration Court in Miami, Florida.

76. Following those removal proceedings, Mr. Perez Romero was released under an Order of Supervision on January 13, 2009, under which he has complied fully with all conditions imposed by immigration authorities. See Exh. "U," Order of Supervision Addendum (January 13, 2009). Since 2009, Mr. Perez Romero has maintained a completely clean criminal record, demonstrating rehabilitation, stability, and full compliance with the laws and requirements of the United States.

77. On November 28, 2025, Mr. Perez Romero appeared for his regularly scheduled reporting in compliance with his Order of Supervision. Despite his full compliance with ICE's requirements, he was taken into custody without explanation and is currently being detained at Florida South Soft Side in Ochopee, Florida.

78. Mr. Perez Romero states that ICE showed him another document, which he was not given the time to read even though he is literate in English, and told him that he will be deported. Upon information, knowledge, and belief, and in light of Respondents' conduct vis-à-vis the other Petitioners, the notice would have indicated that Mr. Perez Romero's case had been reviewed and that ICE had determined he would be detained based on ICE's conclusion that there is a significant likelihood of removal in the reasonably foreseeable future. The notice cited ICE's authority pursuant to 8 C.F.R. §§ 241.4 and 241.13 and stated that Mr. Perez Romero is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely. The notice further indicated that, if release is not granted following the interview, Mr. Perez Romero will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

79. In detaining Mr. Perez Romero, ICE violated federal regulations and due process in failing to comply with the requirements to revoke an Order of Supervision outlined in 8 C.F.R.

§§ 241.4(b)(2), 212.12, *inter alia* and by failing to provide him with a meaningful opportunity to be heard. Mr. Perez Romero has never violated the terms of his supervision, and the conditions supporting Mr. Perez Romero's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

80. Since receiving his order of supervision, Mr. Perez Romero has complied with the requirements of his Order of Supervision, including regular reporting to ICE. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization and has consistently paid his taxes. Had Mr. Perez Romero been provided with an interview as required by law, he would have offered evidence of his medical needs, his compliance with the OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

81. Mr. Perez Romero has exceptionally strong family and community ties in the United States. He has been married to his wife, a natural-born United States citizen, for nearly twenty-six years, and together they have one child, a twenty-five-year-old U.S. citizen. He also maintains close relationships with his two sisters, one of whom is a U.S. citizen and the other a lawful permanent resident, as well as a natural-born U.S. citizen nephew. Mr. Perez Romero plays an active role in caring for his U.S. citizen in-laws, including a disabled veteran.

82. In addition to these significant family responsibilities, Mr. Perez Romero suffers from serious and chronic medical conditions, including diabetes and the early stages of arthritis, which require ongoing medical care, monitoring, and prescribed medication. On December 14, 2024, Mr. Perez Romero lost consciousness prior to breakfast when he was waiting in line to receive his diabetes medication, and he began to feel dizzy and subsequently fainted. Medical staff

later advised that the petitioner's blood glucose levels were within normal limits; however, his blood pressure was abnormally low. The petitioner had never experienced a loss of consciousness prior to this incident. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health.

83. Prior to his detention, Mr. Perez Romero was the sole financial provider for his household and supported his child through college, enabling his son to become the first college graduate on both sides of the family. His detention has forced his son to put his plans for law school on hold in order to return home and financially support his mother.

84. Beyond the devastating emotional impact on his U.S. citizen family members, Mr. Perez Romero's absence has also affected his employer and community, as he is a highly skilled laborer who has worked as a plumber for many years and whose employer has expressed grave concern over the loss of his expertise. Mr. Perez Romero's continued detention has caused profound and life-altering hardship to multiple American citizens who depend on him emotionally, medically, and financially.

Violations of Due Process, Federal Statutes and Regulations, and the *Accardi* Doctrine

85. Petitioners entered the United States as part of the 1980 Mariel boatlift, a unique historical event that has long shaped the United States' repatriation policies toward Cuba. Every Petitioner was previously released on an OSUP after the government made a determination that each Petitioner did not present a danger to the community, did not present a flight risk, and/or was not likely to be removed in the reasonably foreseeable future. The conditions of Cuba have not changed so as to undermine the basis of Petitioners' orders of supervision and warrant their detention. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

86. For decades, the U.S. government has recognized the practical and diplomatic barriers to returning Mariel Cubans, particularly those like Petitioners whom Cuba has never agreed to accept.[3] These longstanding barriers remain firmly in place today. Indeed, U.S.–Cuba relations have deteriorated significantly in recent years, resulting in reduced diplomatic engagement, limited consular functions, and repeated public reporting that repatriation negotiations between the two governments have stalled.[4] The Cuban government continues to reject or fail to issue travel documents for Mariel-era individuals, and the United States has not secured any new agreements that would make removals to Cuba more likely.[5] The worsening bilateral relationship, combined with Cuba's ongoing refusal to accept certain nationals, including Mariel entrants, means there is no foreseeable prospect that Cuba would accept Petitioners now or in the reasonably foreseeable future.

