

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.:

ORLANDO NICOLAS LOPEZ-MARRERO

A# ,

Petitioner,

v.

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

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

KELEI WALKER, *Acting Field Office Director,
U.S. Immigration and Customs Enforcement and
Removal Operations, Miami Field Office
(custodian of detainees at the Krome North Service
Processing Center;*

NELSON PEREZ, *Office of the Principal Legal
Advisor (Krome);*

DAVID L. NEAL, Director, Executive
Office for Immigration Review (EOIR),
Washington, D.C. ;

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

JASON REDING QUIÑONES, U.S. Attorney
For the Southern District of Florida;


And

ELISA M. SUKKAR, Assistant Chief Immigration
Judge.

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS
AND MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

COMES NOW, Petitioner, Orlando Nicolas Lopez-Marrero ("Mr. Lopez"), A# 

 by and through undersigned counsel, and petitions this Honorable Court for a writ of habeas
corpus pursuant to 28 U.S.C. § 2241, and moves for a Temporary Restraining Order and

Preliminary Injunction. Petitioner respectfully requests that this Court restrain Respondents from continuing his unlawful detention, from removing Petitioner from this jurisdiction, and order his immediate release and reinstatement to his long-standing Order of Supervision (“OSUP”).



Mr. Lopez is a national and citizen of Cuba who has lived in the United States since his initial arrival in 1980, aboard the Mariel boatlift, at just twelve (12) years old. Fleeing Cuba and the communist regime, afraid to return to Cuba, Mr. Lopez sought refuge in the United States. For the last forty-five (45) years, Mr. Lopez has called the United States his home. He has built his entire life in the United States, raising three (3) U.S. citizen children, along his long time U.S. citizen partner, Greisy Rodriguez (“Mrs. Rodriguez”).


On June 13, 1991, the Department of Homeland Security (“DHS”) commenced exclusion proceedings against Mr. Lopez. On January 13, 1992, an Immigration Judge ordered Mr. Lopez excluded, acknowledging that although he had a fear of returning to Cuba, he was statutorily ineligible for relief. This decision was upheld by the Board of Immigration Appeals on June 2, 1992. *See Exh. A*, BIA Decision and IJ Order of Removal. Notably, since Mr. Lopez’s proceedings, the United States has enacted further protection for individuals who fear return to their home country, under the Convention Against Torture. Mr. Lopez would not be eligible for deferral of removal under the Convention Against Torture pursuant to 8 C.F.R. § 1208.16(c)(2).

Since his order of removal, for the past thirty-four (34) years, Mr. Lopez has been complying with all requests and order from DHS and Immigration and Customs Enforcement (“ICE”). Mr. Lopez was previously receiving grants of parole, authorizing him to remain in the United States and since 2011, Mr. Lopez has been consistently reporting and complying with his Order of Supervision (“OSUP”) and any requirements imposed on him. *See Exh. B*, OSUP Record.

ICE has repeatedly found he posed no danger and no flight risk **and** consistently found there was no substantial likelihood of removal in the reasonably foreseeable future.

Despite this, on January 12, 2026, during a routine check-in, ICE suddenly detained him without notice, without cause, and without complying with the mandatory procedures governing revocation of supervision. This detention violates the statutory framework governing post-order custody, the Due Process Clause, and the Supreme Court's rule in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Because removal to Cuba is not reasonably foreseeable, ICE lacks authority to detain him at all. And because ICE failed to follow the mandatory procedures under 8 U.S.C. § 1231(a) and 8 C.F.R. § 241.4, his detention is unlawful from its inception.

Immediate relief is required. Mr. Lopez's ongoing detention is not only unlawful and a direct threat to his health and well-being, but it also inflicts severe hardship on his U.S. citizen family. Mr. Lopez has a U.S. citizen mother that is eighty-four (84) years old. Additionally, Mr. Lopez is the main source of emotional and financial support for his U.S. citizen partner, Mrs. Rodriguez, and their three (3) U.S. citizen children, Gabriela, Orlando, and , ages twenty-one (21), nineteen (19), and fifteen (15), respectively. *See Exh. C*, Birth Certificates for Mr. Lopez's children, Naturalization Certificate for Mrs. Rodriguez, and Mr. Lopez's Mother's Naturalization Certificate; *Exh. D*, Letter from Mrs. Rodriguez and Gabriela. Mr. Lopez's eldest daughter, Gabriela suffers from severe depression and suicidal tendencies. 

