UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JUSTO BETANCOURT, Petitioner, v. WARDEN, "Alligator Alcatraz," in his or her official capacity; FIELD OFFICE DIRECTOR, in his official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office; KRISTI NOEM, in her official capacity as the Secretary of the U.S. Department of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; and PAMELA BONDI, in her official capacity as Attorney General of the United States; Respondents.	Case No.

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Justo Betancourt petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to compel his release from custody, as his current civil immigration detention violates the Due Process Clause of the United States Constitution and the Administrative Procedure Act.

FACTUAL BACKGROUND

1. Petitioner Justo Betancourt is a 54-year-old Cuban who entered the United States more than 35 years ago, in 1990. Like so many Cuban immigrants, Mr. Betancourt built a home and a family in Miami, Florida. Mr. Betancourt has three adult children, all of whom are United States citizens who were born in Miami, Florida, and a grandchild.

2. Mr. Betancourt has Employment Authorization to work in the United States. When it was available to him, he worked for the company of a friend who builds kitchen cabinets.

3. Following a period of incarceration, Mr. Betancourt received an order of removal on October 14, 2020. Exhibit 1.

4. Less than one month later, on November 12, 2020, Mr. Betancourt was granted an Administrative Stay of Removal. Exhibit 2. Because he is a Cuban national, making deportation unlikely, Mr. Betancourt was also placed on an Order of Supervision. *See id.*

5. For five years, Mr. Betancourt reported at least once per year to the ICE facility in Miramar, Florida ("Miramar"). He did so regularly and without issue. At a reporting date in July 2025, Mr. Betancourt was told to return in October, after three months, rather than annually. He did as directed.

6. On October 29, 2025, Mr. Betancourt arrived at Miramar for his scheduled report. Without notice or warning, and in violation of federal procedure, Mr. Betancourt was taken into custody.

7. Mr. Betancourt was taken directly from the ICE facility in Miramar, Florida, to the "Alligator Alcatraz" detention center located in the Everglades.

8. Today, Mr. Betancourt has been in the continued custody of Immigration and Customs Enforcement ("ICE") for 104 days. Since his detention on October 29, 2025, he has been incarcerated at multiple facilities, including the detention facility inside the Big Cypress National Preserve that the State of Florida has named "Alligator Alcatraz," Krome North Service Processing Center and an ICE detention facility in El Paso, Texas.[1]

9. On January 16, 2026, Mr. Betancourt was transferred from Krome to an ICE facility in El Paso, Texas. Three days later, on January 19, 2026, he was ordered by ICE to cross the border on foot and present himself to Mexican authorities in order to effectuate a third-country deportation.

[1] The timeline for Mr. Betancourt's detention is as follows: October 29, 2025, detained at Miramar and then booked at "Alligator Alcatraz;" November 26, 2025, transferred from "Alligator Alcatraz" to Krome; January 16, 2026, transferred from Krome to El Paso, Texas; January 19, 2026, transported from El Paso to the border with Mexico and ordered to cross, then returned to El Paso the same day; and January 23, 2026, transported from El Paso to "Alligator Alcatraz," where he remains as of this filing.

10. Because Mr. Betancourt is a Cuban national with a criminal conviction, he cannot be deported to his home country. *See* Claire Healy & Syra Ortiz-Blanes, *Cubans with criminal records in the U.S. are being quietly deported to Mexico*, MIAMI HERALD (Oct. 21, 2025), https://www.miamiherald.com/news/local/immigration/article312432237.html.

11. On ICE's orders, Mr. Betancourt attempted to cross the United States/Mexico border with more than 100 other people being deported, including Cubans, Venezuelans and Haitians.

12. Upon presenting himself to Mexican officials, Mr. Betancourt was denied entry into Mexico. He was told by Mexican authorities this was due to his medical and mental health status. Mr. Betancourt suffers from high blood pressure, diabetes and schizophrenia.

