IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CESAR ARMANDO MORALES ANDRADE, *Petitioner*, v. MIAMI ICE FIELD OFFICE DIRECTOR, *in her official capacity*; SECRETARY OF THE DEPARTMENT OF HOMELAND SECURITY, *in her official capacity;* and U.S. ATTORNEY GENERAL, *in her official capacity,* *Respondents*.	**PETITION FOR A WRIT OF HABEAS CORPUS** Case No.

INTRODUCTION

1. Petitioner Cesar Armando Morales Andrade (hereinafter "Mr. Morales Andrade" or "Petitioner"), is a 36-year-old man from Honduras who is in immigration court proceedings before the Krome Immigration Court. He is in a special process known as "withholding-only" proceedings due to his having re-entered the United States without inspection after a prior order of removal. He is seeking relief from deportation to Honduras after [redacted] Even as Petitioner has been in ICE custody, [redacted] Petitioner has already satisfied immigration authorities that he has a reasonable fear of persecution and torture.

2. Petitioner is diabetic, suffers from post-traumatic stress disorder (PTSD), major depressive disorder, and generalized anxiety disorder. He has been detained without a bond hearing by Respondents since May 2024. Mr. Morales Andrade is detained pursuant to 8 U.S.C. §1231(a)(6) (detention after issuance of a removal order and re-entry) and is therefore statutorily ineligible for a bond hearing before an immigration judge (IJ). ICE is obligated, by regulation and its own policies, to periodically review Mr. Morales Andrade 's custody. Yet Respondents have repeatedly failed to conduct any substantive custody reviews and have only intermittently issued boilerplate denials.

3. Mr. Morales Andrade's prolonged detention without a bond hearing and without adequate custody reviews violates due process under established Eleventh Circuit precedent in closely analogous contexts. *See Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1212 (11th Cir. 2016), *vacated on other grounds*, 890 F.3d 952 (11th Cir. 2018) (awarding a bond hearing after prolonged detention under 8 U.S.C. 1226(c), another mandatory detention statute); *Dorley v. Normand*, No. 5:22-cv-62, 2023 WL 3620760 (S.D. Ga. Apr. 3, 2023) (applying *Sopo* to find 20-month detention without bond unreasonable). Prolonged detention specifically in withholding-only proceedings (the type of immigration proceedings at issue here) also violates the purpose of detention under 8 U.S.C. 1231; release is warranted here because actual deportation is not foreseeable. *See Ambrosi v. Warden of Folkston ICE Processing Ctr.* No. 5:25-cv-13 2025 WL 2772500 (S.D. Ga. Sept. 29, 2025) (ordering release for detainee in withholding-only proceedings where there was no timeframe for removal.)

4. Having already been detained for more than twenty months without a bond hearing, Mr. Morales Andrade 's detention is likely to continue for months to come because although he has a forthcoming hearing scheduled in immigration court, his case may take many additional

months or years before reaching resolution because of the availability of appeals to both the Petitioner and the government. However, virtually all of the delay in Mr. Morales Andrade 's case is attributable to the Respondents' actions or inactions. Meanwhile, he is detained in prison-like conditions at Krome North Service Processing Center ("Krome") without adequate medical care for his numerous ailments. Petitioner's continued detention violates due process.

5. Additionally, Mr. Morales Andrade's continued detention violates 8 U.S.C. §1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. He cannot be deported to his native country—Honduras—because he has a fear of return to his country of origin, passed a reasonable fear screening and is awaiting a decision on his claims for humanitarian protection. Following the decision from the immigration court, if denied he will appeal in order to prevent his deportation to a country where he faces death or serious bodily injury. If granted withholding of removal or protection under the Convention Against Torture, and the government appeals, the detention will likewise extend indefinitely into the future. If granted protection, any ICE attempts to remove him to alternative countries would almost certainly be futile, but may further extend his detention past any foreseeable end.

6. Finally, ICE's failure to conduct meaningful custody reviews required by its own regulations and policies violates the Administrative Procedure Act (APA). *See Accardi v. Shaughnessy*, 347 U.S. 260, 266 (1954).

7. As a remedy, Mr. Morales Andrade requests immediate release from ICE custody. Alternatively, and at a minimum, he requests a bond hearing before an IJ at which ICE bears the burden of proving by clear and convincing evidence that he is a current flight risk or danger to the community.

JURISDICTION & VENUE

8. This Court has jurisdiction under 28 U.S.C. §2241 (the general grant of habeas authority to the district court); Art. 1, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); and 28 U.S.C. § 1331 (federal question jurisdiction).

9. While the federal courts of appeals have jurisdiction to review removal orders directly through petitions for review, *see* 8 U.S.C. § 1252, the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (holding that 8 U.S.C. § 1226(e) does not bar habeas jurisdiction over a constitutional challenge to mandatory detention in the absence of a specific provision barring habeas review).

10. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2), (e)(1) because Mr. Morales Andrade is detained in this district, where a substantial part of the events or omissions giving rise to this action occurred and continue to occur.

PARTIES

11. Petitioner, Mr. Morales Andrade, a native and citizen of Honduras, is currently detained at Krome North Service Processing Center. He is under the direct control of Respondents and their agents.

12. The Miami ICE Field Office Director is Mr. Morales Andrade 's immediate custodian. She is sued in her official capacity. In this capacity, she has responsibility for and

authority over the detention and removal of noncitizens detained at Krome and is authorized to release Mr. Morales Andrade.