 It was her father's unwavering support that guided her and provided her the necessary help she needed. Everyday Mr. Lopez continues to be detained risks Gabriela will not have access to the support she needs from her father. *See Exh. E*, Medical Records for Gabriela.

For all these reasons and in light of there being no change in circumstances, there is no significant likelihood of removal in the reasonably foreseeable future, and continued detention violates the fundamental constitutional protections of due process and those protections established in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that the government may not detain individuals indefinitely where removal is not reasonably foreseeable. Removal has not been reasonably foreseeable against Mr. Lopez for over thirty-four (34) years. There is nothing that has changed and his continued detention to by chance effectuate his removal order is unlawful and arbitrary. His detention and revocation of his OSUP with ICE's failure to comply with their statutory requirements violated his right to due process under the U.S. Constitution.

I. JURISDICTION AND VENUE

This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant a writ of habeas corpus to individuals held “in custody in violation of the Constitution or laws or treaties of the United States.” federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention; as well as claims by noncitizens seeking to protect their due process rights. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Petitioner is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) within this judicial district at the Broward Transitional Center, satisfying the “in custody” requirement at the time of filing. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction) because the action arises under federal constitutional and statutory law, and under 5 U.S.C. §§

701–706 (Administrative Procedure Act), as ICE acted arbitrarily, capriciously, and contrary to law by re-detaining a fully compliant supervisee without individualized review or adherence to statutory and regulatory procedures. While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear *habeas corpus* claims by aliens challenging “the constitutionality of the entire statutory scheme under the Fifth Amendment.”¹ This case arises under the United States Constitution; the Immigration and Nationality Act (“INA”), 8 U.S.C. §§1101 *et seq.*, and the Due Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. §1651.


This Court additionally has jurisdiction under Article I, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioner is not challenging the validity of the final order of removal, but rather the legality of detention in the absence of a foreseeable removal and in violation of due process under the Fifth Amendment. *See Clark v. Martinez*, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens); *Trump v. J.G.G.*, 145 S. Ct. 1003 (2025) (The constitutionality of immigration detention is in context of a habeas corpus claim) *Bunthoeun Kong v. United States AG*, 62 F.4th 608,614 (3d Cir. 2023) (8 USC § 1252(b)(9)'s phrase is not 'infinitely elastic' and does not encompass claims collateral to the removal order, such as unlawful detention); *E.D.Q.C. v. Warden*,

¹ *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018). District courts also have jurisdiction to review “collateral challenges to unconstitutional practices and policies” used by Respondents in reaching their decision. *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 896 (1991).

Stewart Det. Ctr., No. 4:25-cv-50-CDL-AGH, 2025 U.S. Dist. LEXIS 104781 (M.D. Ga. June 3, 2025) (the court does not read § 1252(g) to shield unlawful actions from judicial review).

Moreover, venue is proper in the Southern District of Florida under 28 U.S.C. § 1391(e) because Petitioner is detained within this District, his immediate custodian is located within this District, and a substantial part of the events and omissions giving rise to this action occurred here. Petitioner is “in custody” for habeas purposes because he is detained by ICE at the Broward Transitional Center under the authority of the ICE Miami Field Office. In *Masingene v. Martin*, 424 F.Supp. 1298 (S.D. Fla. 2020), this District Court held that jurisdiction and venue were proper where the court has jurisdiction over the proper respondent. In holding the Court maintained jurisdiction, despite the petitioner being detained at a facility in a county outside of the Southern District of Florida, the Court reasoned that because the petitioner was being held in a contract facility, the warden of the facility was not the proper respondent as the immediate custodian was actually the federal official charged with overseeing the detainees in the facility. Here, it is Kelei Walker, the Miami ICE-ERO Field Office Director that is in charge of overseeing the detainees at Broward Transitional Center, a contract facility for ICE-ERO. Because Kelei Walker can be served by service of process, jurisdiction is proper within the Southern District of Florida.

II. PARTIES

1. **Petitioner, Orlando Nicolas Lopez-Marrero** (“Mr. Lopez”), A# , is a national and citizen of Cuba currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Broward Transitional Center pursuant to a decades-old final order of removal.
2. **Respondent Pam Bondi** is the Attorney General of the United States and is the chief legal officer responsible for the administration and enforcement of federal immigration laws.


