UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division

Carols Didier Marroquin Escobar, *Petitioner*, v. Kristi Noem, *Secretary of Homeland Security, U.S. Department of Homeland Security,* Todd Lyons, *Acting Director, U.S. Immigration and Customs Enforcement*, Vernon Liggins, *Director, Baltimore Field Office U.S. Immigration and Customs Enforcement*, Pamela Bondi, *Attorney General, U.S. Department of Justice* *Respondents.*	Civil Action No. 1:26-cv-00590

PETITION FOR WRIT OF HABEAS CORPUS

1. On July 2, 2019, an immigration judge found that Petitioner Carlos Didier Marroquin Escobar would more likely than not be persecuted if he were removed to his native El Salvador. The immigration court therefore granted Petitioner withholding of removal under 8 U.S.C. § 1231(b)(3), which prohibits Respondents from removing him to El Salvador. Should Respondents wish to remove Petitioner to El Salvador, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Respondents wish to remove Petitioner to any *other* country, they would first need to provide him with notice and the opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United

States. Nonetheless, Respondents have arrested Petitioner without observance of any legal procedures whatsoever. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

3. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

4. Venue lies in this District because Petitioner is currently detained in the custody of U.S. Immigration and Custom Enforcement (ICE) at the Washington Field Office, within the Eastern District of Virginia; and each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1). In addition, Joseph Simon, the Acting Field Office Director for the Washington ICE Field Office, maintains his principal place of business in Chantilly, Virginia.

THE PARTIES

5. Petitioner Carols Didier Marroquin Escobar is a native of El Salvador, who resides in Prince Frederick, MD. He is currently detained by Respondents at the ICE Baltimore Field Office in Baltimore, MD.

6. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

7. Respondent Todd Lyons is the Acting Director of ICE. He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent Pamela Bondi is the Attorney General of the United States. The immigration judges who decide removal cases and applications for relief from removal do so as her designees.

9. Respondent Vernon Liggins is the Director of the Baltimore ICE ERO Field Office, where Petitioner is unlawfully detained. As the local ICE official overseeing enforcement operations in the region, he is responsible for Petitioner's continued detention and any actions related to their removals. He is therefore the Petitioner's immediate legal and physical custodian for the purpose of habeas jurisdiction.

10. All government Respondents are sued in their official capacities.

FACTUAL ALLEGATIONS

11. Petitioner Carlos Didier Marroquin-Escobar was born on [redacted] in El Salvador, and has no claim to citizenship or legal immigration status in any other country.

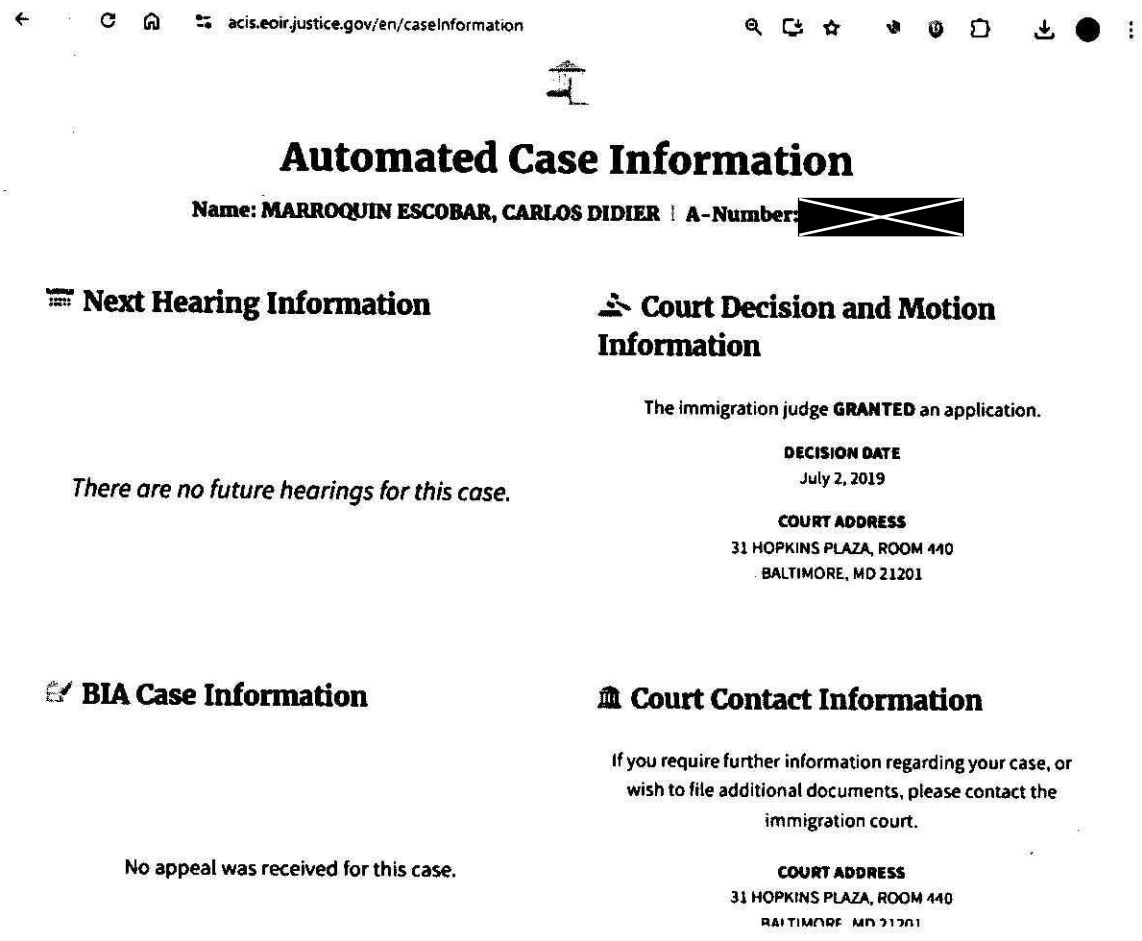
12. Petitioner first entered the United States in 1981.