13. Mr. Betancourt was returned the same day to ICE custody in El Paso, Texas, and then to Florida on January 23, 2026. He was booked back into "Alligator Alcatraz" upon arrival and he remains there as of this filing.[2]

14. Since being returned to "Alligator Alcatraz," Mr. Betancourt spent most of his time assigned to the infirmary. People who are detained in the infirmary

[2] Despite being present at "Alligator Alcatraz," Mr. Betancourt has not appeared in the ICE Detainee Locator since his return to that facility. He met with undersigned counsel at that facility in-person or via Zoom on February 10, February 3 and January 27, 2026. On none of those dates did Mr. Betancourt appear in the ICE Detainee Locator.

are shackled by their feet to beds and forced to request to be released from the bed in order to use the bathrooms. They are denied access to paper, writing instruments and books to read, and prohibited from speaking to other people detained. These conditions, as well as the harsh conditions in detention generally, have contributed to a worsening of Mr. Betancourt's medical conditions and led to a significant depression.

15. There is good reason to believe that there is no significant likelihood of Mr. Betancourt's removal in the reasonably foreseeable future, and that his detention today is unlawful.

16. Mr. Betancourt is not a citizen of any country besides Cuba, and ICE has not identified any safe third country willing to accept him. Mexico has demonstrated that it is not willing to accept him.

17. ICE has had years to find a country other than Cuba to which Mr. Betancourt could be safely deported. He has had an order of removal since October 14, 2020, and Respondents have known that they need to find a country other than Cuba for at least as long as Mr. Betancourt has had that order.

18. The injustices faced by Mr. Betancourt are threefold. First, ICE revoked Mr. Betancourt's Order of Supervision without the necessary notice and process; namely, without "promptly" conducting the required "informal interview"

or complying with other regulatory requirements under 8 CFR § 241.13(i).[3] Second, ICE has failed to identify a third country and develop an effective plan to deport Mr. Betancourt in the reasonably foreseeable future. Third, ICE has continued to detain Mr. Betancourt, seemingly indefinitely, while being well aware that there is no end in sight to his detention.

19. This final injustice must be remedied by his immediate release. Mr. Betancourt files this action to challenge his unlawful detention by Respondents.

JURISDICTION AND VENUE

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

21. This court has subject matter jurisdiction under 28 U.S.C. §§ 2241 and 1331, and Article I, section 9, clause 2 of the United States Constitution.

22. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the INA, 8 U.S.C. § 1252(e)(2). This Court also has remedial authority under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*

23. Venue is proper in the United States District Court for the Middle District of Florida, Fort Myers Division, pursuant to 28 U.S.C. § 1391(e)(1), because

[3] While Mr. Betancourt has received no indication whether DHS alleges that he violated conditions of his supervision, even if that was alleged, he has not received the necessary process under 8 CFR § 241.4(l)(1).

at least one Respondent is in this District and Division, Petitioner is currently detained in this District and Division, and Petitioner's immediate physical custodian is in this District and Division.

PARTIES AND BACKGROUND

24. **Justo Betancourt** is a Cuban man who has been living and working in the United States since 1990. Respondents and their agents are currently detaining him in immigration custody at "Alligator Alcatraz."

25. **Respondent Warden** is the Warden of "Alligator Alcatraz," where Petitioner is being held. Respondent Warden is a legal custodian of Petitioner and he is sued in his official capacity.

26. **Respondent Field Office Director** is the Field Office Director for the ICE Miami Office of Enforcement and Removal Operations ("ICE ERO"). Respondent Field Office Director has jurisdiction over and is a legal custodian of Petitioner and he is sued in his official capacity.

27. **Respondent Todd Lyons** is Acting Director, United States Immigration and Customs Enforcement. ICE is the federal agency responsible for custody decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens. As Acting Director of ICE, Respondent Lyons has authority over its actions, including Petitioner's detention. He is sued in his official capacity.

28. **Respondent Kristi Noem** is the Secretary of the United States Department of Homeland Security ("DHS"). DHS is the federal agency that has authority over the actions of ICE. As Secretary of DHS, Respondent Noem has authority over its actions, including Petitioner's detention. She is sued in her official capacity.

29. **Respondent Pamela Bondi** is the Attorney General of the United States and the senior official of the U.S. Department of Justice. She is sued in her official capacity. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Bondi is responsible for decisions relating to noncitizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Therefore, she is also Petitioner's legal custodian.

LEGAL FRAMEWORK

30. District courts have the power to grant writs of habeas corpus. 28 U.S.C. § 2241(a). The Constitution guarantees that the writ of habeas corpus is available to every individual detained within the United States. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const. Art. I, § 9, cl. 2); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and ... the traditional function of the writ

is to secure release from illegal custody.").