3. **Respondent Kristi Noem** is the Secretary of the U.S. Department of Homeland Security and is responsible for the administration of DHS, including the detention and removal of noncitizens.
4. **Respondent Kelei Walker** is the Acting Field Office Director for the U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations, Miami Field Office, and exercises custody and detention authority over immigrants at the Broward Transitional Center.
5. **Respondent Nelson Perez** is an attorney with the Office of the Principal Legal Advisor at Krome, representing the government in immigration matters arising in this District.
6. **Respondent David L. Neal** is the Director of the Executive Office for Immigration Review, and is responsible for the administration of immigration court proceedings in the United States.
7. **Respondent Todd M. Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement and is responsible for the nationwide detention and removal of noncitizens.
8. **Respondent Jason Reding Quiñones** is the United States Attorney for the Southern District of Florida and is the attorney of record in federal litigation arising in this District.
9. **Respondent Elisa M. Sukkar** is an Assistant Chief Immigration Judge, responsible for oversight of immigration court proceedings within this jurisdiction.

All Respondents are sued in their official capacities only.


III. STATEMENT OF FACTS

1. Mr. Lopez is a national and citizen of Cuba who has lived in the United States since he was twelve (12) years old and arrived in 1980, aboard the Mariel boatlift. Mr. Lopez was fleeing Cuba and the communist regime, seeking refuge in the United States. For the last forty-

five (45) years, thirty-four (34) of which have been under an order of removal, Mr. Lopez has been building a family and life in the United States. These thirty-four (34) years under an order of removal, following the dismissal of his appeal by the Board of Immigration Appeals (“BIA”) far exceeds the permissible 180-day period. *See Exh. A.*

2. Since his order of removal, for the past thirty-four (34) years, Mr. Lopez has been complying with all requests and orders from DHS and ICE. Mr. Lopez has been consistently reporting and complying with OSUP since he was initially placed in 2011. *See Exh. B.* ICE has repeatedly found he posed no danger and no flight risk and consistently found there was no substantial likelihood of removal in the reasonably foreseeable future.
1. Despite this, on January 12, 2026, during a routine check-in, ICE suddenly detained Mr. Lopez without notice, holding him for over four (4) days at the Miramar Sub Officer, without cause, and without complying with the mandatory procedures governing revocation of supervision. This detention violates the statutory framework governing post-order custody, the Due Process Clause, and the Supreme Court’s rule in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Mr. Lopez was recently transferred to the Broward Transitional Center, where he remains detained. ICE provided no notice, no individualized review, and failed to follow the statutory framework governing custody determinations under 8 U.S.C. § 1231(a)(3) and (a)(6). ICE further failed to comply with the procedural safeguards set forth in its implementing regulations, including 8 C.F.R. § 241.4.
3. Mr. Lopez is the primary financial, psychological, and emotional support for his U.S. citizen family, including his U.S. citizen partner, Mrs. Rodriguez, and their three (3) U.S. citizen children, Gabriela, Orlando, and . *See Exh. C; Exh. D.* Mr. Lopez’s eldest daughter, Gabriela, suffers from severe depression and suicidal tendencies. It was her

father's unwavering support that guided her and provided her the necessary help she needed. Everyday Mr. Lopez continues to be detained risks Gabriela will not have access to the support she needs from her father. *See Exh. E.*

4. Mr. Lopez is a hardworking individual of exceptional moral character. For the past seven (7) years, Mr. Lopez has worked as the Building Manager at La Tour Rivage Apartments, where he is revered by his colleagues and employer. He has diligently paid his taxes, contributing to the U.S. economy, and has obtained a series of certifications in order to provide for his family. *See Exh. F.* Letter of Employment, Mr. Lopez's Tax Returns from 2022-2024, and Certifications. Mr. Lopez's son is currently enrolled at Gulf Coast High School and would suffer extreme hardship if his father is removed. *See Exh. G,* 's School Enrollment. Mr. Lopez's detention has been debilitating and breaking for his entire family.
5. Mr. Lopez is highly respected and loved by all who know him. He is an integral member of his community. Through a multitude of letters, individuals describe Mr. Lopez as someone that goes above and beyond to assist everyone around him. When hurricane Ian hit his community, Mr. Lopez worked tirelessly day and night to prevent the fix the property for all of the tenants of his building. He is an active member of his church and has consistently volunteered at church events, community outreaches, blood drives, etc. He is kind, honest, trustworthy, hardworking, and a devoted partner and father. Mr. Lopez has even served as father figure for others, being a constant presence and the only reason for the success of his niece who battled mental health issues for many years. *See Exh. H,* Letters from Family and Friends. Collectively, these letters reflect a person of strong moral character, deep integrity, and longstanding community presence.