87. Accordingly, the factual basis underlying Petitioners' original release under an Order of Supervision has not changed. If anything, the current geopolitical circumstances make removal even less likely than at the time their Orders of Supervision were issued.

88. In addition, no Petitioner received a prompt informal interview regarding ICE's decision to revoke their OSUP and redetain them, either when they were being re-detained or soon thereafter. Nor was any Petitioner given the opportunity at any point to submit any evidence or

[3] See Central Intelligence Agency, *Cuban Excludables* (Discussion Paper, declassified and approved for release on April 18, 2011), CIA-RDP84B00049R000701760003-3 (internal CIA document noting that Cuba "refused to accept the unconditional return of any Cuban found excludable under U.S. law," which underscores diplomatic intransigence).

[4] See Johana Tablada, *Cuba Tried to Improve Its Relations with the U.S. by Cooperating with Deportation Flights. It Didn't Work.*, Politico (June 2, 2025), https://www.politico.com/news/2025/06/02/cuba-us-relations-deportation-flights-johana-tablada-00381355 (reporting Cuban official's statement that bilateral relations "are now 'at zero'"); Reuters, *Trump Administration Yet to Talk to Cuba over Migration, Foreign Vice Minister Says* (Mar. 12, 2025), https://www.reuters.com/world/americas/trump-administration-yet-talk-cuba-over-migration-foreign-vice-minister-says-2025-03-12/ (noting Cuba has received no new U.S. request for repatriation talks and that mass removals were "not contemplated" by prior agreements).

[5] See *supra* note 3.

information showing that there is no significant likelihood of removal in the reasonably foreseeable future, or that he had not violated their orders of supervision.

89. To detain Petitioners indefinitely without any previous identification and notification of a third country, a hearing on that third country, a change in country conditions, or a violation of their Orders of Supervision is an arbitrary and unlawful detention that violates Petitioners' constitutional rights.

90. Moreover, Respondents' actions contravene the *Accardi* doctrine, which requires agencies to follow their own binding regulations. ICE may release a noncitizen from detention after the removal period, subject to certain conditions, on an OSUP. 8 U.S.C. § 1231(a)(1)(A). DHS has promulgated two generally applicable regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, that govern when a noncitizen may be released on an OSUP and when that release may be revoked. Section 241.4 provides generic requirements governing the use of OSUPs. Section 241.13 applies specifically when OSUPs are used or revoked because there has been a change in the likelihood of the noncitizen's removal in the reasonably foreseeable future. There is a third regulation, 8 C.F.R. § 212.12, that governs the parole, revocation of parole or detention of a Mariel Cuban pending his or her attempted removal from the United States. Critically, by disregarding the mandatory referral of Mariel Cubans under 8 C.F.R. §§ 241.4(b)(2), 212.12 to "Cuban Review Panels," Petitioners' detention is fatally defective and therefore unlawful.

91. Finally, Petitioners are being detained at Alligator Alcatraz without legal authority. Federal law does not allow DHS to delegate detention authority to entities outside of any process or framework devised or even contemplated by Congress. Yet the state agencies that operate the facility have no authority under federal law to detain non-citizens pending removal proceedings. Federal law places that responsibility with DHS. And unlike every other immigration detention

facility in the country prior to this one, DHS has not signed any contract or Intergovernmental Services Agreement (IGSA) for Alligator Alcatraz. Thus, if Petitioners are not released outright, they must at minimum be released from this facility.