13. Upon information and belief, Petitioner has two prior criminal convictions, both of which have been fully resolved. In or about 2005, he was convicted of distribution-related charges. In or about 2015–2016, he was convicted of a firearm-related offense involving a registered firearm.

14. On July 2, 2019, an Immigration Judge ordered Petitioner removed to El Salvador; however the IJ also found that it was more likely than not that Petitioner would face persecution there and so granted Petitioner withholding of removal to El Salvador. *See* Ex. 1, EOIR Order of

the Immigration Judge. Petitioner was thereafter released from ICE custody in approximately September 2019, pursuant to a post-removal Order of Supervision.

15. To date, Respondents have not taken any steps to reopen or rescind the grant of relief. *See*, EOIR Automated Case Information (available at https://acis.eoir.justice.gov/en/caseInformation (last visited on February 12, 2026)).



16. Since his release, Petitioner has strictly complied with the terms of his Order of Supervision. He has reported to ICE annually each February as required and has never failed to appear for a scheduled check-in. He has not sustained any criminal convictions since the issuance of his Order of Supervision. Petitioner owns and operates his own company and has maintained

stable employment and residence throughout the period of supervision. Upon information and belief, he has remained in full compliance with all conditions imposed by ICE.

17. Further, upon information and belief, Petitioner was issued a "category C18" Employment Authorization Document (EAD) that was valid through 2029. By issuing Petitioner an EAD under the C18 category, U.S. Citizenship and Immigration Services necessarily first determined that he "cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien[.]" 8 U.S.C. § 1231(a)(7)(A). *See also* 8 C.F.R. § 274a.12(c)(18) ("An alien against whom a final order of deportation or removal exists and who is released on an order of supervision under the authority contained in section 241(a)(3) of the Act may be granted employment authorization in the discretion of the district director only if the alien cannot be removed due to the refusal of all countries designated by the alien or under section 241 of the Act to receive the alien, or because the removal of the alien is otherwise impracticable or contrary to the public interest.").

18. Petitioner's annual ICE check-in was scheduled for February 11, 2026. In an effort to comply fully with the terms of his Order of Supervision, and because he had previously been permitted to report earlier than scheduled, Petitioner appeared at the ICE Baltimore Field Office in Baltimore, Maryland, on February 9, 2026. During that appearance, Respondents arrested and re-detained him.

19. Despite this consistent compliance over the past several years, Petitioner was nonetheless taken into custody and now remains detained at the ICE Baltimore Field Office, as of the time of filing this habeas corpus petition.

20. Additionally, upon his arrest, Petitioner's records were also seized, including his immigration court records, his order of supervision, his work authorization, and all other papers

that he had on his person. They are now in possession of Respondents.