6. Removal to Cuba is not reasonably foreseeable due to longstanding diplomatic limitations, the absence of consistent repatriation flights, and Cuba's continuing refusal to issue travel documents for many Mariel-era nationals. Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), Mr. Lopez's continued detention is unlawful and arbitrary as there is no substantial likelihood of removal in foreseeable future. Moreover, his detention violates his right to due process as ICE failed to comply with its statutory and regulatory requirements.

IV. LEGAL FRAMEWORK

A. Statutory Authority Governing Post-Order Detention (8 U.S.C. § 1231)

7. The Due Process Clause of the Fifth Amendment states that “[n]o person shall be ... deprived of life, liberty, or property without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lie at the heart of the liberty that [the Due Process] Clause protects.”² This applies to everyone in this country, including aliens.³
8. Under 8 U.S.C. § 1231(a)(1), DHS may detain an individual during the 90-day “removal period.” After that period, Congress sharply limits DHS's authority. 8 U.S.C. § 1231(a)(3) requires release under an Order of Supervision when removal is not reasonably foreseeable, unless DHS makes specific individualized findings supporting detention. 8 U.S.C. § 1231(a)(6) permits continued detention only in narrow circumstances that remain consistent with constitutional due process.

² *Zadvydas v. Davis*, 533 U.S. 678, 690, (2001).

³ *Id.* at 693 (“[T]he Due Process clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful [or] unlawful ...”); *Reno v. Florida*, 507 U.S. 292, 306 (1993) (“the Fifth Amendment entitles aliens to due process of law in deportation proceedings”).

9. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that indefinite or speculative detention is unconstitutional, and removal must be reasonably foreseeable, not theoretical or hypothetical. The Supreme Court further held that detention beyond the 180 days after a final order of removal is presumptively unreasonable when there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. The Court extended this protection to all noncitizens ordered removed, regardless of inadmissibility. See *Clark v. Martinez*, 543 U.S. 371, 386 (2005).
10. For decades, ICE repeatedly concluded that Mr. Lopez was not a danger, nor a flight risk, and that removal was not reasonably foreseeable. As such, Mr. Lopez was placed on OSUP and maintained his supervision without incident. The 180-day removal period has long passed. ICE lacked the authority to abruptly reverse its past findings when no country was identified for Mr. Lopez's removal and there was no indication that removal was reasonably foreseeable. Moreover, ICE failed to follow the statutory and regulatory procedures required for revocation. Because ICE failed to comply with the requirements of § 1231(a)(3) and (a)(6), its re-detention of Mr. Lopez is unlawful.
11. Notwithstanding the above, nothing in *Zadvydas* bars early judicial intervention where detention is unconstitutional from the outset. Because Cuba routinely declines to repatriate Mariel-era nationals, Mr. Lopez's removal is not reasonably foreseeable, and his detention is therefore unlawful. Cuba's refusal to accept repatriation of many Mariel-era nationals and ICE's failure to pre-identify any third country that Mr. Lopez will be removed to makes removal speculative at best, and ICE's failure to follow § 241.4 procedures render this detention unlawful regardless of the duration. His detention is thus unlawful, arbitrary, and a violation of the Due Process Clause of the Fifth Amendment.

B. Revocation of Supervision Requires Strict Procedural Compliance 8 C.F.R. §241.4(l)

12. When DHS seeks to revoke an Order of Supervision, the regulations impose mandatory procedural safeguard that must be followed. Pursuant to 8 C.F.R. § 241.4(l)(1), ICE must provide an individual with (1) notice explaining the specific reasons for revocation and (2) a prompt informal interview affording him the opportunity to respond to the reasons for revocation as stated in the notification. ICE has failed to comply with these requirements. These safeguards ensure that ICE affords individuals an opportunity to contest the basis for detention in a fair and timely manner.
13. Mr. Lopez was detained on January 12, 2026, without notice and without a prompt informal interview to allow him to respond to the reasons for the revocation. He remains detained without explanation, unlawfully, and arbitrarily. This failure to follow 8 C.F.R. § 241.4(l) renders his continued detention unlawful and violates core principles of due process.

