

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

ERNEST JOSEPH,

Plaintiff-Petitioner,

v.

SCOTTY RHODEN,

*in his official capacity as
Warden of Baker County
Detention Center as Sheriff
of Baker County Sheriff's Office,*

GARRETT J. RIPA,

*in his official capacity as
Field Office Director of
Miami Field Office of
U.S. Immigration & Customs
Enforcement,*

TODD LYONS,

*in his official capacity as Acting
Director, U.S. Immigration and
Customs Enforcement,*

KRISTI NOEM,

*in her official capacity as
Secretary, U.S. Department
of Homeland Security,*

PAMELA BONDI,

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

Defendants-Respondents.

Civil No. _____

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

COMES NOW Plaintiff-Petitioner ERNEST JOSEPH and hereby respectfully petitions this Court for a writ of habeas corpus to remedy his wrongful and unlawful detention and files the instant Complaint for Declaratory and Injunctive Relief against Defendants-Respondents SCOTTY RHODEN, in his official capacity as Warden of Baker County Detention Center as Sheriff of Baker County Sheriff's Office; GARRETT J. RIPA, in his official capacity as Field Office Director of Miami Field Office of U.S. Immigration & Customs Enforcement ("ICE"); TODD LYONS, in his official capacity as Acting Director of ICE; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security ("DHS"); and PAMELA BONDI, in her official capacity as Attorney General of the United States, challenging his unlawful and unconstitutional post-order immigration detention by DHS as violative of 8 U.S.C. § 1231(a)(6); contrary to 8 C.F.R. §§ 241.4, 241.4(l)(1), 241.4(l)(2), 241.13, and 241.13(i)(2); arbitrary, capricious, an abuse of discretion, and otherwise not in accordance with law, in violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A)–(E); and in contravention of his Fifth Amendment rights to procedural and substantive due process. In support of the relief requested herein, Plaintiff-Petitioner respectfully states as follows:

INTRODUCTION

It will not be denied, that power is of an encroaching nature, and that it ought to be effectually restrained from passing the limits assigned to it.

James Madison, The Federalist No. 48, p. 276 (C. Rossiter ed. 1961).

Contrary to long-standing precedent, existing statutory and regulatory authority, and established agency policies and practices, the Executive—acting contrary to law, arbitrarily and capriciously, and in conscious disregard and violation of both procedural and substantive due process guaranteed under the Fifth Amendment to the United States Constitution, is detaining yet another human being in what inexplicably amounts to nothing more than a draconian attempt to psychologically and financially coerce a foreign national from abandoning his life and Family in the United States despite its long-standing inability to accomplish removal of this individual itself and notwithstanding prior habeas relief granted to this individual by a federal district court in Florida where nothing has changed since entry of that judicial writ.

Despite the absence of new facts, new evidence, or any change in circumstances relevant to removability, DHS abruptly re-detained Plaintiff-Petitioner Ernest Joseph at a routine check-in consistent with his then existing order of supervision. More than a decade ago, the United States District Court for the Northern District of Florida squarely rejected claims by DHS that Plaintiff-Petitioner's removal to Haiti was reasonably foreseeable. The Court

expressly found assurances to the contrary by DHS were speculative, unsupported, and contradicted by its own failed removal efforts and inability to obtain sufficient travel documents. Nothing has changed. Haiti still has not issued travel documents. DHS still lacks proof of citizenship acceptable to Haiti. No third country has agreed to accept Plaintiff-Petitioner. Nor would it be lawful for DHS to remove Plaintiff-Petitioner to a third-country, absent either his voluntary consent or constitutionally adequate due process. *See D.V.D. v. DHS*, 778 F. Supp. 3d 355 (D. Mass. Apr. 18, 2025) (certifying nationwide class and entering preliminary injunction requiring written notice and a meaningful opportunity to seek CAT protection before removal to a third country), *appeal pending*, No. 25-1393 (1st Cir.); *DHS v. D.V.D.*, 145 S. Ct. 2153 (Jun. 23, 2025) (granting emergency application by DHS to stay preliminary injunction pending appeal). Because there is no new pathway to effectuation of Plaintiff-Petitioner's removal, his post-order immigration detention is improper and unlawful.

This Petition presents three core arguments. First, Plaintiff-Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6) and *Zadvydas* because—as then Magistrate Judge William C. Sherrill, Jr. and District Judge Robert L. Hinkle already determined—there is no significant likelihood of his removal in the reasonably foreseeable future. Second, re-detention of Plaintiff-Petitioner by DHS is unlawful because there are no materially changed circumstances

that could justify revisiting its determination that release on order of supervision was legally and factually appropriate. Third, DHS independently violated its own regulations as well as due process by revoking Plaintiff-Petitioner's order of supervision without satisfying any regulatory ground or following mandatory procedures. Each of these defects is independently fatal; together, they make continued detention of Plaintiff-Petitioner legally indefensible these circumstances warranting immediate and meaningful relief.

* * *

Due to the ongoing deprivation of his liberty and urgent irreparable harms flowing to his Family and community—long-time partner who is a member in good standing of The Florida Bar and local immigration attorney and three (3) minor children all United States citizens—Plaintiff-Petitioner respectfully requests entry of an Order to Show Cause within three (3) days under 28 U.S.C. § 2243, and reserves the right to file an Emergency Motion for Temporary Restraining Order in accordance with FED. R. CIV. P. 65(b) and Local Rule 6.01.

PARTIES

1. Plaintiff-Petitioner Ernest Joseph (“Plaintiff-Petitioner”) is an individual who resides in the City of Jacksonville, which is located in Duval County, Florida.

2. Plaintiff-Petitioner is currently in the physical custody of U.S. Immigration and Customs Enforcement (“ICE”), a component of the U.S. Department of Homeland Security (“DHS”), and detained at Baker County Detention Center.

3. Plaintiff-Petitioner is currently detained at Baker County Detention Center, located in the City of MacClenny, which is located in Baker County, Florida.

4. Defendant-Respondent Scotty Rhoden is sued in his official capacity as Baker County Sheriff. He has oversight, command, and control over Baker County Detention Center and therefore immediate legal custodian of Plaintiff-Petitioner.