92. Release from Alligator Alcatraz is critical given the alarming conditions present there. Amnesty International has documented a number of egregious conditions at Alligator Alcatraz, including widespread shackling and limited access to medical care, among many others violations of human rights. These are the conditions Petitioners are experiencing:

> Amnesty International's research concludes that people arbitrarily detained in 'Alligator Alcatraz' are being held in inhuman and unsanitary conditions including overflowing toilets with fecal matter seeping into where people are sleeping, limited access to showers, exposure to insects without protective measures, lights on 24 hours a day, poor quality food and water, and lack of privacy. People interviewed shared that access to medical care is inconsistent, inadequate, or denied altogether, placing individuals at serious risk of both physical and mental harm. People reported being always shackled when they were outside their cage. Other treatment people have endured amounts to torture, including being put in the 'box', described as a 2x2 foot cage-like structure people are put in as punishment – sometimes for hours at a time exposed to the elements with hardly any water – with their feet attached to restraints on the ground.
>
> *Amnesty Int'l, USA*: Torture and Enforced Disappearances in the Sunshine State, *supra* note 1.

STATEMENT OF LAW

93. The Due Process Clause of the Fifth Amendment states that "[n]o person shall be ... deprived of life, liberty, or property without due process of law." U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lie at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. This applies to everyone in this country, including aliens. *Id.* at 693 ("[T]he Due Process clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful [or] unlawful ...."); *Reno v. Florida*, 507 U.S. 292, 306 (1993) ("the Fifth Amendment entitles aliens to due process of law in deportation proceedings").

94. Pursuant to 8 C.F.R. § 212.12(a), Petitioners' continued detention is governed by the procedures set forth in that section for Mariel Cubans (defined as Cubans "who last came to the United States between April 15, 1980, and October 20, 1980") who are detained "pending his or her return to Cuba or to another country." The authority to grant, deny, or revoke parole is discretionary but subject to strong procedural limitations, including interviews before a "Cuban Review Panel" in which regulatory criteria regarding dangerousness and family ties, *inter alia*, are applied before entering a decision to release a Mariel Cuban or continue detention. § 212.12(d)-(h).

95. While § 212.12 vests discretion in Cuban Review Panels to review parole decisions, that discretion is not unlimited. It requires that decisions to continue detention be accompanied by a brief statement of reasons, as outlined in §212.12(b)(1), and that detainees be provided a copy of the decision translated into Spanish. Additionally, the regulation establishes review procedures through the Cuban Review Plan outlined in § 212.12(d), including either record review or personal interview, consideration of relevant factors such as risk of violence, ties to the United States, likelihood of complying with parole conditions, and issuance of written recommendations. Upon information, knowledge, and belief, Respondents have not complied with any of these regulatory requirements.

96. What is more, Respondents have also failed to provide Petitioners with notice of the reasons for their continued detention or revocation of their OSUP as required by 8 C.F.R. §241.4(l) or §241.13. Respondents have not afforded Petitioners a meaningful opportunity to respond to these reasons. Arbitrary or unexplained revocation, especially without identifying a third country for removal, violates both agency regulations and due process protections under the Fifth Amendment. *See Castaneda v. Souza*, 810 F.3d 15, 43 (1st Cir. 2015) (en banc) (recognizing

liberty interest in avoiding arbitrary immigration detention); *Diouf v. Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2011) (recognizing procedural due process rights in prolonged detention under § 241).

97. Petitioners were suddenly and without explanation detained after years of full compliance with their OSUPs. There was no notice of alleged violations, no opportunity to rebut the government's reasoning, and no indication that any viable removal country had been identified. The revocation of their OSUPs and/or their subsequent detention without formal revocation of their OSUPs was therefore unreasonable, arbitrary, and unconstitutional.

98. As Mariel entrants, Petitioners belong to a class of Cuban nationals whose removal has historically been severely restricted due to Cuba's longstanding and continuing refusal to accept the return of many individuals who arrived during the 1980 Mariel boatlift. The United States has repeatedly acknowledged that Cuba will not issue travel documents for many Mariel Cubans, including individuals in situations identical to Petitioners. In the absence of an accepting country, the U.S. government cannot lawfully detain Petitioners on the basis of any new justification.

99. Detaining Mariel Cubans, like Petitioners, at an ICE check-in, without prior notice, without identifying any parole or supervision violation, and without providing an opportunity to contest the revocation, constitutes the very sort of arbitrary governmental action that violates due process. Courts repeatedly hold that custody cannot be re-imposed without procedural safeguards, especially where the person has complied with all conditions and is living in the community. See *Morrissey v. Brewer*, 408 U.S. 471 (1972) (recognizing that a parolee's conditional liberty is a protected liberty interest and may not be terminated without orderly procedural safeguards). Thus,

revoking an Order of Supervision with no violation, no notice, and no hearing is a clear violation of the Fifth Amendment.

