UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Norbey Ramiro Bolivar, Petitioner, v. Garrett Ripa, Miami Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security; Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement; Kristi Noem, Secretary of the U.S. Department of Homeland Security; Pamela Bondi, Attorney General of the United States; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Respondents.	)	Case No.: PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND REQUEST FOR EXPEDITED REVIEW AND TEMPORARY RESTRAINING ORDER

I. INTRODUCTION

1. Petitioner, Norbey Ramiro Bolivar, (hereinafter "Petitioner" or "Mr. Bolivar") by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and states as follows:

2. This case challenges the unlawful detention of Petitioner, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Dade-Collier Training and Transition Airport detention facility (hereinafter "Alligator Alcatraz") in Collier County, Florida.

3. Petitioner is a 51-year-old Colombian national, who was charged in July 2015 for his re-entry to the United States and who has lived in the United States since that time. He has two United States citizen children. He has medical issues including a recent total thyroidectomy requiring daily hormone replacement therapy, antithyroid medications, calcium supplementation, and daily monitoring, as well as ongoing Graves Disease requiring continuous medication and endocrinology follow-up. These medical conditions are thoroughly documented in his hospital discharge records, surgical instructions, medication lists, diagnostic labs, endocrine panels, and thyroid ultrasound results. The medical records reflect that Petitioner must take thyroid hormone daily for life and that interruptions in medication place him at risk of thyroid storm, seizures, cardiac complications, and other life-threatening events.

4. Although Petitioner owns and operates a business, he is presently unable to work due to his medical condition and current unlawful detention.

5. Petitioner once held lawful immigration status but lost his eligibility for residence due to a prior criminal conviction for theft. Petitioner was ordered removed in May 2004, was charged for re-entering the United States in 2015, and was subsequently granted withholding of removal on January 14, 2016.

6. Following his grant of withholding of removal, Petitioner was placed under an Order of Supervision ("OSUP") by the Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE") in January 2016. Under this OSUP, an individual is permitted to live and work in the United States with specific reporting and compliance requirements. Petitioner complied with every requirement of his OSUP for more than nine (9) years, from January 2016 until his sudden re-detention on December 7, 2025.

7. Respondent DHS issued a Warrant for the Arrest of Alien on December 7, 2025. Petitioner was arrested at his OSUP check-in appointment. He was not provided with a warrant, explanation, or meaningful notice at the time of arrest.

8. Respondent's Notice of Revocation of Release is defective. The document ICE claims constitutes the Notice of Revocation contains no signature of any kind. It was not signed by the Field Office Director, by an Assistant Field Office Director, by a Deportation Officer, or by any officer authorized to revoke an OSUP under 8 C.F.R. § 241.4(l)(2). The absence of any signature renders the Notice invalid and void ab initio, as no authorized official executed the revocation.

9. Respondent ICE also failed to conduct Petitioner's mandatory informal interview and failed to articulate any lawful basis for detention.

10. These violations render Petitioner's custody unlawful. Courts nationwide have held that when ICE violates 8 C.F.R. § 241.4(l) and § 241.13(i), detention is per se unlawful and release is required. The violations here are even more egregious. *McSweeney v. Warden of the Otay Mesa Detention Facility*, No. 3:25-cv-02488-RBM-DEB, 2025 WL 2998376 (S.D. Cal. Oct. 24, 2025).

11. Petitioner also seeks his immediate release from detention, challenging the constitutionality of (1) his re-detention, and (2) the length of his re-detention, as the removal period has passed and thus re-detention is not reasonable under *Zadvydas v. Davis*, 533 U.S. 678 (2011).

12. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the 8th Amendment to the Constitution, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the Accardi doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

13. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents to release him.

II. JURISDICTION

14. Petitioner is in the physical custody of Respondent ICE, an agency of DHS. He is re-detained at Alligator Alcatraz in Ochopee, Collier County, Florida, and is under the direct control of Respondents and their agents.