5. Defendant-Respondent Garret J. Ripa is sued in his official capacity as Field Office Director, Miami Field Office, ICE. As Field Office Director, he is Plaintiff-Petitioner’s legal custodian.

6. Defendant-Respondent Todd Lyons is sued in his official capacity as the Acting Director of Immigration and Customs Enforcement, which is a component of DHS. As Acting Director of ICE, he is Plaintiff-Petitioner’s legal custodian.

7. Defendant-Respondent Kristi Noem is sued in her official capacity as Secretary of DHS and generally responsible for the administration and

enforcement of applicable laws and statutes governing immigration. As Secretary of DHS, she is Plaintiff-Petitioner's legal custodian.

8. Defendant-Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. She has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103, and thus legal custodian of Plaintiff-Petitioner.

JURISDICTION

9. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952, 8 U.S.C. § 1101, *et seq.* ("INA").

10. This Court has jurisdiction over this petition for writ of habeas corpus under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1361 (mandamus); art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); U.S. Const. amend. V (the Due Process Clause of the U.S. Constitution); and has jurisdiction to issue a declaratory judgment pursuant to 28 U.S.C. §§ 2201-02.

11. This Court may grant habeas relief pursuant to 28 U.S.C. §§ 2201-02, 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

12. This Court has jurisdiction over all non-habeas claims alleged in this action pursuant to 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346 (federal defendant); and 5 U.S.C. § 702 (right of review).


13. The Court is authorized to grant the requested relief under 5 U.S.C. § 706(2)(A)-(E); 28 U.S.C. §§ 2201-2202; and 28 U.S.C. § 1651, as well as pursuant to its inherent equitable powers.

VENUE

14. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2), and (e)(1)(B) because a substantial part of the events or omissions giving rise to the claim occurred in this District, no real property is involved, and Plaintiff-Petitioner is detained within this judicial district.

FACTS & BACKGROUND

Identity, National Origin, and Entry

15. Plaintiff-Petitioner Ernest Joseph is a native and citizen of Haiti, born in Cap-Haïtien, Haiti, on . See Government's Answer to § 2241 Petition (Dkt. No. 15) at p. 1 (filed herewith as Exhibit A).[†]

16. Haiti is consistently listed as Plaintiff-Petitioner's place of birth in DHS records, including his I-217 and Fiche Signaletique du Déporté. See Exhibit A at p. 1.

17. Plaintiff-Petitioner's mother is deceased, his father resides in the Miami area, and he has an uncle, Vivens Metelus, who resides in Haiti. See

[†] All references to docket entries refer to *Ernest Joseph v. Attorney General, et al.*, No. 4:11-cv-525 (N.D. Fla.).

Declaration of Abraham De Leon (Dkt. No. 22-1) at pp. 1–2 (filed herewith as Exhibit B).

18. DHS has repeatedly acknowledged that it does not possess a Haitian birth certificate or other primary Haitian identity documents for Plaintiff-Petitioner and has instead relied on biographic information contained in his immigration Alien File. See Exhibit B at p. 2.

19. Plaintiff-Petitioner entered the United States as a minor, approximately in or around 1990, after being brought by a “guardian” during a period of political violence in Haiti. See Petition for Writ of Habeas Corpus (Dkt. No. 1) at pp. 4–5 (filed herewith as Exhibit C).

20. Due to his young age at entry and subsequent abandonment by that guardian, Plaintiff-Petitioner does not know whether lawful immigration papers were ever filed on his behalf. See Exhibit C at p. 4.

21. After being abandoned, Plaintiff-Petitioner resided with an adopted family in Florida and has lived the overwhelming majority of his life in the United States. *Id.* at p. 5.

Criminal History & Removal Proceedings

22. In April 2002, Plaintiff-Petitioner was arrested and later pled guilty to attempted armed robbery and aggravated assault. See Exhibit C at p. 4. He was sentenced to prison for ten (10) years followed by probation. See Exhibit C at p. 4.

23. On July 17, 2007, an Immigration Judge ordered Plaintiff-Petitioner removed to Haiti. See Exhibit C at p. 3.

24. Plaintiff-Petitioner did not appeal the removal order, rendering it administratively final on that date. See Exhibit C at p. 3.

25. After completing his criminal sentence, DHS took Plaintiff-Petitioner into ICE custody on April 12, 2011. See Exhibit A at p. 1.

26. Plaintiff-Petitioner thereafter remained detained pursuant to a final order of removal. See Report and Recommendation (Dkt. No. 23) at p. 1 (Feb. 14, 2012) (filed herewith as Exhibit D).

Inability to Effectuate Removal Process

27. Beginning in April 2011, DHS attempted to obtain travel documents from the Government of Haiti. See Respondents' Supplemental Response (Dkt. No. 22) at p. 1 (filed Feb. 6, 2012) (filed herewith as Exhibit E).

28. DHS submitted an electronic travel document request on April 22, 2011. See Exhibit E at p. 1.

29. Despite these efforts, DHS conceded it lacked a Haitian birth certificate or other definitive proof of Haitian citizenship required by Haiti. See Exhibit B at p. 2.

30. In November 2011, DHS transferred Plaintiff-Petitioner to Louisiana in preparation for removal on an ICE charter flight to Haiti. See

Petitioner's Reply (Dkt. No. 20) at pp. 3–4 (Jan. 4, 2012) (filed herewith as Exhibit F).

31. Haitian authorities refused to accept Plaintiff-Petitioner and directed DHS to remove him from the flight because Haiti did not recognize him as a citizen. See Exhibit F at p. 4.

32. Plaintiff-Petitioner was returned to ICE custody in Florida following the failed removal. See Exhibit F at pp. 3–4.

33. On December 9–10, 2011, Plaintiff-Petitioner was interviewed by representatives of the Government of Haiti at the Baker County Jail. See Order Directing Supplemental Response (Dkt. No. 21) at pp. 3–4 (Jan. 10, 2012) (filed herewith as Exhibit G).

34. Haitian officials stated only that they were “willing to consider” Plaintiff-Petitioner for removal. See Exhibit B at p. 1.

35. No travel documents were issued in the months following that interview (and none have been issued to date). See Exhibit D at pp. 8–9.