100. ICE's actions violate the *Accardi* doctrine, which requires agencies to follow their own binding regulations. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). *Accardi* prohibits the Respondents from disregarding mandatory procedures governing OSUP revocations.

101. The regulations governing the custody and review of Mariel Cubans, 8 C.F.R. § 212.12, and the general OSUP revocation procedures, 8 C.F.R. §§241.4(l), 241.13, create enforceable rules that Respondents must follow before re-initiating detention, or attempting removal. Respondents have ignored these rules entirely.

102. None of the conditions are met for OSUP revocation in Petitioners' cases such that Respondents cannot legally detain them at this juncture. Detaining a fully compliant Mariel Cuban at a check-in with no reason provided is directly contrary to the government's own binding regulations. Respondents' failure to comply with these mandatory procedures renders its actions arbitrary, capricious, and unlawful.

103. As the Southern District Court of Florida explained in *Grigorian* regarding the revocation of an Order of Supervision and the requirement for a meaningful informal interview, "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause. This compels Petitioner's release." *Grigorian*, No. 1:25-cv-22914, at *18-19.

104. The *Grigorian* court continued to explain its power to ensure that such discretion is exercised in accordance with regulations and constitutional due process requirements:

> To be clear, the Court is not 'reviewing and reversing the manner in which discretion was exercised.' *Accardi*, 347 U.S. at 268. As the Court has already explained, the Government may revoke Petitioner's OSUP for any of the reasons stated in § 241.4(l)(2). But they may not detain him without offering a meaningful opportunity to contest those reasons. After all, 'if men must turn square corners when they deal with the government, it cannot be too much to expect the government to turn square corners when it deals with them.' Niz-Chavez, 593 U.S. at 172. The Court therefore finds that Petitioner must be released from custody. *Id* at. *20.

105. Numerous courts throughout the nation have reached similar conclusions. See, e.g., *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7-9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV01204-AA, 2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25- CV-00182-MJT, 2025 WL 2491782, at *3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25- cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Wing Nuen Liu v. Carter*, Case No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025); *M.Q. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

106. Here, Petitioners' final orders of removal have remained unexecuted for decades, and no immigration judge has ever designated a third country of removal. No alternative country has been identified by the government because no acceptable, alternative country can be identified. As Mariel entrants, Petitioners are part of a group of Cuban nationals whom Cuba has historically refused to accept, and DHS has offered no evidence that this long-standing barrier has changed. DHS has failed to reopen Petitioners' removal proceedings and has failed to obtain a new order of removal with a proper third country designated. ICE and DHS have failed to provide Petitioners or their counsel with any advance notice of a third country of removal and has failed to provide

Petitioners and his counsel with the requisite due process to ensure he is not tortured in any third country that they may be potentially removed to.

107. The revocation of Petitioners' OSUPs and ongoing detention are a stark violation of constitutional protections under the Fifth Amendment and Petitioners' rights to due process. Petitioners have lived at liberty in the United States for decades and are, at a minimum, entitled to notice of any purported country of removal and a meaningful opportunity to be heard regarding the government's asserted ability to remove them there.[6] Therefore, ICE's failure to provide the required procedures violates the *Accardi* doctrine. *Grigorian* explained:

> [T]he faint promise of an opportunity to be heard three months down the line [does not] satisfy what due process requires. See 8 C.F.R. § 241.4(l)(3) (providing that the formal review process will begin "within approximately three months" only "if the alien is not released from custody following the informal interview"). If the eventual promise of a formal review were enough to cure a due process violation, ICE would be able to hold individuals for approximately three months after revocation with no meaningful opportunity to be heard.
>
> *Grigorian*, No. 1:25-cv-22914, at *18.

108. Analogous to *Grigorian*, Respondents' actions do not adhere to ICE's own regulations and fall short of the fundamental requirements of due process. Due process under the Fifth Amendment requires reasonable notice and an opportunity to be heard. The right to be heard before being condemned to suffer grievous loss of any kind is a principle basic to society. *Mathews v. Eldrige,* 424 U.S. 319 (1976). Petitioners have been in the United States for over forty-five (45) years. To now detain Petitioners with no notice or explanation and attempt to deport them to an unknown and unidentified third country where it has not been determined that Petitioners will be safe is arbitrary, unlawful, and a violation of Petitioners' constitutional and human rights.

[6] The Supreme Court's recent decision in Dep't of Homeland Sec. v. D.V.D., 602 U.S. (2025) (granting stay) does not preclude individual petitions for habeas, it merely precludes the universal injunction on the matter.