C. Administrative Procedure Act (APA) Violations

14. Under 5 U.S.C. § 706(2), a court must set aside agency action that is arbitrary, capricious, an abuse of discretion, contrary to law, or taken without observance of procedure required by law. ICE's abrupt re-detention of a fully compliant supervisee—without notice, without an individualized assessment, and without following the mandatory procedures governing revocation of supervision—squarely meets this standard.
15. ICE conducted no review, provided no explanation or evidentiary basis, and failed to articulate any reasoning supporting its departure from decades of supervision. Such disregard for statutory and regulatory requirements—particularly where liberty is at stake—constitutes classic arbitrary and capricious agency action. Courts consistently hold

that when an agency violates its own regulations in a way that affects an individual's liberty interests, the action is invalid under both the APA and the Due Process Clause.

D. Fifth Amendment Due Process

16. The Fifth Amendment's Due Process Clause protects all persons in the United States—citizens and noncitizens alike—from arbitrary government action. It protects against detention imposed without procedural safeguards, and the deprivation of liberty without a meaningful opportunity to be heard. Mr. Lopez's detention no longer serves any removal-related purpose as there is no significant likelihood that removal to Cuba is reasonably foreseeable. This has been the same determination that has been made for thirty-four (34) years. Detention that is not tied to a legitimate, forward-looking purpose becomes punitive and unconstitutional. *See Zadvydas*, 533 U.S. at 690.
17. Moreover, ICE failed to provide notice, an interview, an individualized custody review, or a meaningful opportunity to contest revocation of supervision. Courts consistently hold that when the Government deprives a person of liberty, it must provide "notice and opportunity for hearing appropriate to the nature of the case." *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (due process requires notice of the grounds for detention and a meaningful ability to contest them). Here, ICE conducted none of the mandatory procedural steps before re-detaining Mr. Lopez. Mr. Lopez's continued detention as a non-removable individual, without adequate process constitutes an ongoing due process violation that mandates his immediate release.

V. CLAIMS FOR RELIEF

COUNT I

Violation of the Fifth Amendment Right to Due Process (U.S. Const. amend. V)

1. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
2. The Fifth Amendment of the U.S. Constitution provides that no personal shall be deprived of life, liberty, or property without due process of law. This applies to all individuals in the country regardless of their citizenship.
3. The Fifth Amendment further prohibits detention that is indefinite, punitive, or unrelated to a legitimate removal purpose. In *Zadvydas v. Davis*, the Supreme Court held that detention beyond the removal period is unreasonable when there is no significant likelihood of removal in the reasonably foreseeable future.
4. Removal to Cuba is not reasonably foreseeable for Petitioner, as demonstrated by more than thirty-four years of failed removal efforts and Cuba's longstanding refusal to accept repatriation of many Mariel-era nationals.
5. Because Petitioner's detention is not reasonably related to effectuating removal, it has become punitive and unconstitutional.
6. Moreover, due process under the Fifth Amendment requires notice and a reasonable opportunity to be heard. Petitioner's detention without notice and meaningful opportunity to contest the basis for detention is a violation of his due process rights.
7. Petitioner's continued detention therefore warrants immediate habeas relief as it is an ongoing deprivation of liberty without due process and constitutes irreparable harm.

COUNT II

Unlawful Post-Order Detention in Violation of the Immigration and Nationality Act
(8 U.S.C. § 1231(a)(3) and (a)(6))

1. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
2. Under 8 U.S.C. § 1231(a)(3), when removal is not reasonably foreseeable, the Government must release a noncitizen under an Order of Supervision unless it makes specific, individualized findings that the person poses a danger to the community or a risk of flight.
3. Section 1231(a)(6) authorizes continued detention only in narrow circumstances consistent with constitutional due process.
4. For more than three decades since his release after his order of removal, ICE repeatedly determined that Petitioner posed no danger and no flight risk, releasing him under an Order of Supervision, with which he fully complied.
5. ICE abruptly re-detained Petitioner on November 12, 2025, without any individualized findings, without notice, and without identifying any change in circumstances justifying detention.
6. Because there is no significant likelihood that Mr. Lopez will be removed in the reasonably foreseeable future, and because ICE failed to comply with the statutory requirements governing post-order custody, Petitioner's detention violates 8 U.S.C. § 1231(a)(3) and (a)(6).
7. Petitioner is therefore entitled to habeas relief and immediate release.

COUNT III
Violation of Mandatory Custody Review and Revocation Procedures
(8 C.F.R. § 241.4(l))


1. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.
2. DHS regulations strictly govern the revocation of an Order of Supervision and require notice of the reasons for revocation and a prompt informal interview affording him the opportunity to respond to the reasons for revocation as stated in the notification.
3. ICE failed to comply with any of these mandatory procedural safeguards before or after re-detaining Petitioner. Mr. Lopez was taken into custody of January 12, 2026, without any notice of the reasons for revocation, without interview and without affording him a meaningful opportunity to response to the reasons for revocation, despite his decades-long compliance.
4. An agency's failure to follow its own binding regulations renders its actions ultra vires and unlawful.
5. ICE's violation of 8 C.F.R. § 241.4 constitutes a violation of due process and requires Petitioner's immediate release.