13. The Secretary of the Department of Homeland Security (DHS) is sued in her official capacity. DHS is responsible for the administration and enforcement of immigration laws, and the Secretary has supervisory responsibility and authority over the detention and removal of noncitizens throughout the United States. ICE is a subdivision of DHS, and the Secretary is a legal custodian of Mr. Morales Andrade.

14. The Attorney General of the United States is sued in her official capacity. The Attorney General is the head of the Department of Justice, which encompasses the Board of Immigration Appeals (BIA) and the IJs as subunits of the Executive Office of Immigration Review (EOIR). The Attorney General supervises IJs, including those who preside over the Miami Krome Processing Immigration Court, which have jurisdiction over bond proceedings for individuals in ICE custody at Krome Processing Center.. Only EOIR has the authority to provide Mr. Morales Andrade with a bond hearing, and it routinely does so when a federal district court orders.

STATEMENT OF FACTS

15. Mr. Morales Andrade is a 36-year-old native and citizen of Honduras. He is not a citizen of any country besides Honduras. See Ex. 1, (Petitioner's Declaration) at ¶ 1.

16. Mr. Morales Andrade first came to the United States in 2014. Id. at ¶ 3.

17. Mr. Morales Andrade applied for asylum within a year of his arrival to the U.S. He was ordered removed in September 2015 after the IJ erroneously determined that he did not qualify for asylum. He timely appealed his removal order on October 26, 2015, but that appeal was

dismissed on June 20, 2016. See Ex. 2 (Previous BIA Decision dated June 20, 2016 and IJ Decision dated September 30, 2015).

18. He then left the U.S. pursuant to an administratively final removal order in August 2016. See Ex. 1 at ¶3.

19. He remained outside the U.S. in Honduras from August 2016 until approximately January 2021, when he entered the U.S. seeking protection after being targeted, harmed and tortured by [redacted] See Ex. 3, (Reasonable Fear Interview Record dated May 15, 2024.)

20. On May 15, 2024, an asylum officer found that the Petitioner had met his burden in showing that he had a reasonable fear and that the "harm he experienced in the past does rise to the level of severe physical or mental pain required to constitute torture." Id.

21. Petitioner is in "withholding-only" proceedings, a type of immigration court process reserved for persons who re-entered the United States seeking refuge after having been previously ordered removed. He is awaiting his next hearing tomorrow, as of the date of this Petition.

22. Since that time, Petitioner has been in immigration court proceedings seeking withholding of removal, but a decision has not yet been made in his case. See Ex.4 (Hearing Notices Collected).

23. Mr. Morales Andrade only has one arrest for simple battery and has no other crime. This arrest and his re-entry in the United States after an order of removal has prompted ICE to initiate withholding only proceedings against him in 2024. See Ex. 5. (Florida Department of Law Enforcement Search Results and Dismissal Order.)

24. Mr. Morales Andrade demonstrated a sufficient fear of return to Honduras to enter withholding-only proceedings before an IJ in May 2024. See Exh. 3.

25. Mr. Morales Andrade is 36 years old and has medical conditions that have not been adequately treated at Krome. He suffers from diabetes, as well as acute stress, anxiety and depression on account of the brutal attacks he and his family have experienced in Honduras from criminal organizations targeting them. See Ex. 6 (Petitioner's Mental Health Evaluation.)

26. Because his previous removal order was reinstated, Mr. Morales Andrade is not eligible to request bond from an IJ and can only request release from ICE. Petitioner has requested release as a matter of administrative grace various times but has been denied with hardly any explanation. See Ex. 7 (Post-Order Custody Review Denials.)

27. Independently of any release requests, ICE was required to review Mr. Morales Andrade 's custody under 8 C.F.R. § 241.4 after 90 days of detention, again at 180 days of detention, and a third time at 540 days of detention. ICE was also required to serve each of these custody review decisions on Mr. Morales Andrade and to personally interview Mr. Morales Andrade at least once prior to the 180-day review. Petitioner has only received boilerplate denials.

28. ICE has not provided the Petitioner with meaningful, timely, individualized custody reviews under 8 C.F.R. § 241.4 or 241.14 while Mr. Morales Andrade has been detained.

29. At the Krome North Service Processing Center, Mr. Morales Andrade is confined to a large cell with at times over 166 other people for approximately 23 hours a day, with limited time for meals and recreation. See Ex. 8 (Articles relating to Krome.)

30. Petitioner is diabetic and suffers from post-traumatic stress disorder, major depressive disorder, and generalized anxiety disorder has been detained without a bond hearing by Respondents since March 2024 without a meaningful opportunity to request release.

31. If released, Mr. Morales Andrade plans to return to live with his mother and children in Miami, Florida. See Ex. 1 at ¶13.

LEGAL BACKGROUND

I. Reinstatement of Removal and Withholding-Only Proceedings

32. When a noncitizen facing persecution in his home country flees to the United States after having been previously deported, he is subject to a process called "reinstatement of removal," whereby DHS reinstates the noncitizen's prior removal order and seeks to immediately deport them without a hearing. *See* 8 U.S.C. § 1231(a)(5); 8 C.F.R. § 241.8. These noncitizens are often referred to as being "in reinstatement."

33. However, pursuant to treaty obligations codified into U.S. law that prevent governments from removing individuals to countries where their lives are in danger, a noncitizen in reinstatement is entitled to request a Reasonable Fear Interview (RFI). *See* 8 C.F.R. § 241.8(e). To pass the RFI, the noncitizen must demonstrate "a reasonable possibility that he or she would be persecuted on account of his or her race, religion, nationality, membership in a particular social group or political opinion, or a reasonable possibility that he or she would be tortured in the country of removal." 8 C.F.R. § 208.31(c).

