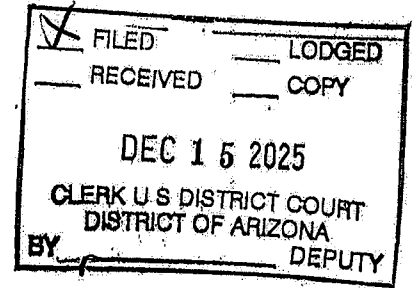


Jorge Luis Lopez Sainz
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Pro Se



**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

Jorge Lopez Sainz,

Petitioner,

Case No. CV25-04670-PHX-JJT--MTM

v.

Luis Rosa, Jr. in his official capacity as
Facility Administrator of the Florence
Correctional Center;

John Cantu, in his official capacity as
Phoenix Field Office Director for U.S.
Immigration and Customs Enforcement;

Todd Lyons, in his official capacity as
Acting Director of U.S. Customs and
Immigration Enforcement;

Kristi Noem, in her official capacity as
Secretary of the Department of
Homeland Security; and

Pamela Bondi, in her official capacity as
Attorney General of the United States,

Respondents,

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

INTRODUCTION

1. On November 27, 2023, Petitioner Jorge Lopez Sainz (“Mr. Lopez Sainz” or “Petitioner”), a 39-year-old citizen of Mexico, was granted final protection from

deportation in the form of deferral of removal under the Convention Against Torture (“CAT”). *See* Attachment A (Immigration Court order). He was released from Immigration and Customs Enforcement (“ICE”) custody on an order of supervision (“OSUP”) on December 28, 2023. *See* Attachment B (OSUP). About a year and a half later, on or about June 22, 2025, ICE arrested Mr. Lopez Sainz without explanation as he was entering his apartment in Phoenix, AZ, eventually transferring him to the Florence Correctional Center (“Florence”). During his period of supervised release, Mr. Lopez Sainz had complied with all legal requirements, including attending scheduled ICE check-ins and not committing any crimes. His re-detention serves no purpose other than to fill ICE’s arbitrary arrest quotas.

2. While ICE did not previously deem Mr. Lopez Sainz’s removal to a third country reasonably foreseeable (as evidenced by its decision to release him on an OSUP), when ICE re-detained Mr. Lopez Sainz, it initially told him that it intended to remove him to a third country and that such removal was imminent. However, when Mr. Lopez followed up with ICE weeks later, on July 19, 2025, to receive more information about the status of his removal to a third country, he was informed that his case was “being processed.” Mr. Lopez Sainz was subsequently informed by his deportation officer that his case was still “pending” and that ICE officials were awaiting “guidance” from a “DDO in Washington,” without any specification about any countries in consideration for a third country removal. In other words, ICE is holding Mr. Lopez Sainz in detention without

any actual plan to imminently deport him, leaving him subject to prolonged detention with no end in sight.

3. Mr. Lopez Sainz is detained pursuant to 8 U.S.C. § 1231, which governs the detention of noncitizens with a final order of removal that has been deferred by an IJ due to a substantial risk of torture in their home country. 8 U.S.C. § 1231(a)(1)(B)(i). Mr. Lopez Sainz's continued detention violates 8 U.S.C. § 1231(a) because his removal is not reasonably foreseeable. See *Zadvydas v. Davis*, 533 U.S. 678 (2001). He cannot be deported to his home country --Mexico-- because he was granted CAT protection by an IJ. 8 C.F.R. § 1208.17. To the extent that ICE is pursuing Mr. Lopez Sainz's removal to another third country, it has failed to demonstrate that such removal is reasonably foreseeable. There has been no indication that another country would accept him, and, in any case, Mr. Lopez Sainz would be entitled to notice and the opportunity to seek fear-based relief with respect to any new possible country of removal. Accordingly, Mr. Lopez Sainz is entitled to immediate release from ICE custody.

4. Mr. Lopez Sainz re-detention further violated ICES's own regulations and his Fifth Amendment due process rights. ICE re-detained him despite his strict compliance with the terms of his OSUP during the time he was out of detention, including attending his most recent ICE check-in in February 2025. ICE has failed to comply with its own regulations for revocation of release and review of detention, in violation of the Administrative Procedure Act ("APA") and due process, pursuant to *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). independent of such violations, Mr. Lopez

Sainz's re-detention without notice and an opportunity to be heard runs afoul of his Fifth Amendment due process rights under the test in *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). ICE offers no potential end date to detention while Mr. Lopez Sainz is detained needlessly. For these procedural violations, Mr. Lopez Sainz requests that he be placed back on the terms of supervision with which he had been consistently complying.

JURISDICTION AND VENUE

5. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1331, since this Petition arises under the Constitution and laws of the United States, namely the detention provisions of the Immigration and Nationality Act, 8 U.S.C. § 1231; the accompanying regulations codified at 8 C.F.R. § 241.4, *et seq*; the habeas corpus statute, 28 U.S.C. § 2241; and the Due Process Clause of the Fifth Amendment.

6. This Court may grant relief pursuant to the Habeas Corpus Act, 28 U.S.C. § 2241, *et seq*; the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq*; the All Writs Act, 28 U.S.C. § 1651; and the Court's inherent equitable powers.

7. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *Zadvydas*, 533 U.S. at 687.

8. Federal courts also have federal-question jurisdiction, through the APA, to "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are cognizable via habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by "any applicable form of legal action, including actions for

declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. ICE's continued detention of Mr. Lopez Sainz has adversely and severely affected his liberty.

9. Venue is proper in this district pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because at the time of filing Petitioner was detained in the Florence Correctional Center in Florence, Arizona, within the Jurisdiction of this Court; a substantial part of the events and omissions giving rise to the claim occurred in this district; Respondent Cantu resides in this district; and the Respondent is an officer of the United States acting in his official capacity.

10. Exhaustion of administrative remedies is not required because it would be futile.

PARTIES

11. Mr. Lopez Sainz is a 39-year-old citizen of Mexico who is being detained by Respondents at the Florence Correctional Center in Florence, Arizona. He was granted deferral of removal under CAT on November 27, 2023, based on his risk of torture in Mexico.

12. Respondent Luis Rosa, Jr. is the Facility Administrator of the Florence Correctional Center, which detains individuals suspected of civil immigration violations pursuant to a contract with Immigration and Customs Enforcement (ICE). Respondent Rosa is the immediate physical custodian responsible for the detention of Petitioner. He is named in his official capacity.