109. Lastly, DHS may detain individuals only pursuant to valid statutory or regulatory authority. Detention without such authority is ultra vires and unlawful. *See Youngberg v. Romeo*, 457 U.S. 307, 316-17 (1982) (holding that when the state confines an individual, it must do so pursuant to lawful authority and provide constitutionally adequate protections for personal liberty and safety). And states cannot participate in immigration enforcement absent permission from Congress. *Arizona v. United States*, 567 U.S. 387, 408 (2012).

110. Federal law is emphatic that DHS itself—either through its employees or contractors—must be the one to detain non-citizens pending removal proceedings or removal. Every statute that provides authority for long-term immigration detention gives that authority to DHS alone. *See* 8 U.S.C. §§ 1225(b)(2)(A), 1226(a), (c), 1231(a)(2)(A) (requiring the "Secretary" or "Attorney General" to carry out all detention).

111. Upon information, knowledge, and belief, the authority Respondents have elsewhere cited for detention at Alligator Alcatraz is 8 U.S.C. §1357(g). Section 1357(g) allows DHS to delegate a limited number of "immigration officer functions" to individual state and local officers who complete training and certification and receive federal supervision, and are also know as "287(g) agreements" under the Immigration and Nationality Act and federal regulations. 8 U.S.C. § 1357(g)(1)-(5); 8 C.F.R. §287.1.

112. . But Section 1357(g) has never been used before as the authority to operate a detention facility. Nor can it be used in this way.

113. Section 1357(g) does not provide authority for Petitioners' detention at this facility for at least two reasons.

114. First, the statute does not allow local police officers to be assigned authority to conduct large-scale and long-term detention operations. It only allows them to be delegated "a

function of an immigration officer." 8 U.S.C. §1357(g)(1). The broader Section 1357 statute provides these "[p]owers of immigration officers." *Id.* §1357 (title); *see El Cenizo v. Texas*, 890 F.3d 164, 177 (5th Cir. 2018). And none of the statute's immigration-officer functions include detention during removal proceedings. Rather, the functions of individual immigration officers are policing activities, like interrogations and arrests of individual noncitizens. *See* 8 U.S.C. § 1357(a)(1) (interrogation), (a)(2)-(5) (arrests), (c) (search), (f) (taking fingerprints).

115. In other words, nothing in Section 1357 or any other statute lists detention operations as an "immigration officer function" that could be delegated to state officials under Section 1357(g). Because immigration detention is a complex and multifaceted undertaking, the INA assigns detention operations to DHS as an agency. For instance, it provides that "*the Attorney General*" may detain noncitizens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a) (emphasis added); *see id.* § 1225(b)(2)(A) (similar); *id.* § 1231(a)(2)(A) (similar). Indeed, *every* statute that mentions the authority to manage detention operations assigns that power to DHS as an agency, not to individual immigration officers. *See* 8 U.S.C. §§ 1103(a)(10), 1231(g).

116. Nevertheless, ICE Deputy Executive Associate Director Thomas Giles has stated in a sworn declaration in *Friends of the Everglades, Inc. v. Noem*, 1:25-cv-22896 (S.D.Fla July 2, 2025) (D.E. 21-1):

> "ICE is not providing any funding for the construction of the TNT Detention Facility [Alligator Alcatraz]. The State of Florida is responsible for the funding and construction of the facility. ICE's role concerning the development of the TNT Detention Facility has been limited to touring the facility to ensure compliance with ICE detention standards, and meeting with officials from the State of Florida to discuss operational matters." *Id.*

117. Giles further states:

> "The ultimate decision of who to detain at the TNT Detention Facility belongs to Florida…. If Florida decides to detain any illegal aliens at the TNT Detention Facility, they would do so under the authority delegated pursuant to section 287(g) of the Immigration and Nationality Act, codified at 8 U.S.C. § 1357(g). Many Florida entities have entered 287(g) agreements since President Trump took office, including the Florida National Guard and several Florida law enforcement entities. Those agreements, including the date they were signed, are available on ICE's website… The agreements generally authorize those entities to detain aliens under the immigration laws. ICE's understanding is that Florida intends to operate its 287(g) facilities under those existing agreements." *id.*

118. Section 1357's implementing regulations confirm that detention during removal proceedings is not an "immigration officer function" that could be delegated under Section 1357(g). Those regulations list the powers of "immigration officers." 8 C.F.R. § 287.5 (title), 287.8. And *none* of them include immigration detention operations. *See, e.g.*, 8 C.F.R. § 287.5(a) (interrogation), (c), (e) (arrest), (d) (search). The only detention-related activities they include are policing activities like the other immigration-officer functions: the authority to "take and maintain custody of and transport any person who has been arrested by an immigration officer," 8 C.F.R. § 287.5(c), and the authority to "briefly detain [a] person for questioning," *id.* § 287.8(b)(2).