34. If an Asylum Officer (AO) finds that the noncitizen has demonstrated a reasonable possibility of persecution or torture at the RFI, the noncitizen is referred to proceedings before an IJ at which he seeks to demonstrate eligibility for withholding of removal under 8 U.S.C. § 1231(b)(3) or Convention Against Torture (CAT) protection under 8 C.F.R. § 1208. These proceedings are often referred to as "withholding-only proceedings."

35. Withholding-only proceedings sometimes last for many months or even years. *See, e.g., Guerrero Sanchez v. Warden York Cty. Prison*, 905 F.3d 208, 212 (3d Cir. 2018) (noting that

petitioner's withholding-only proceedings lasted more than 53 months).[1] Typically, it takes a few months before a noncitizen in withholding-only proceedings has an individual merits hearing at which the IJ decides whether to grant protection. Once the IJ reaches a decision, both the noncitizen and DHS have the right to appeal that decision to the Board of Immigration Appeals (BIA). *See* 8 C.F.R. § 1003.38(b). Many more months may pass before the BIA either affirms, reverses, or remands back to the IJ. *See Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2294 (2021) (Breyer, J., dissenting) (citing data finding that withholding-only proceedings typically last "114 days when neither party appealed the immigration judge's final decision, 301 days when at least one party appealed and the BIA rendered a final decision, and 447 days when the BIA remanded the case and the immigration judge made a final decision."). Once the BIA issues a decision, the noncitizen can petition a federal circuit court of appeal for review of the BIA decision, prolonging detention even further as the noncitizen asserts their right to judicial review. *See* 8 U.S.C. § 1252(b).

36. To be granted "withholding of removal," a noncitizen must convince the Attorney General (via an IJ) that the noncitizen's "life or freedom would be threatened in that country because of the [noncitizen]'s race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 1208.16(b). Withholding of removal has all the same elements as asylum, *see* 8 U.S.C. § 1158(b)(1), except that to receive withholding the noncitizen must show a "clear probability" of future persecution – that it is more likely than not that he or she would be subject to persecution – as opposed to merely showing a "reasonable possibility" of future persecution in the asylum context. *INS v. Stevic*, 467 U.S. 407, 424 & n.19 (1984).

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[1] David Hausman, ACLU Immigrants' Rights Project, Fact-Sheet: Withholding-Only Cases and Detention, at 2 (Apr. 19, 2015), available at: https://www.aclu.org/sites/default/files/field_document/withholding_only_fact_sheet_-_final.pdf.

37. If a noncitizen is granted withholding removal by the IJ, he receives a removal order to their country of citizenship, but that removal order is "withheld" indefinitely because of the high likelihood of persecution upon removal. 8 U.S.C. § 1231(b)(3). The noncitizen thus cannot be removed to his native country unless ICE brings forward sufficient evidence demonstrating that the noncitizen is no longer at risk of persecution, or under other extremely limited circumstances. 8 CFR § 1208.24(b). While ICE is authorized to remove noncitizens who are granted withholding of removal to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Noncitizens can be removed, for instance, to the country "of which the [noncitizen] is a citizen, subject, or national," the country "in which the [noncitizen] was born," or the country "in which the [noncitizen] resided" immediately before entering the United States. 8 U.S.C. §§ 1231(b)(2)(D)–(E).

38. If ICE identifies an appropriate alternative country of removal, ICE must undergo further proceedings in immigration court to effectuate removal to that country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) ("If [noncitizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see* 8 C.F.R. §§ 208.16(c)(4), 208.17(a) (2004) . . ."); *Romero v. Evans,* 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) ("DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any reasonable fear claims."), *rev'd on other grounds, Guzman Chavez*, 141 S. Ct. 2271.

39. As a result of these restrictions and procedures, "only 1.6% of noncitizens granted withholding-only relief were actually removed to an alternative country" in FY 2017. *Guzman Chavez*, 141 S. Ct. at 2295 (Breyer, J., dissenting). An analysis by undersigned counsel of updated

statistics provided by ICE and EOIR for FY 2019 through FY 2020 reveals that this percentage was at most 3.3% during that period.[2] *See* Ex. 5, ICE Data on Post-Relief Detention and Removal at 1. In practice, this means that a noncitizen granted withholding of removal will very likely remain in the United States subject to supervision by immigration authorities.

II. DETENTION OF NONCITIZENS GRANTED WITHHOLDING OF REMOVAL OR PROTECTION UNDER THE CONVENTION AGAINST TORTURE.

a. Statutory Framework

40. 8 U.S.C. § 1231 governs the detention of noncitizens "during" and "beyond" the "removal period." 8 U.S.C. § 1231(a)(2)-(6). The "removal period" begins once a noncitizen's removal order "becomes administratively final." 8 U.S.C. § 1231(a)(1)(B). For individuals with a reinstated removal order like Mr. Morales Andrade , the removal period begins on the date they enter detention with the reinstated order. *See Guzman Chavez*, 141 S. Ct. at 2291.

41. The removal period lasts for 90 days, during which ICE "shall remove the [noncitizen] from the United States" and "shall detain the [noncitizen]" as it carries out the removal. 8 U.S.C. § 1231(a)(1)-(2). If ICE does not remove the noncitizen within the 90-day removal period, the noncitizen "*may* be detained beyond the removal period" if they meet certain

[2] EOIR data indicates that approximately 386 noncitizens were granted withholding-only relief in FY 2019 and 2020. Ex. 5 at 1. In response to a 2021 FOIA request, the ICE-ERO Statistical Tracking Unit provided data showing that a total of 13 people in "Case Category 5C (Relief Granted - Withholding of Deportation/Removal)" were removed in FY 2019 and 2020. *Id.* at 2. Comparing these data suggests that approximately 3.3% of noncitizens granted withholding of removal or CAT protection were ultimately deported by ICE during that period. To the extent that the ICE data includes non-citizens removed to their country of origin after their withholding or CAT grant was terminated, the percentage of non-citizens removed to *third* countries following a final withholding or CAT protection grant is even lower.

criteria, such as being inadmissible or deportable under specified statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added).