21. To Petitioner's knowledge, ICE has not formally designated any third country for removal. On information and belief, at this February 9, 2026, check-in, Petitioner was informed that ICE was detaining him because of his past criminal history; that they did not have travel documents for Petitioner; and that they were considering removing him to Mexico but had not formally designated a country for removal.

22. Since Petitioner has no legal immigration status in any other country, there is no third country to which Respondents can remove him without that country ultimately removing him to El Salvador, where it has already been determined that he would face persecution. Such indirect removal—or chain refoulement—would violate 8 U.S.C. § 1231(b)(3) just as clearly as a direct removal to El Salvador.

23. Because of this fear, Petitioner, through counsel, submitted a request for a reasonable fear interview on February 12, 2026. *See* Ex. 2, Petitioner's RFI Request.

24. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

25. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

LEGAL BACKGROUND

I. Withholding of Removal

26. Withholding of removal under 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or

political opinion. See 8 C.F.R. § 1208.16(b). This form of relief is mandatory if the applicant meets the standard and is distinct from asylum in that it does not lead to permanent residency.

27. To qualify for withholding of removal, the noncitizen bears the burden of proving that it is more likely than not that they would face persecution if returned to their country of origin. The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

28. If a noncitizen is granted withholding of removal, "DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated." *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

29. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f). Only after termination may removal proceed.

30. Moreover, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received "ample notice and an opportunity to be heard").

II. Detention on a Final Order of Removal

31. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. §1231(a)(1)(A).

32. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements).

33. Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be "released" if "subject to the terms of supervision" set forth in 8 U.S.C. § 1231(a)(3).

34. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (*quoting Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 ("But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.").

35. The purpose of detention during and beyond the removal period is to "secure[] the alien's removal." *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court "read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien's removal." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (*citing Zadvydas*, 533 U.S. at 699).

36. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." *See id.* at 689.

37. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

38. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

39. The government may only rebut a detainee's showing that there is no significant likelihood of removal in the reasonably foreseeable future with "evidence of progress...in negotiating a petitioner's repatriation." *Gebrelibanos v. Wolf*, No. 20-cv-1575-WQH-RBB, 2020 U.S. Dist. LEXIS 185302, at *9 (S.D. Cal., Oct. 6, 2020) (citing *Kim v. Ashcroft*, 02cv1524-

J(LAB) (S.D. Cal., June 2, 2003), ECF No. 25 at 8 (citing *Khan v. Fasano*, 194 F. Supp. 2d 1134, 1136 (S.D. Cal. 2001); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002)); *see also Carreno v. Gillis*, No. 5:20-cv- 44-KS-MTP, 2020 U.S. Dist. LEXIS 248926, at *5 (S.D. Miss., Dec. 16, 2020) (granting petitioner's habeas claim because the government failed to show that removal would be imminent after obtaining a travel document and failing to remove petitioner within the document's validity period) (emphasis added).

40. Factors courts consider in analyzing the likelihood of removal include "the existence of repatriation agreements with the target country, the target country's prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien." *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y., Jan. 2, 2019) (citing *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)); *see also Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003).

41. Other courts have denied habeas petitions primarily where the U.S. government has already procured petitioner's travel documents and only travel arrangements are outstanding, which is not the case here. *See Berhe*, 2019 WL 3734110 at *4 (denying Petitioner's habeas petition because "Eritrea has issued a travel document and Petitioner has presented no evidence to suggest there are other barriers to his removal"); *Tekleweini-Weldemichael v. Book*, No. 1:20-CV-660-P, 2020 WL 5988894, at *5 (W.D. La., Sept. 9, 2020), *report and recommendation adopted*, No. 1:20-CV-660-P, 2020 WL 5985923 (W.D. La., Oct. 8, 2020) (denying without prejudice Petitioner's habeas petition because he possessed a travel document valid through December 19, 2020, and noting that he is not precluded from filing a new petition upon the expiration or cancellation of his travel document).

III. Orders of Supervision

42. As discussed above, the government must detain an individual once the order of removal becomes final for 90 days, referred to as the "removal period." 8 U.S.C. § 1231(a)(3). After 90 days, an individual may be released from detention on an order of supervision. *Id. See also* 8 C.F.R. §§ 241.4(j); 241.5.

43. Criteria for release include: "travel documents for the alien are not available or in the opinion of the Service, immediate removal, while proper, is not otherwise practicable or not in the public interest;" nonviolence, in detention or on release; likelihood to comply with conditions of release; and not a significant flight risk if released. *See* 8 C.F.R. § 241.4(e).