119. This is why, prior to Alligator Alcatraz, no detention facility ever claimed to operate under state control pursuant to Section 1357(g). The statute does not authorize this detention, so Petitioners must be released from the facility.

120. Second, even if Section 1357(g) did authorize state officers to conduct long-term immigration detention, their detention is being managed and conducted by individuals who have not been deputized under any 287(g) agreement. Upon information, knowledge, and belief, Alligator Alcatraz is run by the Florida Department of Emergency Management (FDEM), which has no 287(g) agreement, and therefore none of its employees are deputized to exercise any immigration officer functions. Furthermore, the facility is almost entirely staffed by *private*

contractors, who are not and cannot be deputized under Section 1357(g). The statute only allows authority to be conveyed to "an officer or employee of [a] State or subdivision," 8 U.S.C. § 1357(g)(1), not a private contractor.

121. Because they are not and cannot be deputized, these FDEM officials and private contractors have satisfied *none* of the statute's requirements. They have not "received adequate training" in the complexities of immigration law and procedures. *See* 8 U.S.C. § 1357(g)(2). They have no "written agreement" which lays out the extent and limits of their immigration authority. 8 U.S.C. § 1357(g)(1), (5). And they have no assigned federal official "who is required to supervise and direct" their immigration activities. 8 U.S.C. § 1357(g)(5). These non-deputized individuals cannot exercise 287(g) authority outside the "highly regulated scheme for adopting 287(g) agreements." *El Cenizo*, 890 F.3d at 177; *see Creedle v. Miami-Dade*, 349 F. Supp. 3d 1276, 1302 (S.D. Fla. 2018) (explaining that training and federal supervision are necessary to help deputized officers navigate "the significant complexities involved in enforcing federal immigration law") (quotation marks omitted).

122. In the *Friends of the Everglades* case, Respondents conspicuously declined to identify any particular state officer who was purportedly deputized under Section 1357(g) to detain people at Alligator Alcatraz. *Friends of the Everglades, Inc. v. Noem*, 1:25-cv-22896 (S.D.Fla. July 2, 2025). They simply cited various agencies' 287(g) agreements. *Id.* But the agreements themselves do not convey any authority to anyone. *See Santos v. Frederick County*, 725 F.3d 451, 457, 465 (4th Cir. 2013). They simply provide the framework for individual state officers to be deputized. Yet Defendants have stayed silent on which state officers at Alligator Alcatraz—if any—have actually been deputized. That underscores what Florida has since admitted: The people who are actually managing and conducting detention operations are FDEM officials and private

contractors who do not and cannot have any authority under Section 1357(g). This provides an independent reason to order Petitioners released from the facility.

123. Prior to Alligator Alcatraz, facilities operated by state government contractors did so pursuant to Intergovernmental Services Agreements (IGSAs). 8 U.S.C. § 1103(a)(10) (authorizing payments to IGSA facilities including "States and political subdivisions of States"). The IGSA framework provided for ICE's operational control over the detention of aliens in non-federal facilities and is premised on compliance with federal standards.[7]

124. ICE may only house aliens in state or local government facilities if it has either entered into a valid IGSA under MOA guidance; or procured detention space from the LEA using ICE funding, oversight, and contractual authority. Specifically, ICE's February 7, 2025 Memorandum of Agreement (MOA) further clarifies that detention by a local entity requires a formal IGSA:

> "If ICE determines that it is necessary, the LEA shall, to the extent it operates a detention facility or facilities meeting the standards described herein, enter into an Inter-Governmental Service Agreement (IGSA) with ICE, pursuant to which the LEA shall provide, for a fee, detention of incarcerated aliens in LEA facilities, upon the completion of their sentences."[8]

125. No IGSA exists between ICE and Florida authorizing the detention of Petitioners at Alligator Alcatraz. Respondents are detaining Petitioners at a facility over which ICE has no operational control and without any statutory, regulatory, or contractual authorization.