Prior Habeas Litigation and Judicial Findings

36. On October 13, 2011, Plaintiff-Petitioner filed a petition for writ of habeas corpus, to wit: *Ernest Joseph v. Attorney General*, et al., No. 4:11-cv-525 (N.D. Fla.). See Exhibit C.

37. On December 20, 2011, DHS filed an Answer asserting that removal was reasonably foreseeable. See Exhibit A.

38. DHS relied primarily on the declaration of John K. Crowther, then Deputy Assistant Director of ICE's Removal Management Division, dated December 8, 2011. *See* Declaration of John K. Crowther (Dkt. No. 15-1) (filed herewith as Exhibit I).

39. Mr. Crowther asserted that ICE "does not foresee any difficulties" obtaining travel documents and that Plaintiff-Petitioner was "scheduled" for removal. *See* Exhibit I at pp. 1–2. Plaintiff-Petitioner filed a reply on January 4, 2012, detailing Haiti's refusal to accept him. *See* Exhibit F.

40. Magistrate Judge William C. Sherrill, Jr. ordered DHS to file a supplemental response by January 10, 2012. *See* Exhibit G.

41. On February 14, 2012, Magistrate Judge Sherrill issued a Report and Recommendation reasoning the habeas petition should be granted. *See* Exhibit D.

42. Magistrate Judge Sherrill found representations by DHS as to Petitioner-Plaintiff's removability to be speculative, uncorroborated, and insufficient under *Zadvydas*. *Id.* at pp. 8–10.

43. On March 21, 2012, the District Court adopted the Report and Recommendation and entered judgment granting habeas relief. *See* Judgment (Dkt. No. 25) (Mar. 21, 2012) (filed herewith as Exhibit H).

Family Circumstances & Irreparable Harm

44. Plaintiff-Petitioner has been in a committed relationship with his significant other, Karen Winston, for twelve (12) years, and together they have built a stable family rooted in Jacksonville, Florida. See Affidavit of Karen Winston (filed herewith as Exhibit J) at ¶ 1.

45. Ms. Winston is a member in good standing of The Florida Bar and long-time Jacksonville-based immigration attorney whose legal practice serves vulnerable noncitizens navigating an increasingly hazardous immigration system. See Exhibit J at ¶¶ 1, 7–8, 18–19. Plaintiff-Petitioner’s detention has understandably diverted Ms. Winston’s attention from active legal practice due and has thus deprived the community of critical legal representation and advocacy in immigration matters during a period of historic need. *Id.*

46. Plaintiff-Petitioner and Ms. Winston are the natural parents of three (3) United States citizen children: A.J., age nine (9); C.J., age seven (7); and P.J., age four (4). See Exhibit J at ¶ 1.

47. The Family lives together as a single household in Jacksonville, Florida where Plaintiff-Petitioner functions as the primary caregiver and emotional center of the home. See Exhibit J at ¶¶ 2, 6–11.

48. On December 15, 2025, Plaintiff-Petitioner was re-detained by ICE during what was supposed to be a routine reporting and check-in appointment in accordance with his release on Order of Supervision. See Exhibit J at ¶ 2.

49. Plaintiff-Petitioner's recent re-detention instantly shattered the stability of his Family severing Plaintiff-Petitioner from his children and leaving them without their primary source of daily care, reassurance, and structure. See Exhibit J at ¶¶ 3–6, 18–19.

50. The harm inflicted by Plaintiff-Petitioner's re-detention is immediate, severe, and irreparable, and it falls most brutally on his children. See Exhibit J at ¶¶ 5, 18–19.

51. The impact is especially devastating for A.J., who has been formally evaluated by a board-certified clinical neuropsychologist and diagnosed with Autism Spectrum Disorder, Level 1; Attention-Deficit/Hyperactivity Disorder (combined presentation); and an unspecified mood disorder. See Confidential Neuropsychological Evaluation of A.J. (Nov. 19, 2025) (filed herewith as Exhibit K) at pp. 1–4.

52. The neuropsychological evaluation establishes that A.J. suffers from clinically significant depression, anxiety, social stress, emotional dysregulation, and executive-functioning deficits. See Exhibit K at pp. 4–5. These conditions require consistency, predictability, and secure attachment to a primary caregiver to prevent regression. *Id.* at pp. 4–6. Disruption of routine and loss of a stabilizing parental relationship place A.J. at serious risk of emotional decompensation, worsening mood symptoms, and long-term developmental harm. *Id.* at pp. 4–6.

53. These findings are not speculative or subjective. They are grounded in extensive standardized testing, clinical observation, and corroborated reports from parents and teachers, confirming that A.J.'s needs are profound, ongoing, and medically documented. *Id.* at pp. 1–5.

54. Plaintiff-Petitioner is A.J.'s primary emotional anchor. He is the parent A.J. relies upon for emotional regulation, reassurance, and stability, and the parent who consistently attends therapy appointments, reinforces therapeutic strategies at home, and provides the structure clinicians have deemed essential to A.J.'s mental health. *Id.* at ¶¶ 12–16. Plaintiff-Petitioner's sudden removal from A.J.'s life has placed this medically vulnerable child in immediate jeopardy at a critical developmental stage, harm that no later remedy can undo. *Id.* at pp. 4–6; *see also* Exhibit J at ¶¶ 18–19.

55. The harm extends to C.J. and P.J., who are also at critical developmental stages and have been abruptly deprived of their father's daily presence. *See* Exhibit J at ¶¶ 20–25.

56. C.J., a bright and sensitive seven (7) year-old, depended on Plaintiff-Petitioner for daily academic support and emotional reassurance and now struggles to understand why her father vanished from her life without warning. *Id.* at ¶ 20.

57. P.J., only four (4) years old, still expects Plaintiff-Petitioner to be present at bedtime and throughout the day, and experiences visible distress and confusion when those expectations are unmet. *Id.* at ¶¶ 21–23.

58. Plaintiff-Petitioner’s re-detention has also plunged his Family into severe financial instability.

59. Plaintiff-Petitioner owns and operates a paver business that provided essential income and flexibility necessary to care for three young children. *Id.* at ¶ 5. His detention eliminated that income overnight and simultaneously impaired Ms. Winston’s ability to maintain her legal practice, as she must now personally absorb childcare and transportation responsibilities previously handled by Plaintiff-Petitioner, reducing her available work hours at a time of extraordinary demand for immigration legal counsel. *Id.* at ¶¶ 6–8, 18–19.