44. Conditions of supervised release include: reporting to an immigration officer; making "efforts to obtain a travel document and assist the [government] in obtaining a travel document"; reporting for physical and mental examinations; obtaining advance approval of travel; and providing ICE with written notice of any address changes. *See* 8 C.F.R. § 241.5(a).

45. An order of supervision may be revoked under two circumstances. First, it may be revoked for violations of conditions of release. *See* 8 C.F.R. § 241.4(*l*)(1). Second, it may be revoked if the Service makes one of the four determinations: "(i) the purposes of release have been served; (ii) the alien violates any condition of release; (iii) it is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) the conduct of the alien, or any other circumstance indicates that release would no longer be appropriate." *See* 8 C.F.R. § 241.4(*l*)(2).

46. If the order of supervision is revoked upon a determination by the Service, only the Executive Associate Commission is authorized to make such a determination. See 8 C.F.R. § 241.4(l)(2). However, that authority can be delegated to the district director when "revocation is

in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." *Id.*

47. The regulation guarantees that "[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release or parole." 8 C.F.R. § 241.4(*l*)(1). Additionally, the regulation provides that "[t]he alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(*l*)(1).

48. Further, if following the informal interview the noncitizen is not released, the HQPDU Director is required to "schedule the review process in the case of an alien whose previous release … has been or is subject to being revoked." 8 C.F.R. § 241.4(*l*)(3). This custody review affords the noncitizen an opportunity to contest any facts and otherwise respond to the reasons for the revocation. *Id.*

49. For revocation of an order of supervision, the custody review procedures in 8 C.F.R. § 241.13 apply to a noncitizen under a final order of removal when there has been a determination that there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future. 8 C.F.R. § 241.13(a), (b)(1). Under this section an OSUP can be revoked if the conditions of release are violated, or for removal purposes. 8 C.F.R. § 241.13(i). But to revoke an order of supervision for the purposes of removal, ICE must first demonstrate changed circumstances. 8 C.F.R. § 241.13(i)(2). ("The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.")

50. Where ICE is attempting to re-detain a noncitizen, this individualized

determination must be conducted prior to re-detention. 8 C.F.R. § 241.13(i)(2); *see Munagi v. McDonald*, 2025 WL 3688023 (D. Mass. Dec. 19, 2025) ("[T]he changed circumstances that make [a noncitizen's] removal likely in the foreseeable future must have existed at or before the [order of supervision] revocation; post-hoc justifications are inadequate."); *Tran v. Hyde*, 25-CV-12546-ADB, 2025 WL 3724853, at *3 (D. Mass. Dec. 24, 2025) (looking at factors for determining reasonably foreseeable release based upon "relevant information that would have been available at the time that [petitioner] was redetained."); *Sarail A. v. Bondi*, 25-CV-2144 (ECT/JFD), 2025 WL 2533673, at *11 (D. Minn. Sep. 3, 2025) ("In Petitioner's case, there is no evidence that ICE considered any of these [8 C.F.R. § 241.13(f)] factors *before* the Notice [of Reasons for Revocation] was issued.") (emphasis in original). In deciding whether the requisite changed circumstances exist, ICE relies on the factors enumerated in 8 C.F.R. § 241.13(f). *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023). Courts considering a challenge to re-detention must review ICE's determination "in light of" those same factors. *Id.* After noncitizens have challenged whether their detention is reasonably foreseeable, courts place the burden on ICE to prove that removal is significantly likely in the reasonably foreseeable future. *See Tran v. Hyde*, 2025 WL 3724853, at *2 (citing cases).

51. If ICE can demonstrate that because of a change of circumstances, there is a significant likelihood that the alien may be removed in the reasonably foreseeable future to the country to which the alien was ordered removed or to a third country, then procedures in 8 C.F.R. § 241.4 apply. 8 C.F.R. § 241.4(b)(4); *see also Martinez v. Hyde*, 2025 WL 3719656, at *1–2 (D. Mass. Dec. 23, 2025) (describing the differences in the two sections). Under this section, re-detention is permitted when "[i]t is appropriate to enforce a removal order." 8 C.F.R. § 241.4(l)(2)(iii). But, as described above, absent a specific violation of the conditions of release,

only designated, high-level ICE officials are authorized to revoke an OSUP (including for the purpose of effectuating removal), namely the Executive Associate Commissioner. 8 C.F.R. 241.4(l)(2). Additionally, the government must still explain the reason for the revocation and the noncitizen must be provided with an opportunity to respond. 8 C.F.R. § 241.4(*l*)(1).