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA").

16. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, § 9, clause 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 2201 et seq. (Declaratory Judgment Act); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 702 (Administrative Procedure Act); and the INA, specifically, 8 U.S.C. § 1231(a)(1)–(3) and 8 C.F.R. §§ 241.4, 241.13.

17. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this Court.

18. Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of Alligator Alcatraz – ICE, Office of Enforcement and Removal Operations ("ERO"), and this District.

III. VENUE

19. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b), (e)(1)(B), and 2241(d) because the Petitioner is re-detained within this District.

Petitioner is currently re-detained at Alligator Alcatraz – the South Florida Detention Facility located in Ochopee, Florida. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this District and are directly responsible for the confinement of Petitioner. *Rumsfeld v. Padilla*, 542 U.S. 426, 430 (2004).

IV. PARTIES

20. Petitioner, Norbey Ramiro Bolivar, is a 51-year-old Colombian national with extensive family ties in the United States. His Alien Registration Number ("A number") is [redacted]. Petitioner is a resident of Florida. He is an alien with a final removal order. Petitioner is currently in custody at Alligator Alcatraz – ICE detention facility in Ochopee, Florida.

21. Respondent, Garrett Ripa, is being sued in his official capacity as the Field Office Director for the Miami Field Office for ICE within DHS. In that capacity, Field Director Ripa has supervisory authority over the ICE agents responsible for detaining Petitioner.

22. Respondent, Todd M. Lyons, is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Respondent Lyons is responsible for Petitioner's detention.

23. Respondent, Kristi Noem, is Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is

a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

24. Respondent, Pam Bondi, is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the Board of Immigration Appeals and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem.

25. Respondent, Marcos Charles, is the Acting Executive Associate Director for ICE Enforcement and Removal Operations ("ERO").

26. Each Respondent is a legal custodian of Petitioner.

V. EXHAUSTION

27. There is no statutory exhaustion requirement in 28 U.S.C § 2241.

28. In fact, the Respondents' detention and intended removal of the Petitioner without any opportunity for meaningful judicial review violates the Suspension Clause. See *Perez v. Mordant*, 2:25-cv-00947-SPC-DNF (M.D. Fla. Dec. 03, 2025).

29. "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. Art. I § 9, cl. 2. The clause reflects that "the Framers considered the

writ a vital instrument for the protection of individual liberty[.]" Boumediene v. Bush, 553 U.S. 723, 743 (2008). It ensures "the Judiciary will have a time-tested device, the writ, to maintain the delicate balance of governance that is itself the surest safeguard of liberty" and "protects the rights of the detained by affirming the duty and authority of the Judiciary to call the jailer to account." Id. at 745.

VI. STATEMENT OF FACTS

30. Petitioner, Norbey Ramiro Bolivar, is a 51-year-old Colombian national with extensive family ties in the United States and two United States citizen children. His Alien Registration Number ("A number") is [redacted].

31. Petitioner was charged for re-entering the United States on or about July 2015. He has documented medical conditions, including Graves Disease, hyperthyroidism, and a recent total thyroidectomy, requiring daily thyroid hormone replacement therapy, methimazole, propranolol, calcium carbonate, and calcitriol, all documented in his medical records. These records include imaging, endocrine panels, medication lists, discharge instructions describing life-threatening risks of missed doses, and physician directives requiring close outpatient follow-up.

32. Petitioner was granted withholding of removal on January 14, 2016.

33. Petitioner was placed under an Order of Supervision ("OSUP") in January 2016. To be placed under an OSUP, a noncitizen must demonstrate to

DHS that his release does not pose a danger to the community or a risk of flight. 8 C.F.R. § 241.4(d)(1).

34. Petitioner complied with every requirement of his OSUP for over nine (9) years. He attended every ICE check-in and never violated any condition.