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

b. Regulations

43. DHS regulations provide that, at or before the end of the 90-day removal period that ensues upon a noncitizen's removal order becoming final, the local ICE field office with jurisdiction over the noncitizen's detention must conduct a custody review to determine whether the noncitizen should remain detained. *See* 8 C.F.R. § 241.4(c)(1), (h)(1), (k)(1)(i). If the noncitizen is not released following the 90-day custody review, jurisdiction transfers to ICE Headquarters (ICE HQ), *id.* § 241.4(c)(2), which must conduct a custody review before or at 180 days. *Id.* § 241.4(k)(2)(ii). In making these custody determinations, ICE considers several factors, including whether the noncitizen is likely to pose a danger to the community or a flight risk if released. *Id.* § 241.4(e). If the factors in § 241.4 are met, ICE must release the noncitizen under conditions of supervision. *Id.* § 241.4(j)(2). Before the 180-day review, ICE must personally interview the noncitizen and make a custody determination based on the interview. *Id.* § 241.4(i)(3)-(6). After the 180-day review, ICE must continue conducting periodic reviews every 90 days upon request, or at least every year thereafter. *Id.* § 241.4(k)(2)(iii).

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

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

c. ICE Policy

46. Long-standing ICE policy favors the prompt release of noncitizens who have been granted asylum, withholding of removal, or CAT relief. *See* Ex. 6, ICE Policies on Post-Relief Release at 1. In 2004, ICE issued a policy memorandum ("ICE Directive 16004.1") stating that "it is ICE policy to favor the release of [noncitizens] who have been granted protection relief by an immigration judge, absent exceptional concerns such as national security issues or danger to the community and absent any requirement under law to detain." *Id.* at 1.

47. ICE reaffirmed this policy in a 2012 announcement, clarifying that the 2004 ICE memorandum is "still in effect and should be followed" and that "[t]his policy applies at all times following a grant of protection, including during any appellate proceedings and throughout the removal period." *Id.* at 2. Finally, in 2021, Acting ICE Director Tae Johnson circulated a memorandum to all ICE employees reminding them of the "longstanding policy" that "absent exceptional circumstances, . . . noncitizens granted asylum, withholding of removal, or CAT protection by an immigration judge *should* be released. . . " *Id.* at 3 (emphasis added). There is no indication that this policy has been rescinded or modified by the current administration.

d. Due Process Under the Fifth Amendment

48. In *Johnson v. Arteaga-Martinez*, the Supreme Court declined to adopt a *per se* rule construing §1231(a)(6) to require bond hearings with the burden of proof on the Government for *all* noncitizens detained for more than six months under that provision. 142 S. Ct. 1827 (2022). However, neither *Arteaga-Martinez* nor its predecessor *Guzman Chavez* addressed whether noncitizens subject to prolonged detention under § 1231(a)(6) may be entitled to habeas relief on a case-by-case basis. Rather, the Supreme Court declined to reach the petitioner's as-applied claims, leaving them "for the lower courts to consider in the first instance." *Id.* at 1835. Indeed, the Government conceded in *Arteaga-Martinez* that although noncitizens detained pursuant to § 1231(a)(6) are not statutorily entitled to automatic bond hearings after six months, "as-applied constitutional challenges remain available" for those noncitizens who continue to be detained well beyond the time normally required to execute a removal order. *Id.*

49. Thus, noncitizens detained under § 1231(a)(6) may bring as-applied due process challenges to their prolonged detention under the statute. Since *Arteaga-Martinez*, many courts across the country have ruled favorably on these very challenges. *See, e.g., Michelin v. Oddo*, No.

3:23-cv-22, 2023 WL 5044929, *6-8 (W.D. Pa. Aug. 8, 2023) (holding that 18-month detention under § 1231(a)(6) without bond violated due process); *Cabrera Galdamez v. Mayorkas*, No. 22-cv-9847, 2023 WL 1777310, at *4, *9 (S.D.N.Y. Feb. 6, 2023) (holding that 16-month detention under § 1231(a)(6) without bond hearing violated due process); *Ambrosi v. Warden of Folkston ICE Processing Ctr.* No. 5:25-cv-13 2025 WL 2772500 (S.D. Ga. Sept. 29, 2025) (adopting report and recommendation to release habeas petitioner after twenty-six months of detention.)

50. In the analogous context of detention without bond under 8 U.S.C. § 1226(c), the Eleventh Circuit established a multi-factor, case-by-case balancing test for determining whether a noncitizen's mandatory detention has become unreasonably prolonged in violation of due process. The five factors are (1) the duration of detention, (2) the reason for delay, (3) the feasibility of removal, 4) the comparison between the length of immigration detention and criminal custody, and 5) "whether the facility or the civil immigration detention is meaningfully different from a penal institution or criminal detention." *Sopo*, 825 F.3d at 1218.