52. Following release on an order of supervision, the noncitizen is only eligible for work authorization if the immigration officer specifically determines that "(1) [t]he alien cannot be removed in a timely manner; or (2) [t]he removal of the alien is impracticable or contrary to public interest." 8 C.F.R. § 241.5(c); *see also* 8 C.F.R. § 274a.12(c)(18) ("An alien against whom a final order of deportation or removal exists and who is released on an order of supervision under the authority contained in [8 U.S.C. § 1231(a)(3)] may be granted employment authorization in the discretion of the district director only if the alien cannot be removed due to the refusal of all countries designated by the alien or under [8 U.S.C. § 1231] to receive the alien, or because the removal of the alien is otherwise impracticable or contrary to the public interest.").

FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)

53. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-50.

54. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period (under 8 U.S.C. § 1231(a)(3)) and the six-month presumptively reasonable period for continued removal efforts would have expired in years ago, as Petitioner's removal order was final on July 2, 2019, the day it was issued, because all appeal rights were waived. Accordingly, the 90-day statutory removal period expired on approximately September 30, 2019; and the six-month *Zadvydas* presumptively reasonable period expired on December 29, 2019.

55. No significant likelihood of removal exists in the reasonably foreseeable future. In

this case, ICE released Petitioner from custody in approximately September 2019 precisely because there was no likelihood of removal. Respondents provided Petitioner employment authorization valid through 2029, which necessarily means that they determined fairly recently that Petitioner's removal was not reasonably foreseeable. *See* 8 C.F.R. §§ 241.5(c), 274a.12(c)(18).

56. Today, ICE has not provided Petitioner with any information regarding efforts to obtain a travel document from any country. Upon information and belief, ICE informed Petitioner on February 9, 2026 that they intend to remove him to Mexico, but neither Petitioner nor counsel have received any further information. Moreover, upon information and belief, ICE has not shown any meaningful progress in doing so, nor have they averred to have even officially designated any country for removal as of today's date. This is insufficient evidence for the government to meet its burden that there is a significant likelihood of removal in the reasonably foreseeable future. *See Gebrelibanos*, 2020 WL 5929487, at *3; *Tekleweini-Weldemichael*, 2020 WL 5988894 (finding significant likelihood of removal in reasonably foreseeable future *only because* government had already obtained a valid travel document).

57. No significant likelihood of removal in the reasonably foreseeable future exists.

58. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

SECOND CLAIM FOR RELIEF:
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

59. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-50.

60. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. In Petitioner's case, he has withholding of removal to his country of origin, El

Salvador. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have designated no such third country, nor do they have any factual basis to believe that such third-country removal will ever become practicable and legally permissible.

61. Respondents continue to detain Petitioner without evidence that they will be able to remove him imminently, to any country.

62. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

THIRD CLAIM FOR RELIEF:
Habeas Corpus, 28 U.S.C. § 2241

63. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-50.

64. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

65. Respondents presently have no legal basis to detain Petitioner in immigration custody, and the writ of habeas corpus should issue.

66. In the alternative, as set forth above, Respondents intend to remove Petitioner to a third country which will in turn remove Petitioner back to El Salvador without adequate notice and opportunity to be heard, thus violating this law.

FOURTH CLAIM FOR RELIEF:
Violation of Regulations and the *Accardi* doctrine

67. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-50.

68. As stated above, Petitioner was released on an order of supervision in approximately September 2019. Upon information and belief, at the time of his re-arrest on February 9, 2026, no notice outlining the reasons for the revocation was provided to him – at the

time of the arrest or at any time thereafter. Petitioner was told that it was in part due to "his criminal history," but these factors existed at the time that he was previously released. Respondents have not alleged that Petitioner has committed any criminal acts since 2019 or that Petitioner has otherwise failed to comply with any requirements under his Order of Supervision. Respondent's re-arrest of Petitioner without notice of revocation is a clear violation of 8 C.F.R. § 241.4(l)(1), which requires notice "upon revocation" of the release, i.e. at the time of re-arrest.

69. Additionally, following his re-arrest and *de facto* revocation of his order of supervision, Petitioner has been afforded no opportunity to contest any facts against him or respond in any way to the revocation. This is a clear violation of 8 C.F.R. § 241.4(*l*)(1), which requires Petitioner be afforded an informal interview and opportunity to respond.