31. A district court's power includes jurisdiction to hear habeas challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Indeed, noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

A. The 'Reasonable Time' for Mr. Betancourt's Removal Has Expired.

32. Because Mr. Betancourt was issued a final order of removal on October 14, 2020, no appeal was filed, and he was granted a stay and placed on an Order of Supervision, his detention since that time has been governed by the post-order detention statute, 8 U.S.C. § 1231.

33. After a removal order, ICE has a 90-day removal period within which to effectuate removal. 8 U.S.C. § 1231(a)(1)(A). ICE may detain a person for an additional 90 days in limited circumstances. 8 U.S.C. § 1231(a)(1)(C). Absent removal or the noncitizen departing, "[the noncitizen], pending removal, shall be subject to supervision." 8 U.S.C. § 1231(a)(3); *see also Banega v. Warden of Soft Side S. Facility*, No. 2:25-CV-1152-JES-DNF, 2026 WL 234042, at *4 (M.D. Fla. Jan. 29, 2026) (Steele, J.) (petitioner ordered released after having been in custody 90 days).

34. Under the INA, "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 if a court orders a stay of the removal of the [noncitizen], the date of the court's final order; or (iii) If the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement." 8 U.S.C. § 1231(a)(1)(B) (emphasis added).

35. Mr. Betancourt's 90-day removal period thus began on October 14, 2020, the date ICE issued the administrative removal order, and expired 90 days after that, more than five years ago.

36. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered two cases regarding whether a period of post-order detention could be extended beyond the 90 days permitted by 8 U.S.C. § 1231(a)(6). Both cases before the *Zadvydas* Court related to petitioners with a history of felonies such as drug crimes, gang-related violence, and aggravated burglary. *Id.* at 685. Holding that interpreting 8 U.S.C. § 1231(a) to permit indefinite detention would raise a serious substantive due process problem, the Court read the statute to authorize a person's detention only if ICE can deport the person in the reasonably foreseeable future. *Id.* at 699.

37. The Court held that the post-order detention statute, 8 U.S.C. § 1231, contains an implicit "reasonable time" limitation, the application of which is subject to judicial review. *Id.* at 682. The statute "limits an [noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States. It does not permit indefinite detention." *Id.* at 689.

38. The Court concluded that Congress intended the post-order removal period to be longer than 90 days, but not longer than six months. *Id.* at 701. "After this 6-month period, once the [noncitizen] *provides good reason* to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* (emphasis added).

39. Importantly, the six-month *Zadvydas* post-order removal period starts at the beginning of the 90-day post-removal period, not at the beginning of detention. *See Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 n.3 (11th Cir. 2002) ("The Supreme Court's stated rationale for establishing a presumptively reasonable '6-month period' for detention pending removal supports our conclusion that this period commences at the beginning of the removal period.").

40. Mr. Betancourt's six-month post-removal period thus began on October 14, 2020, when ICE issued his final order of removal, and ended six months later, April 14, 2021.

41. This cannot be overstated: *Zadvydas* should not be read to stand for the proposition that the removal period begins with detention and that any detention under six months is constitutional. Once a detained person has, as here, provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the government must rebut that showing, or the person should be released. *Zadvydas*, 533 U.S. at 701. While Mr. Betancourt's removal period has long ended, he has also, demonstrated "good reason" that his removal in the reasonably foreseeable future is unlikely. *Id.*

42. Indeed, numerous courts have ordered release prior to the expiration of the six-month period, particularly in the context of detention following revocation of an Order of Supervision. *See, e.g*, *Banega*, 2026 WL 234042, at *4 (ordering release on January 29, 2026, for an individual who was detained on October 28, 2025, one day before Mr. Betancourt, while similarly reporting at Miramar); *Gomez-Simeon v. Bondi*, 2025 WL 3470872 (W.D. Tex. Nov. 24, 2025) (ordering release 33 days after re-detention); *Puertas-Mendoza v. Bondi*, 2025 WL 3142089 (W.D. Tex. Oct. 22, 2025) (ordering release 98 days after re-detention); *Villanueva v. Tate,* 801 F. Supp. 3d 689, 704-05 (S.D. Tex. 2025) (ordering release 68 days after re-detention); *Roble v. Bondi*, 803 F. Supp. 3d 766, 774 (D. Minn. 2025) (ordering release 38 days after re-detention).