51. In 2018, the Supreme Court abrogated *Sopo* to the extent that it employed the constitutional avoidance canon to construe the statute. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 846 (2018). However, *Sopo*'s analysis of what constitutes "unreasonable and unjustified" detention continues to serve as persuasive authority for as-applied due process challenges in this Court. *See Clue v. Greenwalt*, No. 5:21-cv-80, 2022 WL 17490505, at *4 (S.D. Ga. Oct. 24, 2022) (finding *Sopo* analysis "highly instructive as to determining if prolonged detention under § 1226(c) does, in fact, violate a petitioner's right to procedural due process.")

ARGUMENT

52. Mr. Morales Andrade 's detention without a bond hearing violates due process because it has become unreasonably prolonged under the *Sopo* factors. While *Sopo* involved a

noncitizen detained under 8 U.S.C. § 1226(c), this Court should apply the *Sopo* factors to Mr. Morales Andrade 's detention under 8 U.S.C. § 1231(a)(6) because he is in the functionally identical situation of prolonged detention without bond during ongoing proceedings.

53. Alternatively, Mr. Morales Andrade 's continued detention violates § 1231(a)(6) as interpreted by *Zadvydas* because it has far exceeded six months, and his removal is not reasonably foreseeable. Under *Zadvydas* and the regulations implementing it, this Court should order Mr. Morales Andrade 's immediate release under reasonable conditions of supervision.

54. Finally, ICE's failure to conduct custody reviews required by its own regulations and policies violates the Administrative Procedure Act (APA). *See Accardi*, 347 U.S. at 266.

I. Mr. Morales Andrade 's prolonged detention without a bond hearing violates due process and he is entitled to a bond hearing before a neutral arbiter.

55. The *Arteaga-Martinez* Court expressly held that "as-applied constitutional challenges [to § 1231 detention] remain available to address 'exceptional' cases." 142 S. Ct. at 1835. Following the Supreme Court's instructions, this Court should apply the *Sopo* factors to the clearly exceptional case of Mr. Morales Andrade , who has been detained for twenty two months without bond and no meaningful opportunity to be heard.

56. Other courts have done the same. For example, in *Michelin*, the U.S. District Court for the Western District of Pennsylvania considered the habeas petition of a noncitizen with a final removal order who had been detained for 18 months and whose motion to reopen was pending before the BIA for more than a year. 2023 WL 5044929, at *2. After recognizing that Mr. Michelin was detained under § 1231(a)(6), the Court analyzed his as-applied due process claim under the factors established in *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020) – the Third Circuit equivalent of *Sopo*. *Id.* at *6. The Court also rejected the Government's argument that any due process violation in Mr. Michelin's prolonged detention had been remedied

by ICE's post-order custody reviews; the Court found that these custody reviews were marred by ICE's failure to follow agency procedures and therefore "did not provide [Mr. Michelin] with meaningful and adequate process." *Id.* at *8.

57. Like the petitioner in *Michelin*, Mr. Morales Andrade has never had a bond hearing in his twenty-two months of detention.

58. Civil immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen's appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention "is of potentially *indefinite* duration," courts have "also demanded that the dangerousness rationale be accompanied by some other special circumstance." *Id.* If immigration detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

59. To determine whether the Government's procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

60. First, the Petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507,

525 (2004). Petitioner has been detained for nearly a month without any individualized assessment of flight risk or danger, despite his long residence in the United States, extensive family ties, and absence of any criminal history that would justify mandatory detention. These core factors were never weighed because the Immigration Judge concluded—erroneously—that the court lacked jurisdiction to consider bond at all.

61. Second, the risk of erroneous deprivation is extraordinarily high. By refusing to consider bond based on DHS's assertion that Petitioner is subject to "mandatory detention" under 8 U.S.C. § 1225(b)(2), the Immigration Court deprived Petitioner of the only procedural safeguard designed to test the necessity of continued confinement. This categorical denial eliminated individualized review altogether, transforming what should have been a meaningful custody determination into a nullity. Courts have repeatedly held that procedures which foreclose individualized assessment of detention impermissibly heighten the risk of erroneous deprivation and violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

62. Third, the Government's interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive conditions." Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

63. Accordingly, under *Mathews*, the procedures used to detain Petitioner fail to satisfy procedural due process.

64. Even apart from procedural deficiencies, Petitioner's continued confinement violates substantive due process. Government detention is constitutionally permissible only when it occurs in a criminal context with robust procedural protections, or in civil circumstances where a "special justification" outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. No such justification exists here.

65. Petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no individualized justification for his ongoing detention, no finding that he poses a danger or flight risk, because the IJ never reached those issues. Detaining a noncitizen without such a finding serves no legitimate regulatory goal and instead amounts to impermissible punishment.

a. Mr. Morales Andrade 's detention is unreasonable under the *Sopo* factors.

66. The ***first*** factor—the length of detention without a bond hearing—favors Mr. Morales Andrade because he has been detained for more than twenty months. Mr. Morales Andrade 's length of detention far exceeds the one-year cutoff described in *Sopo*. 965 F.3d at 217 ("[D]etention without a bond hearing may often become unreasonable by the one-year mark."). Furthermore, Mr. Morales Andrade has been detained for as long, or nearly as long, as numerous habeas petitioners granted relief by this Court. *See, e.g., Dorley*, 2023 WL 3620760, at *5 (20 months); *Clue*, 2022 WL 17490505, at *4 (24 months).

67. The ***second*** factor similarly favors Mr. Morales Andrade because the Government is predominantly responsible for the delays prolonging his immigration proceedings. Mr. Morales Andrade's proceedings would be over, and he likely would have been released by now, had the

case not been continued so many times based on external issues relating to DHS or the immigration court that are not the fault of the Petitioner. *See Jarpa v. Mumford*, 211 F. Supp. 3d 706, 722 (D. Md. 2016) ("[T]he length of [petitioner's] detention now exceeding ten months, coupled with the unique circumstances of this case—particularly that he stands adjudicated lawful permanent resident—supports this Court's determination that Petitioner's continued detention without an individualized bail hearing under § 1226(c) is no longer reasonable").