35. On December 7, 2025, during a routine OSUP appointment, Petitioner was arrested and re-detained by ICE. Petitioner was not provided with a warrant at the time of his arrest. He was not provided any explanation, document, or reason for his re-detention. He was given no opportunity to be heard.

36. The Notice of Revocation of Release provided to Petitioner is unsigned by a supervisor. It is not dated, it contains no signature, no identifying information of the issuing officer, no supervisory signature, and no indication that any authorized official approved the revocation. Under 8 C.F.R. § 241.4(l)(2), only the ICE Executive Associate Director, a Field Office Director, or a delegated official may revoke release. No such authorization appears on the Notice. The absence of a signature renders the revocation invalid.

37. No informal interview or administrative review has been provided to Petitioner.

38. Petitioner is currently detained at Alligator Alcatraz.

39. Amnesty International, in a report titled "USA: Torture and enforcement disappearances in the Sunshine State: Human Rights Violations at

'Alligator Alcatraz' and Krome in Florida," page 6, dated December 4, 2025, Index Number: AMR 51/0511/2025, stated the following regarding conditions in Alligator Alcatraz: "Consequently, not only is there no federal oversight of the facility. It is also not integrated into ICE's systems or databases. The absence of registration or tracking mechanisms for those detained at 'Alligator Alcatraz' facilitates incommunicado detention and constitutes enforced disappearances when the whereabouts of a person being detained there is denied to their family, and they are not allowed to contact their lawyer. Individuals detained at the facility face barriers to accessing legal representation and due process protections." (emphasis added).

40. The same report further states: "Amnesty International's research concludes that people arbitrarily detained in 'Alligator Alcatraz' are being held in inhuman and unsanitary conditions including overflowing toilets with fecal matter seeping into where people are sleeping, limited access to showers, exposure to insects without protective measures, lights on 24 hours a day, poor quality food and water, and lack of privacy. People interviewed shared that access to medical care is inconsistent, inadequate, or denied altogether, placing individuals at serious risk of both physical and mental harm. People reported being always shackled when they were outside their cage. Other treatment people have endured amounts to torture, including being put in the 'box', described as a 2x2 foot cage-like structure people are put in as punishment –

sometimes for hours at a time exposed to the elements with hardly any water – with their feet attached to restraints on the ground."

41. Since his re-detention, Petitioner has experienced serious medical complications including elevated blood pressure, episodes of dizziness, shortness of breath, chest discomfort, fatigue, and worsening anxiety. Petitioner has reported that ICE officers frequently fail to provide his prescribed medications, including thyroid hormone replacement, calcium carbonate, calcitriol, propranolol, and methimazole. Petitioner has also been informed at times that the facility "ran out" of his medications. The medical records demonstrate that interruption of these medications can cause life-threatening complications, including thyroid storm, cardiac arrhythmia, seizures, and metabolic collapse.

42. Petitioner is re-detained at Alligator Alcatraz in inhumane conditions and has been deprived of proper medical care. He is not receiving essential medications as prescribed, in violation of the Eighth Amendment of the United States Constitution, which states: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. Const. amend. VIII.

43. Petitioner's OSUP was revoked and he was re-detained without due process of law. Furthermore, at the time of his re-detention, Petitioner did not have any pending immigration applications. There is no basis in the

immigration record to support a finding of changed circumstances or that his removal is reasonably foreseeable at this time.

VII. LEGAL FRAMEWORK

44. Due Process Governs Decisions to Revoke an Order of Supervision.

45. District courts have the authority to grant writs of habeas corpus. See 28 U.S.C. § 2241(a). Habeas corpus is fundamentally "a remedy for unlawful executive detention." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). A writ may be issued to a petitioner who shows that he is being held in custody in violation of the Constitution or federal law. See 28 U.S.C. § 2241(c)(3). The Court's jurisdiction extends to challenges involving immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

46. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001).

47. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of

immigration detention: preventing danger to the community or preventing flight prior to removal. See *Zadvydas v. Davis*, 533 U.S. 678, 690–92 (discussing constitutional limitations on civil detention).

48. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." Id. at 333 (citation modified).

49. The Supreme Court has held that "[a]n elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (emphasis added).

50. In addition, the regulations provide specific circumstances and due process safeguards to individuals for whom ICE seeks to revoke an OSUP. 8 C.F.R. 241.13.

51. Furthermore, civil immigration detention is only permissible where it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S.

at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

52. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

53. Petitioner's present detention is governed by 8 U.S.C. § 1231 and its implementing regulations at 8 C.F.R. pt. 241.

VIII. CLAIMS FOR RELIEF

COUNT ONE: VIOLATION OF THE CONSTITUTION'S FIFTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS

54. The Notice of Revocation produced by Respondent ICE — obtained through a FOIA from USCIS — casts doubts as to its authenticity or at the very least contains errors that make it impossible to ascertain whether the Petitioner was in fact given proper Notice of Revocation and notice of re-detention as required by the Fifth Amendment to the U.S. Constitution.

55. Petitioner realleges all paragraphs above as if fully set forth here.

56. On December 7, 2025, Respondent ICE, through a Notice of Revocation of Release, alleged that Petitioner's case had been reviewed and it

was determined that he would be re-detained in ICE custody at this time. ICE states: "This decision has been made based on a review of your file and/or your personal interview on account of the changed circumstances in your case. ICE has determined that there is a significant likelihood of removal in the reasonably foreseeable future in your case."

57. Respondent ICE asserts that the Notice of Revocation of Release was served on Petitioner on December 7, 2025. There is no indication of who issued the Notice, who approved the Notice, or whether any authorized official ever reviewed the Notice, as there is no signature on the Notice of Revocation nor is it dated. The absence of any signature and the fact that it is undated renders the Notice invalid on its face.

58. Petitioner could not have acknowledged receipt of a Notice that bears no signature, no date of execution, and no identifying officer information. The inconsistency is so blatant that it calls into question whether the Notice was ever properly served and whether the Notice was ever lawfully executed at all.

59. More troubling, the defects raise substantial concern that the document may have been generated without any lawful authorization or review, as it bears no signature of a Field Office Director, Assistant Field Office Director, or any delegated officer authorized to revoke an Order of Supervision under 8 C.F.R. § 241.4(l)(2).

60. The Petitioner refused to sign the Proof of Service page for the Notice of Revocation due to the fact that his Notice of Revocation was unsigned and undated, making it facially invalid.

61. This Court should find that the Petitioner was not given proper notice and that he should be released immediately.

62. Petitioner realleges all paragraphs above as if fully set forth here.

63. The Proof of Service page contains no officer signature, no typed name, no badge number, and no indication that any DHS or ICE official served Petitioner with the document. A Notice of Revocation without a signature is not a lawful notice. Without execution by an authorized official, it is void.

64. Furthermore, because no signature appears anywhere on the document, the Notice does not establish that the revocation was issued by a person with authority under 8 C.F.R. § 241.4(l)(2). As such, the Notice cannot be considered valid.

65. The absence of any signature deprives Petitioner of procedural due process, as the Notice does not comply with constitutional requirements for meaningful notice. Petitioner cannot be deprived of liberty based on an unsigned and unauthenticated document.

66. Therefore, immediate release is the appropriate remedy.

COUNT TWO: RESPONDENTS HAVE FAILED TO FOLLOW THEIR OWN REGULATIONS IN VIOLATION OF THE ACCARDI DOCTRINE

67. Petitioner realleges all paragraphs above as if fully set forth here.

68. In *United States v. Accardi*, the Supreme Court held that when the government promulgates regulations "with the force and effect of law," agencies are bound to follow their own "existing valid regulations." 347 U.S. 266, 268 (1954). This also applies to agencies' own internal manuals. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

69. "Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures." *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle is known as the Accardi doctrine. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Alcaraz v. INS*, 384 F.3d 1150, 1162 (9th Cir. 2004).