60. Plaintiff-Petitioner is also indispensable to the care of Ms. Winston’s elderly parents, who live nearby and depend on him for physical assistance and emergency support. *Id.* at ¶¶ 29–31.

61. Ms. Winston’s father is wheelchair-bound and regularly required Plaintiff-Petitioner’s assistance for transfers and mobility. *Id.* at ¶ 29. Without Plaintiff-Petitioner, these elders face heightened risk of injury, medical emergencies, and institutionalization. *Id.* at ¶¶ 29–31.

62. Finally, Plaintiff-Petitioner himself has suffered and continues to suffer irreparable harm. His liberty is deprived. Moreover, having grown up with no meaningful family support apart from his own household, he devoted his adult life to being a present, loving father and partner. *Id.* at ¶¶ 9–11, 32–34. Each day of detention permanently steals irreplaceable moments from his children, deepens their trauma, and fractures a family that was functioning, stable, and thriving before DHS unlawfully intervened. *Id.* at ¶¶ 30–35. These harms are immediate, compounding, and incapable of remediation through later relief, making Plaintiff-Petitioner’s continued detention intolerable under any conception of the law or due process.

LEGAL AUTHORITY

Review of Post-Order Detention

63. A petition for writ of habeas corpus under 28 U.S.C. § 2241 is the traditional and appropriate mechanism for challenging the legality of immigration detention. Federal courts retain jurisdiction to review whether detention exceeds statutory and constitutional limits, including detention under Section 1231(a)(6), re-detention following release, and revocation of Orders of Supervision. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

64. Contrary to frequent argument of DHS, jurisdiction is not stripped by 8 U.S.C. § 1252(g) where, as here, Plaintiff-Petitioner does not challenge the validity of a removal order or a discretionary decision to execute removal but

instead challenges detention that is divorced from any realistic prospect of removal. *See Escalante v. Noem*, 2025 U.S. Dist. LEXIS 148899, at *9–*11 (D. Ariz. Aug. 7, 2025); *Grigorian v. Bondi*, 2025 U.S. Dist. LEXIS 175489, at *10–*13 (S.D. Fla. Sept. 9, 2025).

65. Courts within and outside the Eleventh Circuit consistently recognize habeas jurisdiction to review compliance with Section 1231(a), the implementing regulations, and due-process constraints. *See, e.g., Barrios v. Ripa*, 2025 U.S. Dist. LEXIS 153228 (S.D. Fla. Aug. 8, 2025); *see also Roble v. Bondi*, 2025 U.S. Dist. LEXIS 164108, at *6–*9 (D. Minn. Aug. 25, 2025); *Tadros v. Noem*, 2025 U.S. Dist. LEXIS 113198, at *10–*14 (D.N.J. June 12, 2025).

***Detention Under
Section 1231(a)(6) is
Constitutionally Limited***

66. Once a removal order becomes final, detention authority is governed by Section 1231(a). The statute provides for a mandatory 90-day “removal period” after which continued detention is authorized only under Section 1231(a)(6). *See 8 U.S.C. § 1231(a)(1), (a)(6)*.

67. In *Zadvydas v. Davis*, the Supreme Court held that Section 1231(a)(6) does not authorize indefinite detention. *See Zadvydas*, 533 U.S. at 689–99. To avoid serious constitutional concerns, the Court construed the

statute to permit detention only for so long as reasonably necessary to effectuate removal. *Id.* at 699.

68. The Court established a presumptively reasonable six (6) month period of post-order detention. *Id.* at 701. After that period, once a noncitizen provides good reason to believe that removal is not significantly likely in the reasonably foreseeable future, the burden shifts to DHS to rebut that showing with concrete, individualized, and non-speculative evidence. *Id.*

69. Detention that no longer bears a reasonable relation to the purpose of effectuating removal becomes punitive and violates the Due Process Clause. *Id.* at 690.

Re-Detention Does Not Reset Removal Period

70. Courts overwhelmingly reject the notion that DHS may restart the *Zadvydas* clock by re-detaining a noncitizen who was previously released from post-order custody. Courts having examined the issue have determined that the likelihood-of-removal inquiry applies immediately upon re-detention. *See Siguenza v. Moniz*, 2025 U.S. Dist. LEXIS 188746, at *7 (D. Mass. Sept. 25, 2025) (collecting cases).

71. As *Siguenza* explains, permitting DHS to reset the detention clock upon re-detention would allow the Government to evade constitutional limits through serial release and re-arrest, resulting in *de facto* periods of indefinite detention. *Id.* at *7–9.

72. Numerous courts have thus similarly expressly held that the six (6) month presumptive period does not reset when DHS detains, releases, and later re-detains a noncitizen under Section 1231(a). *See, e.g., Sied v. Nielsen*, 2018 U.S. Dist. LEXIS 66374, at *16 (D. Mass. Apr. 19, 2018) (“Several courts have held that the six-month period does not reset when the government detains an alien under 8 U.S.C. § 1231(a), releases him from detention, and then re-detains him again.”) (collecting cases).

73. Accordingly, at the outset of re-detention, DHS bears the burden of demonstrating that materially changed circumstances now render removal significantly likely in the reasonably foreseeable future. *Siguenza*, 2025 U.S. Dist. LEXIS 188746, at *7–9.

***Speculation, Administration Policy,
or Quota-Driven Detention***

74. Courts consistently reject DHS attempts to justify continued or renewed detention based on speculative future events, generalized diplomatic efforts, or internal enforcement initiatives untethered to individualized evidence. *See, e.g., Makuey v. Scott*, 2025 U.S. Dist. LEXIS 259981, at *31–33 (W.D. Wash. Dec. 16, 2025).

75. In *Makuey*, the District Court scrutinized DHS’s reliance on shifting enforcement priorities and the speculative possibility of third-country removal, concluding that such considerations cannot satisfy the Government’s

burden under *Zadvydas*. *Id.* at *32–33. This skepticism echoes the same concerns Magistrate Judge Sherrill noted in recommending grant of Plaintiff-Petitioner’s prior habeas petition.