68. With respect to the ***third*** factor, Mr. Morales Andrade has a final removal order, but he has withholding-only proceedings pending against him that commenced with a finding of reasonable fear. The government therefore has acknowledged that Mr. Morales Andrade 's removal to Honduras may result in persecution or torture. Therefore, this factor—which focuses broadly on the "possibility of removal" —favors Mr. Morales Andrade. *Dorley*, 2023 WL 3620760, at *5.

69. The ***fourth*** *Sopo* factor favors Mr. Morales Andrade because his "civil immigration detention exceeds the time [he] spent in prison for the crime that rendered him removable." *Sopo*, 825 F.3d at 1218. There is no crime that made Mr. Morales Andrade removable, nor even a crime that triggered his immigration detention; he is in ICE custody merely because he returned to the United States due to persecution in Honduras that did not exist during his initial removal proceedings. Indeed, Mr. Morales Andrade has spent only a few days in jail over the course of his life, far less than the twenty two months he has now spent in prison-like civil immigration detention. Ex. 1 at ¶ 12.

70. The ***fifth*** factor favors Mr. Morales Andrade because the conditions of his confinement at Krome are not "meaningfully different from a penal institution for detention." *Sopo*, 825 F.3d at 1218. This Court has twice found that the conditions at Krome Processing Center

resemble criminal detention and that this factor favors the non-citizen petitioner. *See, e.g., Dorley*, 2023 WL 3620760, at *6; *Clue*, 2022 WL 17490505, at *5. In *Dorley*, this Court referenced the same OIG report included in this petition, *see* Ex. 4, finding that it supported the petitioner's assertions on the fifth factor. *Dorley*, 2023 WL 3620760, at *5.

71. Mr. Morales Andrade 's experience has been no different than the petitioners in those cases. He wears prison garb associated with his security level, is subject to frequent head counts, and must remain in his cell with more than 100 at times other people for approximately 22 hours a day. Ex. 1 at ¶¶ 11-13; *see also Clue*, 2022 WL 17490505, at *5 (finding that fifth factor favored petitioner detained at Miami where he presented evidence that "his movement is restricted in ways similar to those in criminal detention, his living conditions are similar, and even his permitted clothing is similar."). Amnesty International recommended that the U.S. government address systemic human rights violations within immigration detention facilities and urged Florida officials to close Alligator Alcatraz and to prohibit the use of any state-run immigration detention. See Ex. 8.

72. Moreover, Mr. Morales Andrade 's lack of access to adequate medical care and declining mental health, is another hallmark of punitive criminal detention. ICE refuses to authorize operations that Mr. Morales Andrade needs and that he would presumably have access to if Krome were less restrictive than a prison.

73. In summary, all five *Sopo* factors are squarely in Mr. Morales Andrade 's favor. Therefore, Mr. Morales Andrade 's twenty month detention without a bond hearing has become unreasonably prolonged in violation of due process. *See Sopo*, 825 F.3d at 1220-21 (finding that four of five factors favored petitioner and ordering bond hearing); *Dorley*, 2023 WL 3620760, at

*6 (finding that four of five factors favored petitioner and ordering bond hearing); *Clue*, 2022 WL 17490505, at *6 (finding that three of five factors favored petitioner and ordering bond hearing).

b. Due process requires that Mr. Morales Andrade receive a bond hearing before a neutral arbiter at which the Government bears the burden of proof by clear and convincing evidence to justify continued detention.

74. The Supreme Court has repeatedly recognized that civil detention must be carefully limited—particularly through placing a heightened burden of proof on the Government to justify detention—to avoid due process concerns. *See, e.g.*, *Cooper v. Oklahoma*, 517 U.S. 348, 363 (1996) ("[D]ue process places a heightened burden of proof on the State in civil proceedings in which the individual interests at stake . . . are both particularly important and more substantial than mere loss of money.") (citation and quotation marks omitted); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) (holding unconstitutional a state civil insanity detention "statute that place[d] the burden on the detainee to prove that he is not dangerous"). Indeed, "[i]ncreasing the burden of proof is one way to impress the factfinder with the importance of the decision and thereby perhaps to reduce the chances that inappropriate commitments will be ordered." *Addington v. Texas*, 441 U.S. 418, 427 (1979).

75. While this Court has traditionally declined to specify which party bears the burden at the court-ordered bond hearing, Mr. Morales Andrade 's situation warrants a unique remedy because he already is awaiting a decision from the IJ. Given that ICE is continuing to detain Mr. Morales Andrade, the government should at least be obligated to justify Mr. Morales Andrade 's continued detention by clear and convincing evidence. *See Jarpa*, 211 F. Supp. 3d at 722 ("Placing the burden on Mr. Jarpa at the hearing, therefore, would be inconsistent with having found his continued detention unconstitutional"); *Deng Chol A. v. Barr*, 455 F. Supp. 3d 896, 905 (D. Minn. 2020) (holding that "it would appear to make little sense to afford petitioner less due process than

is afforded other civil, and even some criminal, detainees" where petitioner had moved to terminate his removal proceedings based on vacated conviction).