B. Respondents Failed to Provide Petitioner with Due Process Required Prior to Revoking his Order of Supervision.

43. Respondents have failed to provide Mr. Betancourt with any of the due process required by the Constitution or by ICE's own regulations.

44. Upon his detention on October 29, 2025, Mr. Betancourt was fingerprinted and told he was being detained by immigration. He received no documents at the time and, since that date, he has received no documents from Respondents. Mr. Betancourt has not been provided an interview or even an opportunity to speak with ICE officials about his detention or deportation plan. Mr. Betancourt received no notice that he would be deported to Mexico and was not provided with an opportunity to contest that third country choice. Indeed, he learned he would be attempting to enter Mexico when he was taken to the border by bus from El Paso, Texas.

45. In short, Mr. Betancourt has received none of the required due process outlined below, in either a substantive or perfunctory manner.

46. In revoking an Order of Supervision, ICE must provide notice, an interview and an opportunity for the individual to respond, outlined in 8 C.F.R. §§ 241.4(l) and 241.13(i)(1)-(3). ICE may revoke an Order of Supervision under 8 C.F.R. § 241.4(l) "when, in the opinion of the revoking official (i) the purposes of release have been served; (ii) the [noncitizen] violates any condition of release; (iii)

it is appropriate to enforce a removal order or to commence removal proceedings against [a] [noncitizen]; or (iv) the conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate," or under 8 C.F.R. § 241.13(i)(2), "on account of changed circumstances" showing "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future."

47. ICE is required to notify an individual of the reasons for revocation of release "*upon revocation*." 8 C.F.R. § 241.4(l)(1) (emphasis added). The reasons for the revocation cannot merely parrot the regulatory language, but must be particularized to the individual. *See Puertas-Mendoza*, 2025 WL 3142089 (finding ICE violated their own regulations where Order of Supervision revocation letter merely contained cursory and conclusory language); *see also Roble*, 803 F. Supp. 3d at 771 (finding insufficient a generalized written notice under § 241.13(i)(3), and that "parroting the regulatory text" is unacceptable).

48. ICE is also required to provide the individual with an initial informal interview regarding Order of Supervision revocation "*promptly* after his or her return to Service custody." 8 C.F.R. § 241.4(l)(1) (emphasis added); *see also M.S.L., v. Bostock*, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (stating that 27 days "cannot reasonably be construed as 'prompt'" and crediting the respondents for not even "attempt[ing] to argue that."); *K.E.O. v. Woosley*, 2025 WL 2553394, at *6

(W.D. Ky. Sept. 4, 2025) (finding 90 days without notice is neither "upon revocation" nor "prompt" as required by the statute and implementing regulation). ICE must also "[afford] the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(l)(1). Indeed, "[t]he opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands." *Grigorian v. Bondi*, 2025 WL 2604573, at *9 (S.D. Fla. Sept. 9, 2025).

49. The revocation of release interview is distinct from the post-order custody review interview. *Compare* 8 C.F.R. § 241.14(i)(1) *with* 8 C.F.R. § 241.14(i)(2-3). Neither have occurred in this case. While the regulations require Mr. Betancourt receive a revocation interview "promptly after his or her return to Service custody," the post-order custody review is "expected to occur within three months after release is revoked." 8 C.F.R. § 241.4(l)(3). Mr. Betancourt has not received a post-order custody review, despite being detained 104 days as of this filing. He has received none of the requirements outlined in the relevant statute, including notification of records review, scheduling of interview and a determination. *See id.*

50. Courts have ordered petitioners released after ICE's failure to comply with its Order of Supervision revocation regulations. *See, e.g.*, *Banega*, 2026 WL 234042, at *4 (ordering release after 90-day detention without requisite due process and noting that the failure to provide due process "violates both ICE's own

regulations and the Due Process Clause of the Fifth Amendment and compels Petitioner's release"); *Gomez-Simeon*, 2025 WL 3470872 (ordering release 33 days after re-detention where ICE did not serve Order of Supervision revocation and did not provide a prompt revocation interview); *Puertas-Mendoza*, 2025 WL 3142089 (ordering release 98 days after re-detention where ICE served revocation letter three weeks after re-detention and attempted to interview without counsel present); *Villanueva*, 801 F. Supp. 3d at 704-05 (ordering release 68 days after re-detention where ICE did not issue a revocation notice, failed to interview and did not give a reason for revocation); *Roble*, 803 F. Supp. 3d at 771-72 (ordering release 38 days after re-detention where ICE failed to give adequate notice of revocation and letter was not individualized to petitioner, but "simply mirror[ed] the legal standard applicable to detaining a noncitizen released on an OSUP").