76. In particular, District Court have noted recently leaked internal ICE guidance encouraging the re-detention of individuals previously released from post-order custody based not on individualized assessments of removability, but on generalized enforcement initiatives and speculative prospects of third-country removal. *See Makuey*, 2025 U.S. Dist. LEXIS 259981, at *32–33; *see also Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 165–66 (W.D.N.Y. 2025); Nick Miroff and Maria Sacchetti, “Trump Seeks to Fast-Track Deportations of Hundreds of Thousands,” *The Washington Post* (Feb. 28, 2025) (citing Feb. 18, 2025 memorandum, available at <https://perma.cc/VKT4-ZB2G>) (describing internal ICE memorandum instructing officers to pursue re-detention based on enforcement priorities rather than individualized likelihood of removal).

77. Courts have emphasized that detention motivated by quota-driven or politically imposed objectives rather than case-specific facts bearing on removability, violates both Section 1231(a)(6) and due process. *See Makuey*, 2025 U.S. Dist. LEXIS 259981, at *31–33; *Ceesay*, 781 F. Supp. 3d at 164–66.

***Order of Supervision Revocation is
Narrow & Cabined by Regulation***

78. When DHS releases a noncitizen under an Order of Supervision following post-order detention, that release is governed by regulations that strictly limit DHS's authority to revoke supervision. See 8 C.F.R. §§ 241.4 & 241.13.

79. As explained in *Barrios v. Ripa*, revocation is permissible only if DHS establishes one of the specific regulatory grounds set forth in the regulations, including: (1) a violation of release conditions; (2) materially changed circumstances rendering removal significantly likely; or (3) new information showing the original release decision was erroneous. *Barrios v. Ripa*, 2025 U.S. Dist. LEXIS 153228, at *17–22 (S.D. Fla. Aug. 8, 2025); see also 8 C.F.R. §§ 241.4 & 241.13

80. Absent satisfaction of one of these regulatory predicates, DHS lacks authority to revoke supervision and re-detain the individual. See *Grigorian*, 2025 U.S. Dist. LEXIS 175489, at *14–20; *Zongbo Zhu v. Genalo*, 2025 U.S. Dist. LEXIS 166176, at *18–23 (S.D.N.Y. Aug. 26, 2025).

81. Before revoking an Order of Supervision, DHS must provide written notice stating the reasons for revocation and must conduct a prompt informal interview affording the noncitizen an opportunity to respond. See 8 C.F.R. § 241.4(d)(1).

82. These procedures are mandatory. Under the *Accardi* doctrine, agencies are bound to follow their own regulations when individual liberty is at stake. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

83. Failure to comply with these procedures independently renders detention unlawful. *See Ceesay*, 781 F. Supp. 3d at 159–66; *see also Grigorian*, 2025 U.S. Dist. LEXIS 175489, at *17–20; *Roble*, 2025 U.S. Dist. LEXIS 164108, at *8–9.

Judicial Review Available

84. Although DHS often invokes Section 1252(g) attempting to shield detention decisions from review, District Court consistently hold that the statute does not bar review of unlawful detention or regulatory noncompliance. *See Escalante*, 2025 U.S. Dist. LEXIS 148899, at *9–11; *Tadros*, 2025 U.S. Dist. LEXIS 113198, at *12–14.

85. Review is especially appropriate where, as here, DHS seeks to alter the *status quo* by depriving an individual of liberty without satisfying statutory or regulatory prerequisites. *See Roble*, 2025 U.S. Dist. LEXIS 164108, at *7–9.

86. Where detention violates statutory or constitutional limits, release is the appropriate and traditional habeas remedy. *See Zadvydas*, 533 U.S. at 699; *see also Ceesay*, 781 F. Supp. 3d at 165–66.

87. District Courts emphasize that continued detention cannot be cured by further process where removal is not realistically foreseeable. In such circumstances, habeas relief requires release under appropriate conditions of supervision. *See Siguenza*, 2025 U.S. Dist. LEXIS 188746, at *20–21; *Makuey*, 2025 U.S. Dist. LEXIS 259981, at *33.

LEGAL ARGUMENT

No Significant Likelihood of Removal in the Reasonably Foreseeable Future

88. Plaintiff-Petitioner’s continued detention cannot be reconciled with Section 1231(a)(6) or the United States Constitution because there remains no significant likelihood that he will be removed to Haiti in the reasonably foreseeable future. That conclusion is not speculative, debatable, or premature—it is evident, adjudicated, and unchanged.

89. More than a decade ago, the Northern District of Florida squarely addressed the precise question presented here: whether DHS could demonstrate a realistic prospect of Plaintiff-Petitioner’s removal to Haiti.

90. After full briefing, evidentiary submissions, and supplemental responses ordered by the court, Magistrate Judge Sherrill found that DHS’s representations regarding foreseeability of removal were speculative, unsupported, and contradicted by DHS’s own failed removal efforts and lack of

travel documents. The District Court adopted that finding in full and ordered Plaintiff-Petitioner's release.

91. Nothing material has changed since that judgment was entered. Haiti has still not issued travel documents. DHS still lacks primary proof of Haitian citizenship acceptable to Haitian authorities. Plaintiff-Petitioner was previously rejected by Haiti during a charter removal flight. No third-country has agreed to accept him nor would it be legally permissible for DHS to remove Plaintiff-Petitioner to a third-country. DHS identifies no new diplomatic breakthrough, no newly obtained identity documents, and no concrete removal plan. Instead, DHS has simply re-detained Plaintiff-Petitioner for sake of detention only.

92. Under *Zadvydas*, once a noncitizen provides good reason to believe removal is not significantly likely in the reasonably foreseeable future, the burden shifts to DHS to rebut that showing with concrete evidence.

93. Plaintiff-Petitioner has far exceeded that burden here. DHS cannot meet its own legal burden to justify the re-detention at issue. Continued detention under these circumstances is therefore unlawful.

***Re-Detention Absent Materially
Changed Circumstances***

94. DHS's attempt to re-detain Plaintiff-Petitioner suffers from a fatal legal defect: re-detention does not reset the *Zadvydas* analysis. The law is

clear that the likelihood-of-removal inquiry applies immediately upon re-detention, and DHS must demonstrate materially changed circumstances rendering removal now significantly likely.