76. The U.S. District Court for the Middle District of Georgia_has ordered a bond hearing with the burden on the Government in an analogous context under § 1226(a), which governs the discretionary detention of non-citizens. *J.G. v. Warden, Irwin County Detention Cente*r, 501 F. Supp. 3d 1331, 1341 (M.D. Ga. 2020). The court in *J.G.* reasoned that, under *Mathews v. Eldridge*, 424 U.S. 319 (1976), shifting the burden onto the Government was appropriate after balancing the strength of the petitioner's interest in "freedom from physical incarceration" and the risk of erroneous deprivation against the Government's interest in continued detention without bearing the burden to justify it. *Id.* at 1335-41. The same is true here, and indeed Mr. Morales Andrade 's liberty interest is even stronger than the petitioner in *J.G.* because he has *never* had a bond hearing at any point during his detention and has already prevailed in his removal proceedings.

II. Mr. Morales Andrade 's continued detention violates § 1231(a)(6) under *Zadvydas* and he is entitled to immediate release.

77. If this Court does not find that Mr. Morales Andrade is entitled to a constitutionally adequate bond hearing under *Sopo*, it should alternatively hold that his twenty-one month detention without a bond hearing violates § 1231(a)(6) as construed by *Zadvydas* and order his immediate release.

a. *Zadvydas* applies to Mr. Morales Andrade 's detention.

78. Mr. Morales Andrade 's continued detention violates 8 U.S.C. § 1231(a)(6) because his removal is not reasonably foreseeable. He should not be deported to his home country of Honduras or anywhere because he has a fear of return to Honduras and an asylum officer has found he will be subjected to torture if he is removed to Honduras. Once a decision is made on the

case, DHS or Petitioner has the right to appeal. If the appeal is won and ICE wins or Petitioner wins, the government fruitlessly attempt to find a third country that will accept him, even if those attempts are extremely unlikely to succeed. Without relief from this Court, Mr. Morales Andrade will be needlessly detained well beyond the reasonably foreseeable future.

79. After six months of post-removal order § 1231 detention, a noncitizen is entitled to relief under *Zadvydas* if there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. The Supreme Court and courts across the country have analyzed the foreseeability of removal on a sliding scale. *See Zadvydas*, 533 U.S. at 701 ("[F]or detention to remain reasonable, as the period of prior post removal confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink."); *Hassoun v. Sessions*, No. 18-cv-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) ("[T]he government's burden becomes more onerous the longer an alien is detained, because it must show that removal will be effectuated sooner in the future.").

80. Though *Zadvydas* has traditionally been applied to noncitizens whose removal is hindered by practical barriers such as the inability to secure travel documents from the noncitizen's home country, the *Zadvydas* framework applies with equal force here. Prolonged detention is constitutionally suspect regardless of the reason for delay. *See Oyedeji v. Ashcroft*, 332 F. Supp. 2d 747, 753 (M.D. Pa. 2004) ("Prolonged incarceration for an alien whose potentially meritorious challenge to removal is part of a congested docket is indistinguishable from lengthy incarceration because the alien's native country refuses to issue travel documents"). Courts have applied the *Zadvydas* standard to grant habeas relief to noncitizens in ongoing proceedings. *See Garcia Diaz v. Acuff*, 507 F. Supp. 3d 991, 997 (S.D. Ill. 2020) ("Because Garcia Diaz cannot be removed during the pendency of his withholding case, there is no significant likelihood that he will be

removed in the reasonably foreseeable future."); *Quezada-Martinez v. Moniz*, No. 23-cv-12503, 2024 WL 1018451, at *4 (D. Mass. Mar. 8, 2024) (finding no significant likelihood of removal when removal hinged on "outcome of several lengthy remand and appeal proceedings"); *D'Alessandro v. Mukasey*, 628 F. Supp. 2d 368, 386 (W.D.N.Y 2009) (applying *Zadvydas* to noncitizen detained under § 1231(a)(6) with temporary stay of removal while pursuing circuit court review).

81. Though the question has never been directly presented to the Supreme Court, the Court has indicated on several occasions that it would apply the *Zadvydas* test to others who fall within the post-order detention statute. First, in *Clark v. Martinez*, the Court held that *Zadvydas* applies to inadmissible noncitizens detained under §1231(a)(6), rejecting the Government's attempts to confine *Zadvydas* to only admissible noncitizens and observing that "[the Government] cannot justify giving the *same* detention provision a different meaning when such [inadmissible noncitizens] are involved." 543 U.S. 371, 380 (2005). To exclude Mr. Morales Andrade from *Zadvydas*' reach would be similarly inconsistent and would "effectively punish[] [the habeas petitioner] for pursuing applicable legal remedies." *Oyedeji*, 332 F. Supp. 2d at 753.

82. Second, in *Guzman Chavez*, the Court refuted the argument that "there is a difference between the Government's inability to remove [a noncitizen] due to the grant of withholding-only protection and its inability to remove [a noncitizen] because of the geopolitical and practical concerns that prevented removal in that case," noting that "the same lack of certainty [of removal] existed in *Zadvydas* . . . for geopolitical or practical reasons" as in ongoing proceedings where "it is not certain that the Government will actually be able to remove the [noncitizen] from the country." 141 S. Ct. at 2287 n.7.

83. This Court should follow these authorities and analyze Mr. Morales Andrade's prolonged detention under the *Zadvydas* framework, focusing on whether there is a significant likelihood of removal in the reasonably foreseeable future.

b. Mr. Morales Andrade 's removal is not reasonably foreseeable under *Zadvydas.*

84. Mr. Morales Andrade has been detained for twenty one months, more than *three times* the presumptively reasonable six-month detention period. Thus, this Court should be particularly stringent in determining whether Mr. Morales Andrade 's removal is reasonably foreseeable. *See D'Alessandro,* 628 F. Supp. 2d at 406 ("[After sixteen months] the reasonably foreseeable future has nearly shrunk to the point of being the present time."); *Shefqet v. Ashcroft*, No. 02-cv-7737, 2003 WL 1964290, at *4 (N.D. Ill. April 28, 2003) ("The period of Petitioner's post-final-order detention has at this time exceeded seventeen months and so the 'reasonably foreseeable future' must now come very quickly.").