51. Regardless of which revocation provision ICE applied to Mr. Betancourt, in failing to provide him with the process required both prior to and following revocation of his Order of Supervision, Respondents have violated the detention statute, ICE's own mandatory federal regulations, and the U.S. Constitution.

C. Respondents Have Failed to Identify a Plan for Removal of Petitioner in the Reasonably Foreseeable Future.

52. Mr. Betancourt's removal is not significantly likely because 1) he was previously granted withholding of removal to the one country that could be expected to accept him, Cuba; 2) he has been detained 104 days since his Order of Supervision was revoked, and in that time has been denied entry to Mexico, a third country that has, in recent months, accepted other Cubans deported from the United States; 3) no additional safe alternate country has been identified by ICE, either since October 2020 or since Mr. Betancourt was denied entry to Mexico; and 4) there are no changed circumstances to support a determination that there is a significant likelihood that Mr. Betancourt may be removed in the reasonably foreseeable future.[4]

a. Respondent Has Already Exceeded the 'Reasonable Time' Period for Mr. Betancourt's Lawful Removal.

53. When evaluating detention following a final order of removal, a habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal. *Zadvydas*, 533 U.S. at 699. ICE can only detain an individual if they can deport that person in the reasonably foreseeable future. *Id.* at

[4] If an alternative proposed safe third country were to be identified, other than Mexico, Mr. Betancourt is entitled to notice and an opportunity to defend himself against deportation to that third country.

699. Once a noncitizen presents good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, ICE must either release the noncitizen or provide evidence sufficient to rebut that showing to continue detention. *Id.* at 701. When removal is not reasonably foreseeable, "the court should hold continued detention unreasonable and no longer authorized by statute," and release the petitioner. *Id.* at 699-700. For Mr. Betancourt, as stated in *Zadvydas*, "civil confinement here at issue is not limited, but potentially permanent." *Id.* at 679.

54. Mr. Betancourt's post-order removal period started in October 2020 when ICE issued his final order of removal. The single continuous period (not periods) ran from that date. *Akinwale*, 287 F.3d at 1052 n.3 ("[t]he Supreme Court's stated rationale for establishing a presumptively reasonable '6-month period' for detention pending removal supports our conclusion that this period commences at the beginning of the removal period."); *see also Lozaro Beltran, v. Ripa*, No. 2:25-CV-01174-SPC-NPM, 2026 WL 21252, at *2 (M.D. Fla. Jan. 5, 2026) (finding no restarting of the removal period because "[it] would effectively allow DHS to detain noncitizens indefinitely and avoid judicial scrutiny by releasing and re-detaining them every six months").

55. As discussed above, Mr. Betancourt's six-month post-removal period began on October 14, 2020, when ICE issued his final order of removal, and ended six months later, April 14, 2021.

b. Respondent Has Failed to Identify a Safe Third Country for Petitioner and Secure Necessary Travel Documents.

56. Because people who are granted withholding of removal have been found unable to be deported to their home countries, they often cannot be removed from the United States, as countries are unlikely to accept individuals who lack a connection to that receiving country. *Puertas-Mendoza*, 2025 WL 3142089, at *4 (granting habeas relief in the form of release in finding no likelihood of removal and noting foreign governments routinely deny requests to receive people who lack a connection to that receiving country).

57. Mr. Betancourt's experience being denied entry to Mexico indicates that ICE did not secure travel documents for him, and there is no reason to believe ICE has done so since he was turned away. It is insufficient for ICE to say that they are "making efforts" to identify a third country, where they do not have travel documents secured. *See Gomez-Simeon*, 2025 WL 3470872, at *4-5; *see also Grigorian*, 2025 WL 2604573 (finding ICE's representations at making efforts to be inadequate).

58. In any event, Mr. Betancourt has now spent 104 days in post-order detention since he was taken into custody on October 29, 2025, and has been denied entry to the country that was arguably most likely to admit him, Mexico. There is now "good reason to believe that there is no significant likelihood of removal in the

reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. This Court should find that Mr. Betancourt has established "good reason" to believe that his removal is significantly unlikely in the reasonably foreseeable future and order his release.