95. Here, DHS has identified no such circumstances. There has been no change in Haiti's position. No new identity documentation has emerged. No repatriation agreement has been executed. No third-country alternative has materialized nor would it be legally permissible for DHS to remove Plaintiff-Petitioner to a third-country. The factual landscape is identical to the one that existed when the Northern District of Florida ordered Plaintiff-Petitioner's release over a decade ago.

96. Allowing DHS to re-detain Plaintiff-Petitioner under these circumstances would eviscerate *Zadvydas* and permit precisely the kind of serial release-and-recapture regime courts have condemned. The Constitution does not permit DHS to warehouse a person indefinitely by cycling him in and out of custody whenever enforcement priorities shift or the need to meet an arbitrary quota for immigration detentions arises.

***Re-Detention Not Driven
by Individualized Facts***

97. The record strongly suggests that Plaintiff-Petitioner's re-detention was not motivated by any individualized reassessment of

removability, but by broader enforcement initiatives and quota-driven objectives imposed by the current administration.

98. District Courts have increasingly scrutinized DHS's reliance on generalized policy initiatives—particularly renewed emphasis on third-country removals—to justify re-detention of individuals long released from post-order custody. As District Courts have recognized, speculative prospects of future diplomatic success cannot substitute for individualized evidence of foreseeability of removal.

99. ICE guidance recently surfaced that encourages immigration enforcement officers to re-detain individuals previously released under Orders of Supervision based on enforcement targets rather than case-specific facts. That guidance cannot override statutory and constitutional limits. Detention decisions must be tethered to reality, not aspiration; they must be linked to evidence, not political administration priorities.

100. At bottom, Plaintiff-Petitioner's re-detention bears all the hallmarks of precisely the conduct District Courts have condemned: sudden arrest during a routine reporting appointment, absence of any new removal evidence, and reliance on generalized enforcement rationales unrelated to Plaintiff-Petitioner's actual circumstances.

***Ultra Vires Revocation of
Order of Supervision***

101. Even if removal were theoretically foreseeable—which it is not—DHS independently lacked authority to revoke Plaintiff-Petitioner’s Order of Supervision.

102. Orders of Supervision may be revoked only under narrow, enumerated circumstances. *See, e.g., 8 C.F.R. §§ 241.4 & 241.13.* DHS must establish either a violation of release conditions, materially changed circumstances rendering removal likely, or newly discovered information showing the original release decision was erroneous. None of those conditions exist here.

103. Plaintiff-Petitioner complied with his Order of Supervision for more than a decade. DHS does not—and cannot—allege any violation. As explained above, there are no materially changed circumstances bearing on removability. Nor has DHS identified any new information undermining the basis for Petitioner’s original release.

104. Because none of the regulatory predicates for revocation at 8 C.F.R. §§ 241.4 & 241.13 are satisfied, DHS’s decision to revoke supervision and re-detain Petitioner was *ultra vires* and *void ab initio*.

***Detention Violative of Mandatory
Procedures and Due Process***

105. DHS's actions are unlawful for an additional, independent reason: it failed to follow its own mandatory procedures.

106. Before revoking an Order of Supervision, DHS must provide written notice of the reasons for revocation and conduct a prompt informal interview affording the noncitizen an opportunity to respond. See 8 C.F.R. § 241.4(l)(1). These requirements are not discretionary.

107. DHS did not provide Plaintiff-Petitioner with any meaningful notice; it did not conduct a procedurally adequate interview; and did not make individualized findings supporting revocation.

108. These procedural failures alone render Plaintiff-Petitioner's detention unlawful regardless of its substantive defects.

***Continued Unlawful Detention
Inflicting Profound & Irreparable Harm***

109. While unlawful detention is itself sufficient to warrant habeas relief, the equities here underscore the urgency of judicial intervention.

110. Plaintiff-Petitioner is the primary caregiver for three (3) United States citizen minor children, including a child with autism, ADHD, and mood disorder diagnoses who depends on stability, routine, and parental presence for emotional regulation and development. Plaintiff-Petitioner's sudden

removal has already caused severe distress and threatens lasting harm that no later remedy can undo.

111. Plaintiff-Petitioner also provides essential support to elderly family members and is a critical pillar of a functioning household that was stable, compliant, and thriving before DHS intervened. His detention has destabilized that household overnight and has collateral consequences extending beyond his family to the broader community, including the loss of vital legal services provided by his partner during a period of extraordinary need.

112. These harms are immediate, compounding, and irreparable. They amplify—rather than replace—the legal defects that already compel relief.

Release Only Lawful, Adequate & Meaningful Remedy

113. Because Plaintiff-Petitioner's detention exceeds statutory authority, violates due process—and is untethered from any realistic prospect of removal—release is the only appropriate and lawful remedy.

114. Continued detention cannot be cured by additional process, further review, or prolonged delay. Courts have consistently held that where removal is not reasonably foreseeable, habeas relief requires release under appropriate conditions of supervision.

115. Plaintiff-Petitioner has already demonstrated that he can and will comply with supervision. He has lived in the Jacksonville, Florida community

for years without incident. There is no legitimate governmental interest served by his continued detention absent any likelihood of removal.

* * *

116. Plaintiff-Petitioner has retained Dempsey Law, PLLC to represent him in this lawsuit and is obligated to pay Dempsey Law, PLLC its reasonable attorneys' fees.

117. All conditions precedent to bringing this action have occurred or have been waived.

118. Plaintiff-Petitioner now brings this petition for issuance of a writ of habeas corpus under 28 U.S.C. § 2241, and consolidated action under the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A)-(E), averring wrongful, arbitrary and capricious, and unlawful deprivation of his liberty in post-order immigration detention violative of 8 U.S.C. § 1231(a)(6), as construed by *Zadvydas v. Davis*, 533 U.S. 678 (2001), and in contravention of DHS's own binding regulations governing post-order detention, release, and supervision—including 8 C.F.R. §§ 241.4, 241.4(l)(1), 241.4(l)(2), 241.13—as well as violation of his Fifth Amendment rights to procedural and substantive due process, seeking habeas, declaratory, and injunctive relief.

CLAIMS FOR RELIEF

COUNT I
WRIT OF HABEAS CORPUS
Deprivation of Liberty Contrary to Law

119. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-118 above as though fully stated and set forth herein.