85. Mr. Morales Andrade is detained pending resolution of his withholding of removal claim, which may take additional months or years *after* an IJ renders a decision. Therefore, Mr. Morales Andrade 's removal is not reasonably foreseeable after twenty-one months of detention because he cannot be removed to his country of origin until the Immigration Judge makes a decision and, if appealed and won or lost, the Agency's attempts to remove his to any third country may be futile, or will cause additional fear and issues to the Petitioner..

c. Mr. Morales Andrade must be immediately released under *Zadvydas.*

86. Because Mr. Morales Andrade has been detained under § 1231 for more than twenty months and his removal is not reasonably foreseeable, *Zadvydas* requires that he be immediately released. *See* 533 U.S. at 692 (reviewing district court decisions ordering release); 8 U.S.C. § 1231(a)(6) (authorizing release "subject to . . . terms of supervision").

87. Release is the most common and appropriate remedy for a *Zadvydas* violation. *See Hassoun*, 2019 WL 78984, at *8 (ordering release subject to "reasonable conditions of supervision" determined by Respondents); *D'Alessandro*, 628 F. Supp. 2d at 406 (recommending that petitioner be "released immediately pursuant to reasonable conditions of supervision and bond, as determined by DHS, subject to review and oversight by the District Court"), *report and recommendation adopted*, 2009 WL 931164 (W.D.N.Y. Apr. 2, 2009).

88. To order Mr. Morales Andrade 's immediate release, this Court need only determine that his removal is not reasonably foreseeable under *Zadvydas*; it need not analyze whether Mr. Morales Andrade is a danger to the community or flight risk. *See Zadvydas*, 533 U.S. at 699-700 ("[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute."). To the extent that this Court considers the risk of danger or flight, Mr. Morales Andrade clearly does not pose either risk as he has no meaningful criminal history for more than a decade and has a valid claim. . In any case, "the [noncitizen]'s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances." *Zadvydas*, 533 U.S. at 700.

III. ICE's failure to review Mr. Morales Andrade 's continued detention under its own regulations and policies violates the APA.

79. Under the *Accardi* doctrine, which originated in the context of an immigration case and has been developed through subsequent immigration caselaw, agencies are bound to follow their own policies that affect the fundamental rights of individuals, including self-imposed policies and processes that limit otherwise discretionary decisions. *See Accardi*, 347 U.S. at 226 (holding that BIA must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous

than otherwise would be required."); *Pasquini v. Morris*, 700 F.2d 658, 663, n.1 (11th Cir. 1983) ("Although the [INS] internal operating instruction confers no substantive rights on the [noncitizen]-applicant, it does confer the procedural right to be considered for such status upon application.")

CLAIMS FOR RELIEF

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

80. Mr. Morales Andrade realleges and incorporates by reference the paragraphs above.

81. The Due Process Clause of the Fifth Amendment forbids the Government from depriving any person of liberty without due process of law. U.S. Const. Amend. V.

82. Mr. Morales Andrade 's detention without a bond hearing violates due process, which demands that Mr. Morales Andrade receive a bond hearing before a neutral adjudicator at which the Government bears the burden of justifying continued detention by clear and convincing evidence.

83. Petitioner's right to a bond hearing emerges from a balancing of the relevant interests. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner. Under any due process analysis, he should receive some procedural safeguard from prolonged detention.

VIOLATION OF 8 U.S.C. § 1231(a)(6)

84. Mr. Morales Andrade realleges and incorporates by reference the paragraphs above.

85. 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas*, authorizes detention only for "a period reasonably necessary to bring about the alien's removal from the United States," which is generally no longer than six months. 533 U.S. at 689, 701.

86. Mr. Morales Andrade has been detained for far longer than six months and his removal is not reasonably foreseeable. Therefore, his continued detention violates 8 U.S.C. § 1231(a)(6) and requires his immediate release.

VIOLATION OF THE ADMINSTRATIVE PROCEDURE ACT AND *ACCARDI* DOCTRINE

87. Mr. Morales Andrade realleges and incorporates by reference the paragraphs above.

88. Courts must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), and "compel agency action unlawfully withheld or unreasonably delayed." *Id.* § 706(1).

89. ICE's continued detention of Mr. Morales Andrade without meaningfully reviewing his custody under 8 C.F.R. § 241.4 or 241.13 and without the Field Office Director approving his continued detention under ICE Directive 16004.1 violates the APA.

PRAYER FOR RELIEF

WHEREFORE, Mr. Morales Andrade prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order Respondents to show cause why the writ should not be granted within three days, and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243;

c. Grant a writ of habeas corpus;

d. Declare that Mr. Morales Andrade 's detention without a bond hearing violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a)(6), and/or the Administrative Procedure Act;

e. Order Mr. Morales Andrade 's release subject to appropriate conditions or, alternatively, order a bond hearing at which the Government bears the burden of proving danger or flight risk by clear and convincing evidence;

f. Award reasonable attorney's fees and costs pursuant to Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

g. Grant such further relief as this Court deems just and proper.

Dated: January 21, 2025

Respectfully submitted,

/s/ Felix A. Montanez
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Attorney for Petitioner

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

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

s/Felix A. Montanez

Date: 1-21-2026