13. Respondent John Cantu is the director of ICE's Phoenix Field Office, which is responsible for ICE activities in Arizona and is responsible for the Florence Correctional Center. Respondent Cantu's place of business is in the District of Arizona, and he is an immediate legal custodian responsible for Petitioner's detention. He is named in his official capacity.

14. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to detention of immigrants during the removal process. Respondent Lyons is a legal custodian of Petitioner. He is named in his official capacity.

15. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is named in her official capacity. In that capacity, Respondent Noem is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103.

16. Respondent Pamela J. Bondi is the Attorney General of the United States. She is named in her official capacity.

FACTUAL BACKGROUND

Events in Mexico

17. Mr. Lopez Sainz was born in Mexico in 1986. He moved to the border town of Agua Prieta, Sonora from the state of [REDACTED] at around the age of 12. At around the age of 14, Mr. Lopez Sainz was recruited into the [REDACTED]. He experienced and was exposed to a high level of violence as a teenager after getting involved with the organization.

18. Mr. Lopez Sainz was [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

19. Mr. Lopez Sainz was [REDACTED]
[REDACTED].

20. Mr. Lopez Sainz recounts that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

21. Mr. Lopez Sainz was imprisoned in the U.S. 2007 at the age of about 21 for “alien smuggling.” He returned to Mexico in 2012 and continued working for the [REDACTED]. In 2015, he helped complete a job for a different local boss than his usual boss. However, the drugs he helped move were stolen in the United States, leading the new boss to [REDACTED] and [REDACTED]. Lopez Sainz, with the help of family and friends, gave a substantial amount of money and [REDACTED] to the United States to continue to work for the organization in Phoenix and [REDACTED].

22. In October 2018, police in Holbrook, Arizona arrested Mr. Lopez Sainz for presenting a false ID. While still in custody in northern Arizona, [REDACTED] an [REDACTED] called him in prison to investigate what happened to the cash that was in [REDACTED] when he was arrested. Roque later ordered the [REDACTED] to try to find the money. Officers did find the cash and later interviewed Mr. Lopez Sainz while in custody in December 2018, at which point [REDACTED]. He later also spoke with [REDACTED] in the hopes that giving the information would allow him to leave the [REDACTED].

23. [REDACTED] later filed an application for surveillance warrants [REDACTED] County of [REDACTED] based in part on the information Mr. Lopez Sainz had

provided. The application identified Mr. Lopez Sainz and discussed information that had been found on his phone, including incriminating photos of Jorge Roque. The application goes on to describe information of smuggling routes and operations gleaned from an interview with "[REDACTED]," but the details provided about the interview, as well as the contents of the interview, make it clear that "[REDACTED]" was in fact Mr. Lopez Sainz.

24. Mr. Lopez Sainz served his time for the false ID and then was taken into custody in Maricopa County in February 2020 for a case involving several codefendants from the [REDACTED], including Jorge Roque, who had also been arrested. Around this time, Mr. Lopez Sainz's brother-in-law, Francisco, received intimidating phone calls from

[REDACTED]

[REDACTED]. While in custody, Mr. Lopez Sainz learned from his defense that the information he provided to police would be made available through discovery to codefendants. At one point in custody in Maricopa County, [REDACTED]

[REDACTED]

[REDACTED].

25. Mr. Lopez Sainz signed a plea and completed his sentence in Maricopa County, and then he traveled to Minnesota where he signed another plea and completed a sentence, after which he was released to Phoenix in Summer of 2022 while Jorge Roque was still incarcerated. At that time, [REDACTED]

to find out where he was, asking him to mail something for Christmas to her daughter, but Mr. Lopez Sainz did not because he felt she was trying to learn his whereabouts. In January 2023, ICE took Mr. Lopez Sainz into custody at a check-in.

26. When detained by ICE, Mr. Lopez Sainz left his U.S. cell phone with his nephew. Mr. Lopez Sainz had not shared the new number with anyone outside of his family. While Mr. Lopez Sainz was in ICE custody, his nephew received several communications on the U.S. phone from [REDACTED] and his girlfriend, looking for Mr. Lopez Sainz. His nephew did not answer the messages.

27. In May 2023, Mr. Lopez Sainz ran into a member of the [REDACTED] at the Florence Correctional Center. This member had been in Maricopa County jail when [REDACTED] and Mr. Lopez Sainz were there. At FCC, this member told Mr. Lopez Sainz that [REDACTED] had told him about the law enforcement interview, but attempted to assure Mr. Lopez Sainz that “everything was fine,” and that he should return to Mexico. Mr. Lopez Sainz believes this was a ruse to subject him to torture.

28. Mr. Lopez Sainz filed an I-589 in withholding only proceedings seeking to stay in the United States to prevent being tortured and killed by the [REDACTED].

Immigration court proceedings

29. Mr. Lopez Sainz filed a Form I-589 with the immigration court on or about April 10, 2023, applying for protection under CAT. Because of the [REDACTED]'s power and connections, Mr. Lopez Sainz said he could not be safe anywhere in Mexico.

30. At two merits hearings on August 21, 2023, and October 11, 2023, before IJ Natalie Huddleston at the Florence Immigration Court, Mr. Lopez Sainz testified in support of his CAT application. On November 27, 2023, IJ Huddleston granted him deferral to removal to Mexico under CAT. The order became final on December 27, 2023. As a result of the deferral of removal order, Respondents cannot lawfully remove Mr. Lopez Sainz to Mexico.

Post-order custody and removal

31. A day after his CAT removal became final, Mr. Lopez Sainz was released on an order of supervision (“OSUP”). The OSUP required him to appear at regular ICE check-ins and not to commit any crimes or to leave the state of Arizona without first notifying ICE.

32. Mr. Lopez Sainz complied with the terms of the OSUP and attended all required check-ins.

33. On June 22, 2025, Mr. Lopez Sainz was apprehended and arrested by ICE officials as he was entering his residence in Phoenix, AZ. He was not notified beforehand of ICE’s intention to revoke his OSUP, nor was he taken before a neutral arbiter for ICE to demonstrate by clear and convincing evidence that he was a danger or a flight risk. Since that time, he has never been given written notice of the reasons for the revocation of his OSUP or any kind of hearing where he could challenge the revocation.