**VI. EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND
PRELIMINARY INJUNCTION**

Under Federal Rule of Civil Procedure 65, a court may issue a Temporary Restraining Order ("TRO") preventing Respondents from removing or transferring the Petitioner outside of the jurisdiction pending resolution of the Petition for Write of Habeas Corpus where the movant demonstrates (1) a likelihood of success on the merits; (2) a likelihood of irreparable injury in the absence of preliminary relief; (3) that the balance of equities tips in the movant's favor; and (4)

that an injunction serves the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Fed. R. Civ. P. 65(b)(1)*. Here, Petitioner meets all four prongs and thus a temporary restraining order (“TRO”) must be issued.

Mr. Lopez is overwhelmingly likely to prevail on the merits of this writ of habeas corpus because his detention violates the Constitution, federal statutes, and the Government’s own mandatory regulations. Mr. Lopez is being unlawfully detained without adequate notice and without opportunity to challenge his detention. Mr. Lopez is not a “SLRRFF” as there is no significant likelihood of removal in the reasonably foreseeable future. Cuba’s longstanding refusal to repatriate many Mariel-era nationals makes removal not reasonably foreseeable. Over three (3) decades have passed without DHS being able to effectuate Mr. Lopez’s removal. This further corroborates the lack of possibility of removal in the future. Mr. Lopez has completed every check-in required of him, has never absconded, and does not pose a danger to the community or risk of flight. Moreover, ICE violated mandatory procedures under 8 C.F.R. § 241.4(l) in its detention of Mr. Lopez as they failed to provide him with notice, an informal interview, and a meaningful opportunity to be heard constitute a direct violation of due process.

Moreover, Mr. Lopez and his family will suffer irreparable injury if relief is not granted. Mr. Lopez’s detention has harmed and continues to harm his U.S. citizen partner and three (3) children. Mr. Lopez is their primary source of financial, emotional, and psychological support. Without the assistance of Mr. Lopez, Mrs. Rodriguez will not be able to provide for her family. Their son, , will not be able to finish school. Moreover, their eldest daughter, Gabriela will suffer extreme hardship as she has long battled her mental health and it is only her father who provides her with the support and assistance she needs to ensure she does not self-harm.

Additionally, the balance of harms overwhelmingly favors Mr. Lopez. He poses no danger to the community and no risk of flight, as demonstrated by more than fourteen (14) years of perfect compliance under ICE supervision. Throughout this period, he consistently reported as required, maintained a stable residence, provided for his family, assisted his community, maintained steady employment, and lived peacefully without a single violation. This conclusion is further reinforced by the numerous letters from friends, family, and community members who attest to his longstanding reputation of being reliable, hardworking, loving, and dedicated to the service of others. He is peaceful, dependable, and trustworthy.

Releasing Mr. Lopez would simply return him to the same supervised conditions under which he lived safely and without incident for decades. In contrast, continued detention inflicts profound, irreparable harm on him and his family. On the other side of the scale, ICE suffers no legally cognizable harm from reinstating an Order of Supervision. His release and compliance with the U.S. Constitution only serves the public interest. Thus, it is respectfully requested a TRO be issued.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

1. Order Petitioner's immediate release from ICE custody;
2. Issue an immediate Temporary Restraining Order enjoining Respondents from continuing to detain Petitioner and/or preventing his removal from this jurisdiction;
3. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, where applicable; and
4. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of January 2026, I served a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all supporting documents by electronic filing and by mail upon the following individuals:

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Kristi Noem

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EXHIBITS

- Exh. A** Copy of the removal order.
- Exh. B** Order of Supervision.
- Exh. C** Birth Certificates for Mr. Lopez's children, Naturalization Certificate for Mrs. Rodriguez, and Mr. Lopez's Mother's Naturalization Certificate.
- Exh. D** Letter from Mrs. Rodriguez and Gabriela.
- Exh. E** Medical Records for Gabriela.
- Exh. F** Letter of Employment, Mr. Lopez's Tax Returns from 2022-2024, and Certifications.
- Exh. G** 's School Enrollment.
- Exh. H** Letters from Family and Friends.