126. Instead, Petitioners are confined in a facility that is entirely operated by state officers and private contractors, and has no IGSA. Alligator Alcatraz has skirted the system

---

[7] ICE, *Intergovernmental Service Agreements Guidance* (Feb. 7, 2025). Last retrieved on Dec. 27, 2025. Available at: https://www.ice.gov/doclib/foia/igsas.pdf

[8] *See* Memorandum of Agreement (Feb. 7, 2025). Last retrieved on Dec. 27, 2025. Available at: https://www.ice.gov/doclib/foia/igsas.pdf.

devised by Congress and is being run outside federal control without an IGSA, illegally circumventing federal acquisition regulations governing procurement, competitive bidding, and federal compliance and monitoring of the contractor's obligations and deliverables. *See generally* 48 CFR §1.101 (Federal Acquisition Regulation.) Because it lacks an IGSA, unlike every other facility, Alligator Alcatraz has no contractual obligation to follow a particular set of ICE Detention Standards, and it lacks the contractual oversight mechanisms that come with an IGSA arrangement. As a result, Petitioners and other detainees have faced a range of anomalous and alarming conditions at the facility.

127. Without a valid IGSA or other statutory or contractual authority, DHS lacks the legal power to detain Petitioners in facilities operated by an agency of the State of Florida. Detention under these circumstances is ultra vires, arbitrary, and violates Petitioners' constitutional and statutory rights. *See Accardi*, 347 U.S. at 268; *Zadvydas*, 533 U.S. at 699-700; *Youngberg*, 457 U.S. at 316-17.

128. As a result of this illegally-constituted detention center, Petitioners face numerous forms of irreparable harm from being illegally detained at Alligator Alcatraz. Unlawful detention is a paradigmatic form of irreparable harm. *See United States v. Bogle*, 855 F.2d 707, 710-11 (11th Cir. 1988) (holding that "unnecessary deprivation of liberty clearly constitutes irreparable harm"). Their irreparable injury is "neither remote nor speculative, but actual and imminent." *Siegel v. LePore*, 234 F.3d 1163, 1176-77 (11th Cir. 2000).

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Substantive Due Process

129. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

130. Petitioners, seven Mariel Cubans who have resided in the United States for more than four decades were seized at a routine ICE check-in despite having committed no violation of their supervision conditions and despite having been fully compliant with every reporting requirement. ICE provided no notice, no allegation of misconduct, and no explanation for the sudden revocation of their OSUP status. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

131. Immigration detention must "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Arbitrarily cancelling Petitioner's supervision and re-detaining him, without identifying any statutory or regulatory purpose for doing so, bears no reasonable relation to public safety, to ensuring attendance at proceedings, or to any regulatory goal. Such unexplained and sudden re-detention transforms a civil regulatory scheme into punitive confinement, which the Fifth Amendment forbids. *Zadvydas*, 533 U.S. at 690.

132. By categorically denying Petitioners the opportunity for individualized review, Respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690. Because the ICE failed to follow mandatory parole-revocation standards in § 212.12(h), Petitioners' detention violates his due process rights.

COUNT II
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Procedural Due Process

133. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights. The Due Process Clause requires, at a minimum, notice and a meaningful opportunity to be heard before an individual may be deprived of liberty.

134. Petitioners received neither. ICE revoked their OSUPs and detained them at routine ICE check-in without prior notice, without alleging any violation, without providing a written explanation, and without affording Petitioners an opportunity to contest the revocation. This constitutes a denial of the most basic procedural protections required by the Fifth Amendment and described in *Mathews*.

135. ICE failed to comply with the mandatory grounds for revocation set forth in 8 C.F.R. § 8 C.F.R. §241.4, 212.12. None of these grounds applied to Petitioners, who were fully compliant with all terms of supervision. If none of these circumstances exist, ICE has no legal authority under the regulation to revoke parole or supervision. The agency's disregard of these mandatory prerequisites further underscores the absence of any lawful basis for re-detention and heightens the procedural due process violation.

136. Respondents deprived Petitioners of the protections applicable to the custody and continued detention of Mariel Cubans, 8 C.F.R. § 212.12, as well as the OSUP revocation procedures, 8 C.F.R. §241.13, that ICE must follow before re-initiating detention, or attempting removal.

COUNT III
VIOLATION OF THE ACCARDI DOCTRINE AND 8 C.F.R. §§ 212.12 241.4, 241.13
No Regulatory Authority to Detain

137. Under the *Accardi* doctrine, agencies must follow their own binding regulations, particularly when those regulations protect individual liberty interests. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

138. 8 C.F.R. § 212.12(h) provides grounds for revoking parole, supervised release or for justifying continued detention of Mariel Cubans pending their return to Cuba or a third country.