70. The "procedures" that agencies are required to follow include both formal agency regulations and informal operating procedures and guidance. *Church of Scientology of Cal. v. United States*, 920 F.2d 1481, 1487 (9th Cir. 1990). The Accardi doctrine applies "even where the internal procedures are possibly more rigorous than otherwise would be required." *Alcaraz*, 384 F.3d at 1162 (quoting *Morton*, 415 U.S. at 235).

71. Furthermore, even if this Court were to find that the Petitioner did receive proper notice—though he did not—the Notice of Revocation is unlawful because it was not signed by an official authorized by 8 C.F.R. § 241.4(l)(2) nor was it dated.

72. Petitioner realleges all paragraphs above as if fully set forth here.

73. The regulations governing the revocation of an Order of Supervision permit only certain officials to revoke an OSUP: the ICE Executive Associate Director, a Field Office Director, or an official "delegated the function or authority... for a particular geographic district, region, or area." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2), and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4).

74. For a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *See Ceesay*, 781 F. Supp. 3d at 161 (finding a delegation order insufficient where it "refers only to a limited set of powers under part 241 that do not include the power to revoke release").

75. In this case, the Notice of Revocation allegedly served on the Petitioner bears no signature at all nor is it dated. The document contains no name, no title, no initials, and no indication that any authorized officer approved the revocation, nor the date on which the supposed revocation was signed/issued. An unsigned Notice is not a lawful Notice. Re-detention based on an unsigned revocation order is ultra vires.

76. Respondent ICE has failed to provide adequate reasons for the revocation of Petitioner's OSUP as required by 8 C.F.R. § 241.4(l)(2).

77. Petitioner realleges all paragraphs above as if fully set forth here.

78. The Notice of Revocation of Release states only a conclusory sentence: that ICE "has determined that there is a significant likelihood of removal in the reasonably foreseeable future." The Notice contains no factual basis, no supporting evidence, and no explanation of what circumstances allegedly changed since the Petitioner's grant of withholding of removal on January 14, 2016, or since his initial placement on OSUP in January 2016.

79. As required by 8 C.F.R. § 241.4(l)(2), release may only be revoked where: (i) The purposes of release have been served; (ii) The alien violates any condition of release; (iii) It is appropriate to enforce a removal order or commence removal proceedings; or (iv) The conduct of the alien or any other circumstance indicates release would no longer be appropriate.

80. None of these provisions have been met.

81. There has been no information suggesting that the purpose of Petitioner's release has been served. The Petitioner has not violated any condition of his OSUP. There is no evidence or statement indicating why it is now appropriate to enforce the removal order issued in 2016, as Petitioner was granted withholding of removal, nor any allegation that Petitioner engaged in new conduct making release inappropriate.

82. The Notice sufficient information to challenge the allegations at an informal interview. Indeed, because no informal interview occurred, Petitioner was denied any opportunity to defend himself and his due process rights have thus been violated.

83. The Notice does not allow this Court to meaningfully review ICE's determination.

84. The Notice does not allege that Petitioner has failed to comply with any OSUP conditions. It does not allege any new facts that could form a basis for detention. Respondents have failed to demonstrate any change in circumstances.

85. Therefore, the Notice violates 8 C.F.R. § 241.13(i)(2)–(3).

86. Despite Petitioner having been in ICE custody since December 7, 2025, Respondent ICE has failed to promptly hold a mandatory informal interview, in violation of 8 C.F.R. § 241.4(l) and the Due Process Clause.

87. Petitioner realleges all paragraphs above as if fully set forth here.

88. 8 C.F.R. § 241.4(l) mandates: "Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification."