34. Initially ICE told Mr. Lopez Sainz that it was planning to remove him imminently to third country; however, in the weeks since, ICE has only stated that his

case is “pending” or “being processed.” Mr. Lopez Sainz believes that as of now, ICE has not identified any particular country to which it might send him, and his removal is not significantly likely in the reasonably foreseeable future.

35. If released, Mr. Lopez Sainz plans to return to his home in Phoenix, resume work, and be with his partner.

LEGAL BACKGROUND

I. Deferral of Removal under the Convention Against Torture

36. To be granted “deferral of removal” under CAT, a noncitizen must show that “it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c); *see also* 8 C.F.R. § 1208.17(a). When an IJ grants a noncitizen deferral under CAT, the IJ issues a removal order and simultaneously defers removal with respect to the country or countries for which the noncitizen demonstrated a sufficient risk of torture. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531-32 (2021). When an IJ grants a noncitizen CAT protection, both the noncitizen and DHS have the right to appeal that decision to the BIA within 30 days. *See* 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party appeals within the 30-day period, the relief granted and the accompanying removal order becomes administratively final. *See id.* § 1241.1.

37. When a noncitizen has a final CAT grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. *See* 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized

to remove noncitizens who were granted CAT to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Noncitizens can be removed, for instance, to the country “of which the [noncitizen] is a citizen, subject, or national,” the country “in which the [noncitizen] was born,” or the country “in which the [noncitizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E).

38. If ICE identifies an appropriate alternative country of removal, the noncitizen must have notice and an opportunity to seek relief from removal to that country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [noncitizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see* 8 C.F.R. §§ 208.16(c)(4), 208.17(a).”); *Andriasian v INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) (finding that “last minute” designation of alternative country without meaningful opportunity to apply for protection “violate[s] a basic tenet of constitutional due process”); *Romero v Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims”), *rev’d on other grounds*, *Guzman Chavez*, 594 U.S. 523.

39. The Government itself has repeatedly acknowledged this right to notice and an opportunity to seek relief, including recently before the U.S. Supreme Court.

Transcript of Oral Argument at 33, *Riley v. Bondi*, 23-1270 (2025) (“We would have to give the person notice of the third country and give them the opportunity to raise a reasonable fear of torture or persecution in that third country.”); *see also* Transcript of Oral Argument at 20-21, *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021). Specifically, if ICE were to attempt to remove a noncitizen to a country not designated on their removal order and the noncitizen demonstrated a reasonable fear of torture or persecution in that country, the noncitizen’s removal proceedings would have to be reopened for the IJ to designate the alternative country of removal and for the noncitizen to apply for any fear-based relief in withholding-only proceedings. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1006-10 (W.D. Wash. 2019); accord 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1).

II. Third-Country Removal Procedures

40. As a result of the aforementioned restrictions and procedures, “only 1.6% of noncitizens granted withholding-only relief were actually removed to an alternative country” in FY 2017. *Guzman Chavez*, 141 S. Ct. at 2295 (Breyer, J., dissenting). And from FY 2020 to FY 2023, according to publicly available data, ICE removed a total of only *five* noncitizens granted withholding or CAT relief to alternative countries. *Munoz Saucedo v. Pittman*, -- F. Supp. 3d --, 2025 WL 1750346 (D.N.J. June 24, 2025), at *7.

41. When a noncitizen in ICE custody obtains a final grant of CAT, the noncitizen’s assigned Deportation Officer (“DO”) typically sends requests for removal to a random collection of three or more alternative countries. The request typically consists

of an email to the country's embassy, with an attached form entitled ICE Form I-241, "Request for Acceptance of Alien." In nearly every case, the embassies either do not respond or they decline the request. *See, e.g., Zhuzhiashvili v. Carter*, -- F. Supp. 3d --, 2025 WL 2837716 (D. Kan. Oct. 7, 2025), at *2 (citing statements from immigration officials showing these "acceptance requests ... are never successful"). Indeed, ICE previously released Mr. Lopez Sainz within a day of his final grant of CAT protection on December 28, 2024, ostensibly because it could not remove him to a third country and did not deem him a danger or flight risk.

III. Detention of Noncitizens Granted CAT Protection

A. Statutory Framework

42. 8 U.S.C. § 1231 governs the detention of noncitizens "during" and "beyond" the "removal period." 8 U.S.C. § 1231(a)(2)-(6). The "removal period" begins once a noncitizen's removal order "becomes administratively final" 8 U.S.C. § 1231(a)(1)(B). The removal period lasts for 90 days, during which ICE "shall remove the [noncitizen] from the United States" and "shall detain the [noncitizen]" as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen "*may* be detained beyond the removal period" if he meets certain criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added). Further, the 90-day removal period is extended where the noncitizen interferes with his removal in bad faith. *Id.* § 1231(a)(1)(C). If the removal period is not extended under § 1231(a)(1)(C) or 8 U.S.C.

§ 1231(a)(6), the noncitizen is released on an OSUP, subject to conditions of release. 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.5(a)-(b).

43. To avoid “indefinite detention” that would raise “serious constitutional concerns,” the Supreme Court in *Zadvydas* construed § 1231 to contain an implicit time limit. 533 U.S. at 682. *Zadvydas* dealt with two noncitizens with final removal orders who could not be removed to their home country or country of citizenship due to bureaucratic and diplomatic barriers. The Court held that § 1231 authorizes detention only for “a period reasonably necessary to bring about the [noncitizen]’s removal from the United States.” *Id.* at 689. Six months of post-removal order detention is considered “presumptively reasonable.” *Id.* at 701. After that point, when the noncitizen “provides 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.*

44. But the Supreme Court “did not say that the six-month presumption is irrebuttable, and there is nothing inherent in the operation of the presumption ... that requires it to be rebuttable.” *Munoz-Saucedo*, 2025 WL 1750346, at *7-8 (citing *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008)). Rather, “the presumption scheme merely suggests that the burden the detainee must carry within the first six months of post-order detention is a heavier one than after six months has elapsed.” *Id.*; see also *Trinh v Homan*, 466 F. Supp. 3d 1077, 1093 (C.D. Cal. 2020) (“*Zadvydas* established a ‘guide’ for approaching detention challenges, not a categorical prohibition on claims challenging detention less than six months.”); *Ali v. DHS*, 451 F. Supp. 3d 703, 708 (S.D. Tex. 2020)

(“Whereas the *Zadvydas* Court established a presumption that detention that exceeded six months would be unconstitutional, it did not require a detainee to remain in detention for six months or to prove that the detention was of an indefinite duration before a habeas court could find that the detention is unconstitutional.”).