70. Further, Respondent falls under the protections of 8 C.F.R. § 241.13(i)(2) given he was released on an order of supervision because there was no significant likelihood of removal to El Salvador. 8 C.F.R. § 241.13(i)(2); 8 C.F.R. § 241.5(c). Here, prior to detention, ICE did demonstrate individualized changed circumstances such that there is there is a significant likelihood that Petitioner may be removed in the reasonably foreseeable future.

71. Lastly, Respondents had no legal basis under the regulations to revoke Petitioner's Order of Supervision or re-arrest Petitioner, and the revocation was carried out by an official without legal authority to do so, without sufficient determinations having been made. As such this action was taken by an official who lacked authority to do so under 8 C.F.R. § 241.4(*l*)(2).

72. The regulations at 8 C.F.R. §§ 241.13 and 241.4 are designed to protect the due process rights of noncitizens like Petitioner and – as these regulations pertain to continued detention, conditions for release, and revocation of release – they directly impact Petitioner's individual liberty interest.

73. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

74. Under the *Accardi* doctrine, "when an agency fails to follow its own procedures or regulations, that agency's actions are generally invalid." *Nader v. Blair*, 549 F.3d 953, 962 (4th Cir. 2008), *citing United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Several federal district courts have held that where ICE revokes an Order of Supervision without following the procedures set forth in these regulations, such revocation violates due process and the post-removal-period statute. *See Santamaria Orellana v. Baker*, 2025 WL 2444087 (D. Md. Aug. 25, 2025); *Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *20-*21 (W.D.N.Y. May 2, 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (same).

FIFTH CLAIM FOR RELIEF:
Violation of 8 C.F.R. § 1208.31(g)/Third Country Removal

75. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-48.

76. Petitioner is an individual with a reinstated order of removal and thus falls within the coverage of 8 C.F.R. §§ 208.31, 1208.31.

77. Petitioner has stated a fear of removal to Mexico and has requested a Reasonable Fear Interview as to that country. 8 C.F.R. § 1208.31(g) gives Petitioner a right to have that Reasonable Fear Interview, and to have those results reviewed by an Immigration Judge. Respondents' procedures for third-country removal do not allow him the right to go before an Immigration Judge and thereby violate the regulation.

78. Respondents' procedures for third-country removal also violate 8 C.F.R. §§ 208.31, 1208.31 because they hold Petitioner to a higher substantive standard than set forth in the regulation and implementing caselaw.

79. Finally, Respondents' procedures for third-country removal also violate due process, for the same reasons stated above.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Issuing an Order to Show Cause, ordering Respondents to provide the court with Petitioner's relevant immigration records, including those relating to: immigration court proceedings, immigration custody, and his release therefrom;

c) Preliminarily and permanently enjoining Respondents from removing Petitioner to El Salvador unless and until his order of Withholding of Removal is terminated, including all appeals;

d) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal, or other protections, as to that country, pursuant to 8 C.F.R. §§ 208.31, 1208.31, as well as any appeals therefrom;

e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith;

f) Restoring Petitioner to his prior Order of Supervision; and

g) Granting such other relief at law and in equity as justice may require.

//

Certification Pursuant to Local Standing Order 2025-01

I, the undersigned, hereby certify pursuant to Fed. R. Civ. P. 11, as follows: (1) I understand the Petitioner to be presently detained in Maryland, based on the fact that Petitioner called his wife on the morning of February 12, 2026, from the ICE Baltimore Hold Room; (2) emergency relief is necessary, because Petitioner has a final removal order; and (3) this Court has subject-matter jurisdiction over the Petitioner pursuant to 28 U.S.C. § 2241, and no jurisdiction-stripping statute applies to prevent habeas corpus review of detention and unlawful removal.

Respectfully submitted,

Date: February 12, 2026.

/s/ Simon Sandoval-Moshenberg
Simon Sandoval-Moshenberg, Esq.
D.Md. Bar no. 30965
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ssandoval@murrayosorio.com
Counsel for Petitioner

INDEX OF EXHIBITS

Ex. 1, EOIR Order of the Immigration Judge

Ex. 2, Petitioner's Request for an RFI

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the District of Maryland
36 S. Charles Street, 4th Fl.
Baltimore, MD 21201

Todd Lyons, ICE Acting Director
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Vernon Liggins,
Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement 500 12th Street SW, Mail Stop 5902 Washington, DC 20536-5902

Pamela Bondi, Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Respectfully submitted,

Date: February 12, 2026

/s/ Simon Sandoval-Moshenberg
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