120. The Constitution guarantees that the writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (*citing* U.S. Const., Art I, § 9, cl. 2). “The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

121. A writ of habeas corpus may be granted to a petitioner who demonstrates that he is in custody in violation of the Constitution or federal law. *See* 28 U.S.C. § 2241(c)(3).

122. Historically, “the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, a district court’s habeas jurisdiction includes challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *see also Demore v. Kim*, 538 U.S. 510, 517 (2003).

123. As discussed, *supra*, at Paragraph Nos. 63-96, Petitioner-Plaintiff is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

124. Defendants-Respondents have also revoked Plaintiff-Petitioner's Order of Supervision absent sufficient legal authority or provision of meaningful due process including pre-deprivation notice or individualized hearing with constitutionally adequate procedures.

125. Defendant-Respondents lack sufficient legal authority to detain Plaintiff-Petitioner absent material change in circumstances vis-à-vis his removability to Haiti; absent and contrary to statutory and regulatory authority, basis, or grounds; and absent any individualized hearing with constitutionally adequate procedures.

126. Plaintiff-Petitioner is subject to a final order of removal and is detained, if at all, pursuant to Section 1231(a)(6). That statute, as construed by the Supreme Court in *Zadvydas*, authorizes detention only for a period reasonably necessary to effectuate removal and does not permit indefinite or potentially permanent detention.

127. Under *Zadvydas*, post-order detention is presumptively reasonable for six (6) months. Once that period has elapsed, and once the noncitizen provides good reason to believe that removal is not significantly

likely in the reasonably foreseeable future, the burden shifts to DHS to rebut that showing with concrete, individualized, and non-speculative evidence.

128. Plaintiff-Petitioner has overwhelmingly satisfied his burden of showing good reason. Indeed, the Northern District of Florida has already adjudicated this precise question and found that DHS failed to establish a significant likelihood of Plaintiff-Petitioner's removal to Haiti in the reasonably foreseeable future. That judgment rested on DHS's inability to obtain travel documents, Haiti's refusal to accept Plaintiff-Petitioner during a charter flight, and DHS's reliance on speculative assurances untethered to reality. See Exhibit D.

129. Those material facts remain unchanged. DHS still lacks primary identity documents acceptable to Haitian authorities. Haiti has not agreed to accept Plaintiff-Petitioner. No third country has been identified. DHS has not articulated any concrete removal plan or timeline. There has been no diplomatic breakthrough, no new evidence, and no change in circumstances bearing on removability.

130. Because Plaintiff-Petitioner's detention no longer bears a reasonable relation to the Government's purported regulatory purpose of effectuating removal, it is punitive in nature and violates the Due Process Clause of the Fifth Amendment.

131. Accordingly, Plaintiff-Petitioner's continued detention under Section 1231(a)(6) is unlawful, and habeas relief is required.

COUNT II
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
Deprivation of Liberty Contrary to Law

132. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-118 above as though fully stated and set forth herein.

133. Under § 706(a) of the APA, final agency action can be set aside if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; . . . [or] without observance of procedure required by law.” *See* 5 U.S.C. § 706(2)(A), (C)-(D).

134. As discussed, *supra*, at Paragraph Nos. 63-96, Petitioner-Plaintiff is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

135. Defendants-Respondents have revoked Plaintiff-Petitioner's Order of Supervision and deprived his liberty absent legal authority and contrary to well-established Constitutional, statutory, regulatory rights.

136. DHS's authority to revoke such an order is strictly limited by regulation. *See, e.g.,* 8 C.F.R. §§ 241.4 & 241.13. Revocation is permissible only upon a showing of: (1) a violation of release conditions; (2) materially

changed circumstances rendering removal significantly likely; or (3) newly discovered information demonstrating that the original release decision was erroneous. *Id.* None of those conditions exists here.

137. Plaintiff-Petitioner complied with all conditions of supervision for years. DHS does not allege any violation. As alleged above, there are no materially changed circumstances bearing on removability. Nor has DHS identified any new information undermining the basis for Plaintiff-Petitioner's original release.

138. Because DHS failed to satisfy any regulatory predicate for revocation, its decision to revoke Plaintiff-Petitioner's Order of Supervision and re-detain him exceeded its statutory and regulatory authority and is void ab initio.

139. Continued detention of Plaintiff-Petitioner is therefore not in accordance with law, in excess of statutory authority, and without observance of procedure required by law and unlawful.

140. Additionally, Plaintiff-Petitioner's continued detention absent showing of a significant likelihood of removal in the reasonably foreseeable future; any material change in circumstances affecting Petitioner-Plaintiff's removability; adherence to 8 C.F.R. §§ 241.4 & 241.13; or individualized and constitutionally adequate hearing is unlawful.

141. As a direct and proximate result of his wrongful, unlawful, and *ultra vires* detention by Defendants-Respondents, Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT III
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
Arbitrary & Capricious Deprivation of Liberty

142. Plaintiff adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-118 above as though fully stated and set forth herein.

143. Under § 706(a) of the APA, final agency action can be set aside if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” including if it fails to make a rational connection between the facts found and the decision made. *See* 5 U.S.C. § 706(2)(A).

144. Defendants-Respondents have failed to articulate any facts or sufficient legal authority that forms a basis for their decision to detain Plaintiff-Petitioner let alone any rational connection between the facts found and their adverse decision made.

145. As discussed, *supra*, at Paragraph Nos. 34-72, Petitioner-Plaintiff is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court. Plaintiff-Petitioner’s continued detention absent showing of a significant likelihood of removal in the reasonably foreseeable future; any material change in circumstances affecting

Petitioner-Plaintiff's removability; adherence to 8 C.F.R. §§ 241.4 & 241.13; or individualized and constitutionally adequate hearing is unlawful.

146. The adverse action by Defendants-Respondents is therefore patently arbitrary and capricious.

147. As a direct and proximate result of his wrongful, unlawful, and *ultra vires* detention by Defendants-Respondents, Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT IV
VIOLATION OF FIFTH AMENDMENT
Procedural Due Process

148. Plaintiff-Petitioner adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-118 above as though fully stated and set forth herein.