B. Regulations on Post-Removal Order Detention

45. DHS regulations provide that, by the end of the 90-day removal period, the local ICE field office with jurisdiction over the noncitizen’s detention must conduct a custody review to determine whether the noncitizen should remain detained. See 8 C.F.R. § 241.4(c)(1), (k)(1)(i) (“Prior to the expiration of the removal period, the district director . . . shall conduct a custody review”). ICE is required to provide the noncitizen and, if applicable, their counsel with approximately 30 days’ notice prior to such custody reviews, to allow an opportunity to submit evidence in support of release. *Id.* § 241.4(d)(3), (h)(2). The regulations further require that custody decisions be provided to counsel. *Id.* § 241.4(d)(3).

46. The Field Office Director, or their delegate, makes the final custody decision based on recommendations offered by lower-level officers. In making this custody determination, ICE considers several factors, including the availability of travel documents for removal. *Id.* § 241.4(e). The removal period can be extended, and the noncitizen may remain in detention during such extended period if he fails or refuses to make timely application in good faith for travel or other documents necessary for

departure. 8 U.S.C. § 1231(a)(1)(C); 8 C.F.R. § 241.5. If the factors in § 241.4 are met, ICE releases the noncitizen on an OSUP. 8 C.F.R. § 241.4(j)(2).

47. To comply with *Zadvydas*, DHS issued additional regulations in 2001 that established “special review procedures” to determine whether detained noncitizens with final removal orders are likely to be removed in the reasonably foreseeable future. *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56,967 (Nov. 14, 2001). While 8 C.F.R. § 241.4’s custody review process remained largely intact, subsection (i)(7) was added to include a supplemental review procedure that ICE HQ must initiate when “the [noncitizen] submits, or the record contains, information providing a substantial reason to believe that removal of a detained [noncitizen] is not significantly likely in the reasonably foreseeable future.” *Id.* § 241.4(i)(7).

48. Under this procedure, ICE HQ evaluates the foreseeability of removal by analyzing factors such as the history of ICE’s removal efforts to the countries in question. *See id.* § 241.13(f). If ICE HQ determines that removal is not reasonably foreseeable but nonetheless seeks to continue detention based on “special circumstances,” it must justify the detention based on narrow grounds such as national security or public health concerns, *id.* § 241.14(b)-(d), or by demonstrating by clear and convincing evidence before an IJ that the noncitizen is “specially dangerous.” *Id.* § 241.14(f).

C. Regulations on Revocation of Release

49. ICE may revoke the release of certain noncitizens released on an OSUP under two categories of circumstances. First, a noncitizen’s release can be revoked if they

violate the conditions of release. 8 C.F.R. § 241.4(l)(1). Alternately, the Executive Associate Commissioner (or a District Director) can revoke release on conditions and re-detain a noncitizen when (1) the purposes of release have been served, (2) the noncitizen violated any condition of release, (3) “it is appropriate to enforce a removal order or to commence removal proceedings,” or (4) “release would no longer be appropriate” due to the noncitizen’s conduct. 8 C.F.R. § 241.4(l)(2).

50. In either case, the noncitizen is entitled to receive notice of the reasons for revocation and a “prompt” informal interview to respond to the reasons for revocation. If the noncitizen demonstrates that they did not violate the conditions of release, they can be released following the interview. 8 C.F.R. § 241.4(l)(3).

ARGUMENT

51. Mr. Lopez Sainz’s continued detention violates § 1231(a)(6) as interpreted by *Zadvydas* because his removal is not reasonably foreseeable given his grant of CAT protection and the unlikelihood of removal to a third country. Under *Zadvydas* and the regulations implementing it, this Court should order his immediate release under conditions of supervision.

52. Alternatively, ICE’s failure to comply with its regulations on re-detention and post-removal-order detention violated Mr. Lopez Sainz’s Fifth Amendment due process rights and the APA, pursuant to *Accardi*. Mr. Lopez Sainz’s re-detention without proper procedures violated his due process rights in light of ICE’s prior decision to release

him for over two years, his compliance while on release, ICE's lack of any compelling reason for his re-detention.

I. Mr. Lopez Sainz's Detention Violates § 1231(a)(6) under *Zadvydas* and He Is Entitled to Immediate Release.

53. Mr. Lopez Sainz's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, 533 U.S. 678. His removal order has been final since December 2023 and his removal is not reasonably foreseeable given his CAT grant to Mexico and the unlikelihood of third-country removal.

54. 8 U.S.C. § 1231(a), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the [noncitizen's] removal from the United States." 533 U.S. at 689. Mr. Lopez Sainz cannot be deported to Mexico, the only country of which he is a citizen, because he has a final grant of protection from removal there. ICE has not identified any countries of removal and has only made vague statements that Mr. Lopez Sainz' case is "pending" or "being processed." Furthermore, ICE itself has previously recognized the improbability of removing Mr. Lopez Sainz, given its decision to release him on an OSUP only a day after his deferral of removal order under CAT became final. Based on the data mentioned *supra*, there is less than a 2% chance of deportation to a third country for a noncitizen like Mr. Lopez Sainz, who was granted CAT relief. Even if ICE does identify such a country, ICE would be legally obligated to inform Mr. Lopez Sainz of the identified country. Mr. Lopez Sainz would then be given the opportunity to seek fear-based relief from removal to that country, further prolonging his proceedings and detention. *See Munoz-Saucedo*,

2025 WL 1750346, at *7 (noting that third country removals have “been historically rare” and that petitioner was entitled to further proceedings to seek fear-based relief, even if a third country for removal were to be found).

55. Accordingly, Mr. Lopez Sainz will not be removed from the United States in the “reasonably foreseeable future” because (1) he cannot be deported to his home country due to his CAT relief grant; (2) ICE has historically managed to remove only a tiny fraction of noncitizens granted withholding or CAT to alternative countries; (3) to his knowledge, ICE has not been able to secure travel documents to a third country currently or during Mr. Lopez Sainz’s initial removal period; and (4) removing Mr. Lopez Sainz to any alternative country would require additional, lengthy proceedings. As such, Mr. Lopez Sainz’s continued detention violates 8 U.S.C. § 1231(a).