D. No Legitimate Interest Exists for Petitioner's Detention.

59. As discussed above, the post-order removal period for Mr. Betancourt has long-expired. Respondents can offer no legitimate interest in his continued detention that would rebut the presumption that he must now be released.

60. The statutory goals of immigration detention are two-fold: "to ensure the noncitizen's appearance at future immigration proceedings and to prevent danger to the community." *Perez v. Warden*, No. 2:26-CV-0009-SPC-DNF, 2026 WL 131650, at *3 (M.D. Fla. Jan. 19, 2026) (citing *Zadvydas*, 533 U.S. at 690).

61. Neither of those goals are met here. Mr. Betancourt has not proven to be a flight risk or a danger, given that he was deemed eligible for an Order of Supervision in the first place and has since reported without incident. *See id.* (two goals of detention are not met where it was initially determined that individual "should be release under an order of supervision, and he has since remained out of trouble and complied with the terms of supervision").

62. For this reason and the reasons outlined above, Mr. Betancourt respectfully requests his immediate release from detention.

COUNT I
Violation of the INA, 8 U.S.C. § 1231(a)(6)
(against all Respondents)

63. Petitioner re-incorporates and re-alleges paragraphs 1-62 above as if fully set forth herein.

64. 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 [noncitizen's] removal from the United States." 533 U.S. at 689, 701.

65. Petitioner's continued detention has become unreasonable because his removal is not reasonably foreseeable. Therefore, his continued detention violates 8 U.S.C. § 1231(a)(6), and he must be immediately released.

COUNT II
Violation of Fifth Amendment Right to Due Process
(against all Respondents)

66. Petitioner re-incorporates and re-alleges paragraphs 1-62 above as if fully set forth herein.

67. "[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. While certain constitutional protections do not extend outside the "geographic borders" of the United States, "legal circumstances change" as soon as a noncitizen "enters the country." *Id.; see also A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("'[T]he Fifth Amendment entitles

[noncitizens] to due process of law in the context of removal proceedings.'") (quoting *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (per curiam)).

68. To determine whether civil detention violates a detainee's due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts consider (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *See id.* at 335.

69. Here, all three factors favor Petitioner. He has a significant private interest at stake. *Hamdi*, 542 U.S. at 529 (freedom from physical detention is "the most elemental of liberty interests"); *see also Zadvydas*, 533 U.S. at 690 ("Freedom 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."). Petitioner is experiencing all the deprivations that come with physical detention, including separation from his family—including his U.S. citizen children and grandchild—and community. To the extent there is any government interest in detention, it is minimal compared with Petitioner's liberty interest.

70. Further, Respondents have violated Petitioner's due process rights

by revoking his Order of Supervision without process and holding him in detention past the post-removal detention period. Respondents have chosen to detain Petitioner indefinitely, beyond the upper limits set forth by the Supreme Court, and without due process, all in violation of the Fifth Amendment.

COUNT III
Violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A)
(against all Respondents)

71. Petitioner re-incorporates and re-alleges paragraphs 1-62 above as if fully set forth herein.

72. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

73. Respondents have deviated from their own policies and procedures in continuing to detain Petitioner without determining whether exceptional circumstances warrant his continued detention. This is arbitrary, capricious, and contrary to law in violation of the APA.

74. As a remedy, this Court should conduct its own review of Petitioner's custody or, at least, order Respondents to review Petitioner's custody under the standard articulated in their policy.

PRAYER FOR RELIEF

Petitioner Justo Betancourt respectfully requests that the Court:

A. Retain jurisdiction over this action;

B. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days pursuant to 28 U.S.C. § 2243;

C. Schedule oral argument pursuant to 28 U.S. Code § 2243;

D. Declare that Petitioner's detention violates the Immigration and Nationality Act;

E. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

F. Declare that Petitioner's detention violates the Administrative Procedure Act;

G. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody, or, in the alternative, provide a custody review according to the requirements stated herein;

H. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;

I. Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

J. Grant all other relief that the Court deems just and proper.

Dated: February 10, 2026

Respectfully submitted,

/s/ Miriam Haskell
Miriam Haskell (Fla. Bar No. 69033)

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

I submit this verification on behalf of Petitioner Justo Betancourt because I am the Petitioner's attorney. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Miriam Haskell
Miriam Haskell (Fla. Bar No. 69033)

Dated this 10th day of February, 2026