149. Procedural due process requires that the government be constrained before it acts in a way that deprives individuals of liberty interests protected under the Due Process Clause of the Fifth Amendment to the United States Constitution.

150. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

151. Pursuant to *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of

an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

152. Petitioner-Plaintiff has a significant interest at stake. Being free from physical detention by one’s own government “is the most elemental of liberty interests.” *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

153. Petitioner-Plaintiff is being held at a county jail in the same conditions as criminal inmates and is far from his Family, which desperately requires both his financial assistance and emotional and logistical support vis-à-vis three (3) minor United States citizen children.

154. There is a large risk of erroneous deprivation of Petitioner-Plaintiff’s liberty interest through the procedures used in this case (in this case none) and there are available alternative procedures which would ameliorate those risks.

155. The risk of deprivation is high because, contrary to law, Defendant-Respondents have ignored a prior Florida District Court entry of Order mandating Plaintiff-Petitioner’s release; violated Constitutional, statutory, and regulatory laws; failed to demonstrate any material change in circumstances giving rise to significant likelihood of removal in the reasonably

foreseeable future; and both revoked Plaintiff-Petitioner's Order of Supervision and deprived his liberty absent any individualized and constitutionally adequate hearing.

156. There are no significant governmental interest at stake related to Plaintiff-Petitioner's continued detention because his availability for removal may be secured by less restrictive means, i.e., release on Order of Supervision similar to the last thirteen (13) years without issue, in light of the fact that Plaintiff-Petitioner is unquestionably neither a danger to any community nor a flight risk as well as demonstrated unlikelihood DHS will be unable to remove him to Haiti.

157. As a direct and proximate result of the violation of Plaintiff-Petitioner's procedural due process rights, Plaintiff-Plaintiff has suffered and will continue to suffer injury.

COUNT V
VIOLATION OF ADMINISTRATIVE PROCEDURE ACT
Procedural Due Process

158. Plaintiff adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-118 above as though fully stated and set forth herein.

159. Under § 706(a) of the APA, final agency action can be set aside if it is "contrary to a constitutional right, power, privilege, or immunity." *See* 5 U.S.C. § 706(2)(B).

160. As discussed, *supra*, at Paragraph Nos. 63-96, Petitioner-Plaintiff is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

161. Defendants-Respondents have deprived Plaintiff-Petitioner of his liberty without providing any meaningful individualized and constitutionally adequate hearing.

162. Continued detention of Plaintiff-Petitioner absent any meaningful individualized and constitutionally adequate hearing or sufficient and compelling legitimate government interest constitutes a violation of Due Process Clause of the Fifth Amendment to the United States Constitution.

163. The adverse agency action at issue is therefore necessarily contrary to a constitutional right and thus falls within the ambit of 5 U.S.C. § 706(2)(B).

164. As a direct and proximate result of the unauthorized and unlawful detention alleged herein, Plaintiff-Petitioner has suffered and will continue to suffer injury.

COUNT VI
VIOLATION OF FIFTH AMENDMENT
Substantive Due Process

165. Plaintiff adopts, repeats, and realleges all foregoing allegations in Paragraphs 1-118 above as though fully stated and set forth herein.

166. The Due Process Clause of the Fifth Amendment forbids the Government from indefinitely detaining inadmissible aliens—potentially forever—without a tenable justification.

167. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. U.S. Const. Amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678 (2001).

168. Government detention violates the fundamental substantive Due Process rights guaranteed to non-citizens unless it is either ordered in a criminal proceeding with adequate procedural protections or it falls into “special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (citations omitted); *see also Kansas v. Hendricks*, 521 U.S. 346, 356 (1997).

169. Defendants-Respondents have not attempted to show any special justification or compelling governmental interest which would outweigh Plaintiff-Petitioner’s constitutional liberty.

170. Defendant-Respondents have ignored a prior Florida District Court entry of Order mandating Plaintiff-Petitioner’s release; violated

Constitutional, statutory, and regulatory laws; failed to demonstrate any material change in circumstances giving rise to significant likelihood of removal in the reasonably foreseeable future; and both revoked Plaintiff-Petitioner's Order of Supervision and deprived his liberty absent any individualized and constitutionally adequate hearing.

171. There are no significant governmental interest at stake related to Plaintiff-Petitioner's continued detention because his availability for removal may be secured by less restrictive means, i.e., release on Order of Supervision similar to the last thirteen (13) years without issue, in light of the fact that Plaintiff-Petitioner is unquestionably neither a danger to any community nor a flight risk as well as demonstrated unlikelihood DHS will be unable to remove him to Haiti.

172. As a direct and proximate result of the violation of substantive due process rights alleged herein, Plaintiff-Plaintiff has suffered and will continue to suffer injury.

PRAYER FOR RELIEF

WHEREFORE Plaintiff-Petitioner respectfully requests the Court enter an Order: (1) mandating that Defendant-Respondents show cause, returnable within three (3) days pursuant to 28 U.S.C. § 2243, as to why the relief requested in this petition should not be granted; (2) issuing a writ of habeas corpus directing Defendants-Respondents to immediately release Plaintiff-

Petitioner from custody under reasonable conditions of supervision; (3) recording judgment against Defendants-Respondents as to Counts I-VI (4) declaring Plaintiff-Petitioner's continued detention to be contrary to law, arbitrary and capricious, and violative of the Fifth Amendment of the U.S. Constitution; (5) declaring unlawful and permanently enjoining re-detention of Petitioner-Plaintiff by DHS absent (i) evidence of materially changed circumstances and (ii) sufficient prior written notice to Plaintiff-Petitioner and a constitutionally adequate individualized opportunity to be heard; (6) awarding Plaintiff-Petitioner his reasonable costs and attorneys' fees incurred in this action in accordance with the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(2); and (6) granting such other and further relief as this Court deems appropriate, just, or equitable under the circumstances.

Date: December 19, 2025

Respectfully submitted,

DEMPSEY LAW, PLLC

By: /s/ Christopher W. Dempsey
CHRISTOPHER W. DEMPSEY, ESQ.
M.D. Fla. Bar No. 1038319
50 North Laura Street, Suite 2500
Jacksonville, Florida 32202
Tele: (904) 760-6272
Email: chris@cdempseylaw.com

Attorney for Plaintiff-Petitioner