56. Mr. Lopez Sainz has currently been detained for 166 days, and it has been over two years since his removal order was rendered final. ICE had that entire duration to attempt to find third countries to which to remove Mr. Lopez Sainz. While the time periods differ, courts have analyzed the reasonableness of post-removal order detention based on the date of the final removal order triggering the removal period rather than the date of (re)detention. *See S.F. v. Bostock*, 2025 WL 2841022 (D. Or. Oct. 7, 2025), at *4 (noting that “federal courts have refrained from applying the presumption of reasonableness under *Zadvydas* in re-detention cases” and pointing out that “Respondents concede that Petitioner’s detention should be measured cumulatively; it is ‘past the presumptive 180-day threshold of presumptive reasonableness.’”); *Nguyen v. Scott*, 2025

WL 2419288 (W.D. Wash. Aug. 21, 2025), at *13 (“[T]he six-month period does not reset when the government detains [a noncitizen] ..., releases him from detention, and then re-detains him again.”); *Dong Van Nguyen v. Hyde*, 2025 WL 1725791 (D. Mass. June 20, 2025), at *3; *Escalante v. Noem*, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025), at *3; *Zavvar v. Scott*, 2025 WL 2592543 (D. Md. Sept. 8, 2025), at *6; *Tadros v. Noem*, 2025 WL 1678501 (D N.J. June 13, 2025), at *3 (ruling that for petitioner re-detained years after his final removal order, his “final order of removal [had] triggered the six-month detention period under *Zadyvdas*”).

57. Accordingly, since Mr. Lopez Sainz’s order of removal has been final for over two years, the Government bears the burden of demonstrating that there is a “significant likelihood of removal in the reasonably foreseeable future,” a showing it cannot make. *See Zadyvdas*, 533 U.S. at 701.

58. Even if this Court were to conclude based on Mr. Lopez Sainz’s 166-day post-removal-order detention that he bears the initial burden of showing that his removal is not reasonably foreseeable, he would still prevail. While six months of post-removal order detention is considered “presumptively reasonable,” *see Zadyvdas*, 533 U.S. at 701, Mr. Lopez Sainz has rebutted that presumption by demonstrating that his detention is unreasonable due to his grant of CAT protection and the unlikelihood of third-country removal. *See Muñoz-Saucedo*, 2025 WL 1750346, at *7-8 (holding that petitioner with final withholding of removal grant had shown that his under six-month detention was unreasonable because his removal was not reasonably foreseeable); *Manago v. Carter*,

2025 WL 2841209 (D. Kan. Oct. 7, 2025), at *2 (noncitizen met his burden by showing “he cannot be removed to his home country under the withholding order, officials must find a third country that is willing to accept him, and petitioner has no ties to any other country”). His case for release is even stronger than the petitioners in *Zadvydas*, who had a final removal order and no immigration relief. *See Zadvydas* at 684, 710.

59. Release is the most common and appropriate remedy for a *Zadvydas* violation. *See, e.g., Munoz-Saucedo*, 2025 WL 1750346, at *9 (ordering release under appropriate conditions where re-detained noncitizen’s removal was not reasonably foreseeable); *Iakubov v. Figueroa*, 2025 WL 2731355 (D. Ariz. Sept. 25, 2025) (ordering release where ICE could not show progress in removal to any third country); *Manago v. Carter*, 2025 WL 2841209, at *3 (same); *Zhuzhiashvili*, 2025 WL 2837716, at *3 (ordering release of detained Georgian who had withholding of removal to Georgia); *Ali v. DHS*, 451 F. Supp. 3d 703, 710 (S.D. Tex. 2020) (ordering release under appropriate conditions pursuant to *Zadvydas*). To order Mr. Lopez Sainz’s immediate release, this Court need only determine that his removal is not reasonably foreseeable under *Zadvydas*. It need not analyze whether Mr. Lopez Sainz is a danger to the community or a flight risk. *Zadvydas*, 533 U.S. at 699-700 (“[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.”); *Munoz-Saucedo*, 2025 WL 1750346, at *8 (“[N]othing supports the argument that danger to the community is a relevant factor to consider in conducting a *Zadvydas* analysis.”).

60. To the extent that this Court considers the risk of danger or flight, Mr. Lopez

Sainz does not pose either risk as he has final grant of relief; demonstrated rehabilitation effort , including perfect compliance with ICE check-ins; and steady employment. ICE further chose to release him at the beginning of his 90-day removal period in 2023. see *Muñoz-Saucedo*, 2025 WL 1750346, at *8 (Government's argument that continued detention was warranted because of petitioner's endangering welfare of child conviction and dangerousness "lacks credibility considering that ICE voluntarily release petitioner in 2023 ... when it had no obligation to do so"); *Ulysse v. DHS*, 291 F. Supp. 2d 1318, 1326, n. 13 (M.D. Fla. 2003) ("Obviously respondent have no concern that Ulysse is a flight risk or danger to society because they made no effort to remove or detain her sooner.") . In any case, Mr. Lopez Sainz "release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances." *Zadvydas*, 533 U.S. at 700.

II. ICE's Re-Detention and Continued Detention of Mr. Lopez Sainz Without Sufficient Process Violates the Due Process Clause and the APA.

61. Further, the lack of procedures afforded to Mr. Lopez Sainz to challenge his re-detention after over two years of freedom and compliance with all the terms of his supervised release violates the Due Process clause of the Fifth Amendment and the APA.

A. ICE's Failure to Comply with Its Own Regulations Violates the Due Process Clause and the APA Pursuant to *Accardi*.

62. First, pursuant to *Accardi v. Shaughnessy*, 347 U.S. 260 (1954), ICES's failure to follow its regulations on revocation of release at 8 C.F.R § 241.4(1) violates the APA and the Due Process Clause of the Fifth Amendment.

63. Under the *Accardi* doctrine, which originated in the context of an immigration case and has been developed through subsequent immigration case law, agencies are bound to follow their own policies that affect the fundamental rights of individuals, including self-imposed policies and processes that limit otherwise discretionary decisions. *See Accardi*, 347 U.S. at 267 (holding that BIA must follow its own regulations in its exercise of discretion); *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 ... even where the internal procedures are possibly more rigorous than otherwise would be required.”).