89. No informal interview has taken place. Petitioner has been detained without an opportunity to be heard.

90. To determine what constitutes "promptly," courts rely on the Supreme Court's guidance in County of *Riverside v. McLaughlin*, 500 U.S. 44 (1991), interpreting *Gerstein v. Pugh*. While these cases

concern probable cause determinations, they establish that prolonged detention without required procedural safeguards violates due process. ICE's failure to provide any interview after weeks of detention is unlawful.

91. For these reasons, Respondents are in violation of the *Accardi* doctrine because they have failed to follow their own regulations regarding the issuance of an Order of Supervision, have failed to provide adequate reasons for revocation, and have failed to provide Petitioner with an informal interview promptly following detention.

COUNT THREE: VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT — DETENTION AFTER REMOVAL PROCEEDINGS

92. Petitioner realleges all paragraphs above as if fully set forth here.

93. The Petitioner has been subject to a significant restraint of his liberty since he was placed under an order of supervision in January 2016, over nine (9) years ago.

94. The United States Supreme Court found in *Jones v. Cunningham*, 371 U.S. 236, 239 (1963), that § 2241's "in custody" requirement should be construed "very liberally" and that habeas petitioners "need only show that they are subject to a significant restraint on their liberty that is not shared by the general public."

95. Furthermore, the Eleventh Circuit decided in *Romero v. Sec'y*, U.S. Dep't of Homeland Sec., 20 F.4th 1374, 1379 (11th Cir. 2021), that an individual who was subject to a deportation order and pre-deportation supervision was "in custody" within the meaning of § 2241. The petitioner in that case was required to report to a representative of the federal government on a quarterly basis and was forbidden from traveling outside his state of residence for more than 48 hours without notifying the government.

96. INA § 236(a), codified in 8 U.S.C. § 1226, allows detention only to facilitate the removal process; it does not allow DHS to hold individuals in prolonged civil custody for an indefinite amount of time.

97. If the government fails to remove the individual during the 90-day removal period, 8 U.S.C. § 1231(a)(6) provides that the government may detain an individual or release him under terms of supervision under paragraph (3) of the subsection. See 8 U.S.C. § 1231(a)(6). ("An alien ordered removed who is [1] inadmissible..., [2] removable [as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or foreign policy,] or [3] who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may

be re-detained beyond the removal period and, if released, shall be subject to [certain] terms of supervision in paragraph (3).").

98. Paragraph (3) provides that an individual who is not removed "shall be subject to supervision" under specific terms, including requirements that he or she appear periodically before an immigration officer, obey any written restrictions, and other conditions. 8 U.S.C. § 1231(a)(3). See also 8 C.F.R. § 241.5.

99. Petitioner was granted withholding of removal in January of 2016 and was released that time.

100. ICE, through its own conduct, confirmed Petitioner's removal was not likely by placing him under an OSUP in January 2016, and continuing his supervised release for over nine (9) years until his re-detention on December 7, 2025.

101. No circumstances have changed since then he was granted withholding of removal in January of 2016 in Petitioner's case.

102. No statute authorizes re-detention at this time, outside the removal period, without cause, prior notice, and an opportunity to be heard. Rather, the only statutory provision that applies to him is the statute that provides that noncitizens "shall" be subject to an order of "supervision" as opposed to "detention." See 8 U.S.C. § 1231(a)(6).

103. Section 1231 mandates detention "[d]uring the removal period." See 8 U.S.C. § 1231(a)(1)(A), (a)(2). However, these sections also

require the government to actually remove the alien during this period. 8 U.S.C. § 1231(a)(1)(A).

104. The "removal period" is "90 days." 8 U.S.C. § 1231(a)(1)(A). Petitioner's "removal period" ended on or around April 2016, 90 days after he was ordered removed in January 2016.

105. The removal period begins on the latest of the following: (i) The date the order of removal becomes administratively final; (ii) If the removal order is judicially reviewed and a court orders a stay, the date of the court's final order; or (iii) If the alien is detained or confined, the date the alien is released. 8 U.S.C. § 1231(a)(1)(B).