139. Respondents have also violated the notice, interview, and opportunity to respond requirements of 8 C.F.R. §241.4(l).

140. Respondents disregarded every requirement of both §§212.12, 241.4, and 241.13. They provided Petitioners no written explanation, no finding of violation, and no procedural steps whatsoever before cancelling their supervision and taking them into custody. Under the *Accardi* doctrine, this failure to follow binding regulations renders the agency action unlawful. ICE failed to comply with the mandatory grounds for revocation set forth in 8 C.F.R. § 212.12(h). None of these grounds applied to Petitioners, who were fully compliant with all terms of supervision. If none of these circumstances exist, ICE has no legal authority under the regulation to revoke parole or supervision. The agency's disregard of these mandatory prerequisites further underscores the absence of any lawful basis for re-detention and heightens the procedural due process violation.

141. Respondents deprived Petitioners both of the protections applicable to the custody and continued detention of Mariel Cubans, 8 C.F.R. § 212.12, and the generic OSUP revocation procedures, s*ee* 8 C.F.R. §241.4(l) and 241.13, that ICE must follow before re-initiating detention or attempting removal.

142. Because Respondents lacked the regulatory authority to revoke Petitioners supervision or re-detain them, their custody of Petitioners is ultra vires and must be vacated.

COUNT IV
VIOLATION OF SECTION 1357(g)

No Authority to Detain

143. Respondents may only detain individuals pursuant to a valid statutory or contractual basis. Detaining individuals without such authority is ultra vires and violates Petitioners' constitutional and statutory rights.

144. As explained above, there is no authority under federal law for state officers to independently detain Petitioners at Alligator Alcatraz.

145. First, Section 1357(g) provides no authority for state officers to independently detain immigrants during removal proceedings.

146. And even if it did, the facility is managed and staffed by state officials and private contractors who are not and cannot be deputized under Section 1357(g), and who have not completed any of the statute's training, certification, or supervision requirements.

147. Petitioners' detention at this facility therefore violates federal law for at least two independent reasons.

COUNT IV
VIOLATION OF SECTION 1103(a)(11)(A)
No Authority to Detain

148. Petitioners' detention represents an illegal and unaccountable delegation of detention authority outside the constraints of 8 U.S.C. § 1103(a)(11)(A), which provides for formal contracts allowing federal and state or local governments to provide for the care and housing of detained immigrants pending removal proceedings or removal efforts. These contracts are known as Inter-Governmental Services Agreements (IGSAs.)

149. Other than IGSAs, Congress has not enacted any alternate framework for the federal government to coordinate with States to provide for the detention of immigrants pending their removal proceedings or pending efforts to execute removal orders.

150. Since no IGSA exists governing Alligator Alcatraz, Petitioners' months-long detention at this facility is *ultra vires* and unlawful.

151. Respondents have skirted the statutory process in 1102(a)(11) by delegating operational control to an agency of the State of Florida without an IGSA, illegally circumventing federal regulations governing procurement, competitive bidding for government contracts, and federal oversight and compliance. *See generally* 48 CFR §1.101 (Federal Acquisition Regulation.)

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court grant the following relief:

a. Order that the Petitioners be released from custody immediately;
b. In the alternative, order the government to provide Petitioners with notice and a hearing where they can confront and oppose removal to any alternative third country that agrees to accept them, if one is identified;
c. Enjoin the Respondents from re-arresting or re-detaining Petitioners absent full and strict compliance with federal law;
d. Grant an award of attorneys' fees and costs;
e. Grant such other relief as this Court deems just and appropriate.

Respectfully submitted, Dated: December 27, 2025

/s/ Felix A. Montanez

Felix A. Montanez, Esq.
Fl Bar No. 102763
Preferential Option Law Office, LLC
P.O. Box 60208
Savannah, GA 31420
Tel: (912) 604-5801
Felix.montanez@preferentialoption.com

Counsel for the Petitioners

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

I am submitting this verification on behalf of the Petitioners because I am Petitioners' attorney. I have discussed with the Petitioners' authorized representative and immigration attorney the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted, Dated December 27, 2025

/s/ Felix A. Montanez
Felix A. Montanez, Esq.
Fl Bar No. 102763
Preferential Option Law Office, LLC
P.O. Box 60208
Savannah, GA 31420
Tel: (912) 604-5801
Felix.montanez@preferentialoption.com