64. When agencies fail to adhere to their own policies as required by *Accardi*, courts frame the violation as a due process violation or as arbitrary, capricious, and contrary to law under the APA. *See Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) (“An agency’s failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual’s constitutional right to due process.”) (internal quotations omitted); *Damus v. Nielsen*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) (“It is clear, moreover, that [*Accardi*] claims may arise under the APA”).

65. Prejudice is generally presumed when an agency violates its own policy. *See Leslie v. Att’y Gen. of U.S.*, 611 F.3d 171, 180 (3d Cir. 2010) (“For the sake of emphasis, we repeat: we hold that when an agency promulgates a regulation protecting fundamental statutory or constitutional rights of parties appearing before it, the agency

must comply with that regulation. Failure to comply will merit invalidation of the challenged agency action.”); *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991) (“We hold that an alien claiming the INS has failed to adhere to its own regulations . . . is not required to make a showing of prejudice before he is entitled to relief. All that need be shown is that the subject regulations were for the alien’s benefit and that the INS failed to adhere to them.”)

66. To remedy an *Accardi* violation, a court may direct the agency to properly apply its policy, or a court may apply the policy itself and order relief consistent with the policy. *Damus v. Nielsen*, 313 F. Supp. 3d 317, 343 (D.D.C. 2018) (“[T]his Court is simply ordering that Defendants do what they already admit is required.”); *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail hearing to review petitioners’ custody under ICE’s standards because “it would be particularly unfair to require that petitioners remain detained . . . while ICE attempts to remedy its failure.”).

67. Here, ICE has violated the requirements of 8 C.F.R. § 241.4(l) for revocation of release in violation of *Accardi*. ICE has not provided Mr. Lopez Sainz with any notice of its revocation of release or any explanation of its basis for revocation. If ICE alleged that he had violated his conditions of release (which Mr. Lopez Sainz wholeheartedly contests), it was required to “notif[y] [him] of the reasons for revocation” and “afford[] [him] an initial informal interview promptly” to allow him to contest these reasons. 8 C.F.R. § 241.4(l)(1). He has not received any such notification or interview.

68. Similarly, to the extent that ICE revoked Mr. Lopez Sainz’s release pursuant

to 8 C.F.R. § 241.4(l)(2), based on a determination of an “Executive Associate Commissioner” or “district director,” Mr. Lopez Sainz has received no notice of such determination or a prompt informal interview at which he could contest any such determination. Indeed, he has not received any written notice that his release was in fact revoked, much less one signed by an individual with the authority to do so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 160 (W.D.N.Y. 2025) (noting that the “Executive Associate Commissioner [of] INS is equivalent to the Executive Associate Director [of] ICE.”). Failure to provide notice of revocation that is signed by an individual with authority to do so means that the “release was not lawfully revoked, and . . . [Petitioner] is entitled to release on that basis alone.” *Id.* at 162.

69. Accordingly, this Court should order Mr. Lopez Sainz’s release on the same conditions with which he was previously complying. *See Jimenez*, 317 F. Supp. 3d at 657 (ordering petitioners’ release because “it would not be appropriate to allow ICE to decide again whether [petitioners’] detention should continue” and “[i]t would be particularly unfair to require that petitioners remain detained for another 30 days while ICE attempts to remedy its failure to follow its regulations and to provide each of them due process”).

B. ICE’s Re-Detention of Mr. Lopez Sainz Without Sufficient Process After Two Years of Compliance with His Order of Supervision Independently Violates His Due Process Rights.

70. Regardless of whether ICE complied with its regulations, the lack of process afforded Mr. Lopez Sainz to challenge his re-detention violates his procedural due process rights under the test in *Mathews v. Eldridge*, 424 U.S 319, 333 (1976); *see*

also *Morrissey v. Brewer*, 408 U.S. 471, 480-82 (1972) (holding that revocation of parole involves significant values within the protection of Due Process and termination of that liberty requires, among other protections, written notice of the claimed violations and an informal hearing to ensure that revocation is based on verified facts).

71. Here, application of the three-part *Mathews* test shows that Mr. Lopez Sainz's re-detention without any meaningful review is unconstitutional. With regard to the first prong of the test, the private interest that will be affected by the government action, "Mr. Lopez Sainz satisfies the first [prong] because the Government has restricted his liberty by imprisoning him, and '[f]reedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the Due Process Clause] protects.'" *Ledesma Gonzalez v. Bostock*, 2025 WL 2841574 (W.D. Wash. Oct. 7, 2025), at *7 (citing *Zadvydas*, 533 U.S. at 690). "The first factor – the private interest affected by the official action – is [Mr. Lopez Sainz's] liberty interest ... this is a fundamental interest that must be accorded significant weight." *Id.*

72. The second *Mathews* factor, the risk of erroneous deprivation and value of additional safeguards, also heavily favors Mr. Lopez Sainz. As discussed above, ICE failed to comply with its already minimal requirements for re-detention under the regulations. Mr. Lopez Sainz has received no explanation of the reasons for revocation of his supervised release, no signed notice of revocation, and no opportunity to present evidence in opposition of re-detention. Courts applying the *Mathews* test in analogous cases have found that a hearing is required *before* a person is deprived of his liberty by

revocation of an OSUP. *See, e.g., R v. Kaiser*, 2025 WL 2855193 (E.D. Cal. Oct. 8, 2025), at *6-7; *Ledesma Gonzalez*, 2025 WL 2841574, at *8-9; *see also Sanchez-Hernandez v. Figueroa*, 2:25-cv-2351, Dkt. 33 (D. Ariz. Aug. 5, 2025) (Lanza, J.) (petitioner “ordered released from custody, subject to the conditions of release that applied before the challenged revocation decision”).

73. The fact that Mr. Lopez Sainz was released almost immediately after he obtained CAT protection in December 2023 and was out of detention for over two years, during which time he did not engage in criminal activity and complied with all OSUP requirements, makes his re-detention particularly problematic. Indeed, there have been no material changes to Mr. Lopez Sainz’s situation since ICE previously released him shortly after his grant of CAT protection. *See Munoz-Saucedo*, 2025 WL 1750346, at *8 (Government’s argument that petitioner was dangerous “lacks credibility considering that ICE voluntarily released Petitioner in 2023 ... when it had no obligation to do so.”).