106. Detention past the removal period can be lawful in certain circumstances not present here. *See* 8 U.S.C. § 1231(a)(1)(C), (a)(6).

107. After a noncitizen has been detained past the removal period, they may obtain release by demonstrating "there is no significant likelihood of removal... in the reasonably foreseeable future." 8 C.F.R. § 241.13(a).

108. Once a noncitizen is released on an OSUP, they are subject to conditions of release. *See* 8 C.F.R. § 241.13(h)(1).

109. Re-detention is only permitted where ICE alleges a violation of conditions of release. See 8 C.F.R. § 241.13(h)(2), (i).

110. Regulations also permit revocation of release under specific circumstances, including when "on account of changed

circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

111. A noncitizen must be notified of the reasons for revocation and must be provided "an initial informal interview... to afford the alien an opportunity to respond." 8 C.F.R. § 241.13(i)(3).

112. Under *Zadvydas v. Davis*, a person subject to a final order of removal cannot be detained indefinitely pending removal. 533 U.S. 678, 699–700 (2001).

113. *Zadvydas* also held: "After this 6-month period, once the alien 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. at 701.

114. Petitioner was granted withholding of removal in 2016, and has been under an OSUP since January 2016, more than nine (9) years before ICE suddenly and unlawfully re-detained him on December 7, 2025.

115. There has been no evidence provided by Respondents establishing when they intend to remove Petitioner in the reasonably foreseeable future.

116. Respondents have unlawfully re-detained and held Petitioner without cause, without notice, and without any established plan to remove him.

117. Petitioner's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be... deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V.

118. As such, the Petitioner is entitled to habeas corpus relief and immediate release from ICE custody.

COUNT FOUR: THE RESPONDENTS HAVE VIOLATED THE ADMINISTRATIVE PROCEDURE ACT AS THE DETENTION OF THE PETITIONER IS ARBITRARY, CAPRICIOUS, AN ABUSE OF DISCRETION, AND OTHERWISE NOT IN ACCORDANCE WITH LAW

119. Petitioner realleges all paragraphs above as if fully set forth here.

120. The APA provides that a "reviewing court shall... hold unlawful and set aside agency action, findings, and conclusions found to be... arbitrary [and] capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

121. Respondents have failed to articulate any reasoned explanation for deviating from or otherwise ignoring the plain language of 8 C.F.R. § 241.13(i)(2)-(3), which provides mandatory procedural protections before revoking supervised release.

122. Respondents' decision to detain Petitioner is arbitrary, capricious, and not in accordance with law because Respondents: (1) issued an unsigned Notice of Revocation, which contains no indication that it was authorized by any official empowered under 8 C.F.R. § 241.4(l)(2) to revoke supervised release; (2) failed to provide Petitioner with any explanation or factual basis for concluding that circumstances have changed or that removal is significantly likely in the reasonably foreseeable future; (3) failed to provide Petitioner with an informal interview, as required under the regulations, which must be afforded "promptly" following re-detention; (4) failed to identify any violation of the terms of supervision, despite Petitioner's nine (9) years of full compliance with his OSUP since January 2016; and (5) failed to demonstrate any lawful basis for departing from past agency findings, including the longstanding determination that Petitioner's removal was not reasonably foreseeable and that continued supervision was appropriate.

123. For these reasons, Respondents' actions constitute an abuse of discretion and are contrary to law, requiring Petitioner's immediate release under the APA.

COUNT FIVE: PETITIONER'S DETENTION BEARS NO REASONABLE RELATIONSHIP TO ANY LEGITIMATE PURPOSE AS HIS REMOVAL IS NOT REASONABLY FORESEEABLE – VIOLATING HIS DUE PROCESS RIGHTS

124. Petitioner realleges all paragraphs above as if fully set forth here.

125. To comply with due process, detention must bear a reasonable relationship to its two regulatory purposes – to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending removal. *Zadvydas v. Davis*, 533 U.S. at 690–691; *Diop v. ICE*, 656 F.3d 221, 233–234 (3d Cir. 2011); *Gordon v. Shanahan*, No. 15-Civ-261, 2015 WL 1176706, at *10 (S.D.N.Y. Mar. 13, 2015). Such a justification must be particularly strong once detention becomes presumptively unconstitutional.