74. Third, the Government’s interest and the administrative burden of additional procedures further favors Mr. Lopez Sainz. The procedures set forth in the relevant regulations regarding revocation of release are minimal and impose a negligible burden on the Government. And while the Government may have a legitimate interest in ensuring Mr. Lopez Sainz’s appearance for any additional third-country removal proceedings and protecting the community from danger, it “has not articulated an interest in the prolonged detention of noncitizens who are neither dangerous nor a risk of flight.” *Black v. Decker*, 103 F.4th 133, 154 (2d Cir. 2024). Here, where ICE has not articulated

any danger or flight risk, and where no neutral adjudicator has determined that Mr. Lopez Sainz is either a danger or flight risk, any interest the Government may allege for continuing to detain him insufficient.

CLAIMS FOR RELIEF

COUNT I – VIOLATION OF 8 U.S.C. § 1231(a)(6)

75. Mr. Lopez Sainz realleges and incorporates by reference the paragraphs above as though fully set forth herein.

76. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for “a period of reasonably necessary to bring about the alien's removal from the United States.” 533 U.S. 689, 701.

77. The 90-day removal period and the six-month presumptively reasonable period from *Zadvydas* have long since expired, and Mr. Lopez Sainz's removal is still not reasonably foreseeable given him CAT grant and the unlikelihood of third-country removal. Therefore, his continued detention violates 8 U.S.C. § 1231(a)(6) and requires his immediate release.

COUNT II – VIOLATION OF THE DUE PROCESS CLAUSE OF THE

FIFTH AMENDMENT

78. Mr. Lopez Sainz realleges and incorporates by reference the paragraphs above as though fully set forth herein.

79. Respondents have violated their own binding regulations at 8 C.F.R. §241.4(1) regarding the procedures for revocation of release by failing to notify him of the reasons for revocation, provide him with notice of revocation signed by anyone with

authority to revoke his release, and provide him with an interview.

80. The Due Process Clause of the Fifth Amendment forbids the Government from depriving any person of liberty without due process of law. U.S. Const. Amend. V. Respondents were required to provide Mr. Lopez Sainz with notice and a meaningful opportunity to be heard prior to revoking his OSUP or detaining him, which they failed to do.

**COUNT III—ARBITRARY AND CAPRICIOUS AGENCY ACTION UNDER
THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A)**

81. Mr. Lopez Sainz realleges and incorporates by reference the paragraphs above as though fully set forth herein.

82. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

83. As discussed above, Respondents have violated their own binding regulations regarding the procedures for revocation of release. This is arbitrary, capricious, and contrary to law in violation of the APA.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request that this Court:

- (a) Assume jurisdiction over this matter;
- (b) Grant a writ of habeas corpus pursuant to 28 U.S.C. § 2241;

- (c) Declare that petitioner continued detention violates 8 U.S.C § 1231, as interpreted by the Supreme Court in *Zadvydas*;
- (d) Order his immediate release, subject to the same conditions as before his detention;
- (e) Alternatively, declare that Respondents' failure to follow the procedural requirements of 8 C.F.R. § 241.4 violates the Administrative Procedure Act, 5 U.S.C. § 706 and/or the Due Process Clause of the Fifth Amendment;
- (f) Prohibit Respondents from revoking Mr. Lopez Sainz's OSUP or re-detaining him in the future without complying with 8 C.F.R. § 241.4;
- (g) Enjoin all respondents and restrict them from re-detaining the petitioner without a new N.T.A. (Notice to Appear) and a pre-deprivative hearing;
- (h) Order Respondents to return him to the location at which they arrested him in Phoenix at Respondents' expense;
- (i) Award Petitioner his reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act or other applicable law;
- (j) Grant any other relief that this Court deems just and proper.

Date: 12-8-2025

Respectfully submitted,

Jorge Lopez

Petitioner

List of Attachments

- A. Decision and Order of the Immigration Judge Natalie Huddleston (11/27/2023)
- B. Order of Supervision for Petitioner (12/28/2023)

A

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
UNITED STATES IMMIGRATION COURT
FLORENCE, ARIZONA

IN THE MATTER OF:

WITHHOLDING-ONLY
PROCEEDINGS

LOPEZ-SAINZ, Jorge Luis

File No. 

APPLICANT

DATE: November 27, 2023

PROCEDURE: Withholding Only on a Reinstatement Order, after Reinstatement of a Prior, Final, Order of Removal, pursuant to Section 241(a)(5) of the Immigration and Nationality Act ("INA" or "the Act").

APPLICATIONS: Withholding of Removal pursuant to INA § 241(b)(3) Protection under the Convention Against Torture

ON BEHALF OF APPLICANT:

Luis Herrera Sebastian, Esq.
Florence Immigrant and Refugee Rights Project
P.O. Box 32670
Phoenix, Arizona 85064

ON BEHALF OF THE DEPARTMENT:

Robert Daly, Esq.
Assistant Chief Counsel
Department of Homeland Security
3250 North Pinal Parkway
Florence, Arizona 85132.

DECISIONS AND ORDERS OF THE IMMIGRATION JUDGE

I. PROCEDURAL HISTORY

Applicant, a native and citizen of Mexico, last entered the United States on September 15, 2015, at or near Douglas, Arizona. (Ex. 1, Form I-863 at Form I-871.) Applicant was previously ordered removed from the United States to Mexico on April 7, 2008. (*Id.* at IJ Order.) Applicant was then physically removed from the United States, on April 8, 2008. (*Id.* at Form I-871.) After an interview with a U.S. Border Patrol agent, Applicant was apprehended and detained by the Department of Homeland Security ("Department"), which subsequently served Applicant with a Notice of Intent/Decision to Reinstate Prior Order, Form I-871. (*Id.*)

On February 8, 2023, the Department filed a Notice of Referral to Immigration Judge, Form I-863, with the Florence Immigration Court. (Ex. 1, Form I-863.) The Form I-863 states that Applicant expressed a fear of return to Mexico, and that an asylum officer reviewed Applicant's claim and determined that he has a reasonable fear of persecution or torture in Mexico. (*Id.*) The Department therefore referred this matter to the Court for withholding-only proceedings in accordance with 8 C.F.R. § 208.31(e).

B

U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION

File No.: [Redacted]

Name: LOPEZ-SAINZ, JORGE LUIS

Date: December 28, 2023

On February 13, 2020, you were ordered:
(Date of Final Order)

- Excluded or deported pursuant to proceedings commenced prior to April 1, 1997.
- Removed pursuant to proceedings commenced on or after April 1, 1997.

Because the agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions:

- That you appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal.
- That upon request of the agency, you appear for medical or psychiatric examination at the expense of the United States Government.
- That you provide information under oath about your nationality, circumstances, habits, associations and activities and such other information as the agency considers appropriate.
- That you do not travel outside Arizona for more than 48 hours without first having notified this agency office of the dates and places, and obtaining approval from this agency office of such proposed travel.
(Specify geographic limits, if any)
- That you furnish written notice to this agency office of any change of residence or employment 48 hours prior to such change.
- That you report in person on 01/30/2024 10:00 AM to this agency office at:
(Date/Time)

See I-831

(Reporting Address)

- That you assist U.S. Immigration and Customs Enforcement in obtaining any necessary travel documents.
- Other: *Your release is contingent upon your enrollment and successful participation in an Alternatives to Detention (ATD) program as designated by the U.S. Department of Homeland Security. As part of the ATD program, you will be subject to electronic monitoring and may be subject to a curfew. Failure to comply with the requirements of the ATD program will result in a redetermination of your release conditions or your arrest and detention.*

If fitted with a U.S. Immigration and Customs Enforcement GPS tracking ankle bracelet, do not tamper with or remove the device. Under federal law, it is a crime to willfully damage or attempt to damage property of the United States. Damaging or attempting to damage the GPS tracking ankle bracelet or any of its associated equipment (including, but not limited to, the charging station, batteries, power cords, etc.) may result in your arrest, detention, and prosecution under 18 U.S.C. § 1361 and/or 18 U.S.C. § 641, each punishable by a fine, up to ten years imprisonment, or both.

See attached sheet containing other specified conditions (Continue on separate sheet if required)

[Signature]
(Signature of ICE Official)

KESSLER, S. 3532
(Print Name and Title of ICE Official)

Alien's Acknowledgement of Conditions of Release under an Order of Supervision

I hereby acknowledge that I have (read) (had interpreted and explained to me in the Spanish language) the contents of this order, a copy of which has been given to me. I understand that failure to comply with the terms of this order may subject me to a fine, detention, or prosecution.

[Signature]
(Signature of ICE Official Serving Order)

X
(Signature of Alien)

12/28/2023
(Date)

ALIEN COPY


ORDER OF SUPERVISION (ADDENDUM)

File No.: 

Name: LOPEZ-SAINZ, JORGE LUIS

Date: December 29, 2023

- That you do not associate with know gang members, criminal associates, or be associated with any such activity.
- That you register in a substance abuse program within 14 days and provide ICE with written proof of such within 30 days. The proof must include the name, address, duration, and objectives of the program as well as the name of a counselor.
- That you register in a sexual deviancy counseling program within 14 days and provide ICE with written proof of such within 30 days. You must provide ICE with the name of the program, the address of the program, duration and objectives of the program as well as the name of a counselor.
- That you register as a sex offender, if applicable, within 7 days of being released, with the appropriate agency(s) and provide ICE with written proof of such within 10 days.
- That you do not commit any crimes while on this Order of Supervision.
- That you report to any parole or probation officer as required within 5 business days and provide ICE with written verification of the officer's name, address, telephone number, and reporting requirements.
- That you continue to follow any prescribed doctor's orders whether medical or psychological including taking prescribed medication.
- That you provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document.
- That you provide ICE with written responses from the Embassy or Consulate regarding your request.
- Any violation of the above conditions will result in revocation of your employment authorization document.
- Any violation of these conditions may result in you being taken into Service custody and you being criminally prosecuted.
- Other:

X  _____
Alien's Signature

Alien's Name
LOPEZ-SAINZ, JORGE LUIS

File Number
[REDACTED]
Event No: [REDACTED]

Date
12/28/2023

LOCATION OF ICE OFFICE WHICH YOU REPORT TO

2035 N. Central Avenue
Phoenix, AZ 85004

Signature

KEVIN BOURNE



Title

DEPORTATION OFFICER

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Name: Jorge Luis Lopez-Sainz

A Number: ~~XXXXXXXXXX~~

Address: 1100 Bowling Rd.
Florence Ar. 85132

PRO SE

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Name: Jorge Luis Lopez-Sainz

Case No.

Petitioner,

MOTION FOR APPOINTMENT OF
COUNSEL PURSUANT TO 18
U.S.C. § 3006A

^v
K. Bourne (ICE officer in charge)
Luis de la Rosa (Florence Det. Center)
John Cantu (US Immigration and
Custom Enforcement)
Todd M. Lyons (Director US Immig
and Custom Enforcement)
Kristi Nuem (Secretary US DHS)
Pam Bondi (US A.G.)
Respondents.

Petitioner (name) Jorge Lopez-Sainz

has filed a petition for writ of
habeas corpus under 28 U.S.C. § 2241 challenging Petitioner's indefinite detention by
Respondents. Petitioner was detained by Immigration and Customs Enforcement (ICE) on or
about [date] 6-22-2025, Petitioner has remained in ICE custody since that
date. An Immigration Judge ordered Petitioner removed and Petitioner's removal order became
final on or about [date] 4-7-2008, but ICE has been unable to remove
Petitioner.

1
2 In *Zadvydas v. Davis*, the Supreme Court held that the Immigration statute 8 U.S.C. §
3 1231(a)(6) does not allow ICE to detain a noncitizen indefinitely while attempting to carry out
4 removal. 533 U.S. 678, 689 (2001). After six months of presumptively-reasonable detention, if
5 the noncitizen provides good reason to believe that removal is not reasonably foreseeable, the
6 burden shifts to the government to rebut that showing, *id.* at 701.

7 Petitioner moves the Court to appoint counsel to represent Petitioner in this case. The
8 Court may appoint counsel in a habeas action when the "interests of justice so require." 18 U.S.C.
9 § 3006A(a)(2)(B). Here, Petitioner has a strong chance of success on the merits because
10 Petitioner has been held for longer than six months since being ordered removed and Petitioner's
11 country still refuses to accept him or her. However, given the complexity of the law on
12 immigration detention and Petitioner's status as a detained immigrant, Petitioner would have
13 great difficulty presenting the case without the assistance of counsel. For these reasons, Petitioner
14 respectfully requests that the Court appoint counsel.

15 Date: 12-8-2025

16 Signature: Jorge Lopez
17 Petitioner