126. The detention of the Petitioner is arbitrary on its face. As ICE recognized when it placed Petitioner on OSUP in January 2016, Petitioner did not pose a danger to the community nor a flight risk. Over the following nine (9) years, Petitioner complied with every requirement of supervision. Petitioner has not been arrested or convicted of any new offense since July 2015 when he was charged for his re-entry in, and no evidence exists to justify a sudden shift in Respondents' position.

127. Respondents' assertion that Petitioner's removal is "significantly likely in the reasonably foreseeable future" is unsupported by evidence and contradicted by the record. Petitioner was granted withholding of removal on January 14, 2016. Nothing in Petitioner's circumstances have changed to permit lawful removal.

128. Respondents have produced no proof of: a request for travel documents; a response from the Colombian government; a timeline for removal; or any indication that removal is feasible.

129. Given these circumstances — and the nine (9) years during which ICE itself determined removal was not foreseeable and supervised him accordingly — Respondents cannot meet their burden under *Zadvydas*.

130. Petitioner's ongoing detention violates the Fifth Amendment because it is excessive in relation to any permissible regulatory purpose. Without evidence of danger, flight risk, or likelihood of removal, continued detention serves no legitimate governmental objective and is therefore punitive in nature.

131. The Supreme Court held in *Zadvydas* that "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." 533 U.S. at 699–700. The Court further instructed that release is required in such cases, subject to reasonable conditions of supervision.

132. Petitioner should therefore be released, as his detention is not reasonably related to the purposes of immigration detention and removal is not reasonably foreseeable.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner, Norbey Ramiro Bolivar, asks this Court for the following relief:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
3. Issue an emergency preliminary order restraining Respondents from attempting to move the Petitioner from the State of Florida during the pendency of this Petition;
4. Issue an emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of Petitioner;
5. Order Respondent to reinstate the Order of Supervision;
6. Grant expedited review due to the Petitioner's medical condition and the life-threatening consequences of interruption of his required thyroid hormone protocol, antithyroid medications, and calcium supplementation;
7. Declare that Respondents' actions are arbitrary and capricious, thus the Petitioner shall be released immediately;

8. Declare that the Respondents failed to provide proper Notice of Revocation to the Petitioner in violation of the Fifth Amendment of the U.S. Constitution; thus the Petitioner shall be released immediately;
9. Declare that Respondents did not follow their procedures regarding the issuance of an Order of Supervision, as it was not signed by an official authorized by 8 C.F.R. § 241.4(l)(2); thus the Petitioner shall be released immediately;
10. Declare that Respondents failed to provide adequate reasons for the revocation of Petitioner's OSUP as required by 8 C.F.R. § 241.4(l)(2); thus the Petitioner shall be released immediately;
11. Declare that Respondents failed to provide Petitioner with an informal interview promptly in violation of 8 C.F.R. § 241.4(l); thus the Petitioner shall be released immediately;
12. Declare that Petitioner's detention bears no reasonable relationship to any legitimate purpose as his removal is not reasonably foreseeable — violating his Due Process Rights; thus the Petitioner shall be released immediately;
13. Grant Petitioner reasonable attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority;
14. Grant all further relief this Court deems just and proper.

Dated: December ____, 2025

Respectfully submitted,

/s/ Patricia Castillo Flanagan

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VERIFICATION BY PETITIONER PURSUANT TO 28 U.S.C. § 2242

We represent Petitioner, [Norbey Ramiro Bolivar], and submit this verification on his behalf. We hereby verify that the factual allegations made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of our knowledge.

Dated: December ____, 2025

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