UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YOSLEMU ESCALONA RODRIGUEZ,

Petitioner,

v. Case No. 2:26-cv-688

GARRETT RIPA, Field Office Director of Enforcement and Removal Operations, Miami, Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; PAMELA BONDI, U.S. Attorney General; DAVID HARDIN, Sheriff of Glades County Detention Center; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.
_______________________________________/

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner YOSLEMU ESCALONA RODRIGUEZ is in the physical custody of Respondents at the Glades County Detention Center. He now faces unlawful detention because the Department of Homeland Security

(DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner was last paroled into the United States on January 9, 2025, and was authorized to be in the United States until January 9, 2026. (Attached hereto and incorporated herein is Interim Notice Authorizing Parole as Petitioner's Exhibit "A").

3. Prior to his re-detention, Petitioner had been lawfully released and has remained in, and permitted to lawfully reside in, the United States since, and provided with the lawful ability to obtain and maintain employment.

4. ICE's decision to re-detain Petitioner constitutes "custody" for purposes of habeas review.

5. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released as his detention is unlawful.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Glades County Detention Center, in Moore Haven, Florida.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Middle District of Florida, the judicial district in which Petitioner currently is detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Florida.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

12. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia,* 372 U.S. 391, 400 (1963)

(emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

EXHAUSTION

13. In the instant case, exhaustion is not required because the administrative process cannot provide any relief, and Supreme Court Precedent confirms exhaustion is excused under these circumstances. The exhaustion doctrine under section 2241 is prudential, not statutory, and the Supreme Court's decision in *McCarthy v. Madigan* squarely applies here because the agency cannot provide the relief Petitioner seeks and cannot adjudicate the legal question raised. Accordingly, exhaustion is not required.

14. Additionally, Petitioner does not challenge Respondents decision to detain him, or Respondents decision to move forward with removal proceedings. Petitioner challenges the legal authority under which he is detained. This is a pure question of statutory authority. The Immigration Courts do not possess jurisdiction to determine whether DHS applied the correct detention statute, whether DHS misclassified Petitioner's detention authority, or whether Petitioner was provided adequate due process. These issues lie exclusively within the competency of a federal habeas court. Because

the administrative bodies cannot adjudicate the question presented, exhaustion is excused.

15. *McCarthy v. Madigan*, 503 U.S. 140 (1992), although not an immigration case, is directly applicable here. *McCarthy* involved a federal prisoner who sought monetary damages for constitutional violations. The administrative grievance process at issue could not award monetary relief and lacked authority to resolve the legal claim he raised. The Supreme Court held that exhaustion was not required because the administrative body was powerless to afford the relief requested and lacked authority to decide the question presented.

16. The holding in *McCarthy* is not limited to the prison context. The Supreme Court articulated general administrative law principles governing exhaustion under section 2241. Section 2241 contains no statutory exhaustion requirement. As a result, exhaustion in habeas cases that challenge detention is governed by judge-made prudential doctrine. *McCarthy* remains binding on all federal courts unless Congress expressly displaces it. The Immigration and Nationality Act does not contain any statute requiring exhaustion for habeas challenges to the legal basis of detention, nor does it provide any administrative mechanism for the relief Petitioner seeks.

17. *McCarthy* applies with particular force here. As in *McCarthy*, the agency's administrative structure cannot provide the relief requested. Neither

the Immigration Judge nor the Board can determine whether DHS used the correct detention statute, or adequately provided Petitioner due process. The administrative process cannot address Petitioner's legal claim, and any attempt to pursue it would be futile.

18. Thus, under *McCarthy*, exhaustion is excused because the agency lacks authority to grant relief, lacks authority to resolve the legal question presented, and could not provide an effective remedy under any circumstance.

19. The Government has argued in similar cases that this Court lacks jurisdiction under sections 1252(e)(3), 1252(g), and 1252(b)(9). These provisions do not apply here.

20. First, section 1252(e)(3) applies only to systemic challenges to the implementation of section 1225(b), not to individualized habeas challenges concerning the statutory basis of a specific person's detention. Petitioner does not challenge regulations, policies, or written directives. Petitioner challenges only how DHS applied statutory authority to him.

21. Second, section 1252(g) is inapplicable because the Supreme Court has held that it applies only to three discrete actions: the decision to commence proceedings, the decision to adjudicate cases, and the decision to execute removal orders. The legality of detention is none of these.

22. Third, section 1252(b)(9) is a channeling provision, not a jurisdiction-stripping rule. Under *Jennings v. Rodriguez*, detention challenges

that question the statutory basis and duration of detention are independent of the removal process and do not fall within section 1252(b)(9).

23. Petitioner has no administrative remedy to challenge the statutory basis of his detention. The Immigration Judge lacks jurisdiction. The Board lacks authority to reverse. The administrative structure cannot adjudicate whether DHS applied the correct detention statute, or provided Petitioner with adequate process. Accordingly, exhaustion is not required and this Court possesses jurisdiction under 28 U.S.C. section 2241 to review the legality of detention.

PARTIES

24. Petitioner YOSLEMU ESCALONA RODRIGUEZ is a citizen of Cuba. Upon information and belief, Petitioner has been in immigration detention since on or about December 9, 2025. After arresting Petitioner in Miramar, Florida, ICE failed to provide Petitioner notice and an opportunity to contest Respondents decision to re-detain Petitioner.

25. Respondent Garrett Ripa is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations division. As such, Mr. Ripa is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

26. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and

enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

27. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement and is the federal agency responsible for enforcing the INA, including the detention and removal of noncitizens.

28. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

29. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

30. Respondent David Hardin, is the Sheriff and Chief Correctional Officer of Glades County Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

A. Due Process

31. "The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens[,]" *Arizona v. United States*, 567 U.S. 387, 394, 132 S.Ct. 2492, 183 L.Ed.2d 351 (2012),

"subject to important constitutional limitations." *Zadvydas v. Davis*, 533 U.S. 678, 695, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001). "Federal governance of immigration and alien status is extensive and complex." *Arizona*, 567 U.S. at 395, 132 S.Ct. 2492. The "comprehensive federal statutory scheme for regulation of immigration and naturalization" is embodied in the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101 *et seq. Buquer v. City of Indianapolis*, No. 1:11-cv-708, 2013 WL 1332158, at *1 (S.D. Ind. Mar. 28, 2013) (quoting *Chamber of Commerce of the United States v. Whiting*, 563 U.S. 582, 587, 131 S.Ct. 1968, 179 L.Ed.2d 1031 (2011)). In the INA,

> Congress has specified which aliens may be removed from the United States and the procedures for doing so. Aliens may be removed [and are removable] if they were inadmissible at the time of entry, have been convicted of certain crimes, or meet other criteria set by federal law. Removal is a civil, not criminal, matter. A principal feature of the removal system is the broad discretion exercised by immigration officials.

Arizona, 567 U.S. at 396, 132 S.Ct. 2492 (citations omitted). "Unlawful entry and unlawful reentry into the country are federal [criminal] offenses." *Id.* at 395, 132 S.Ct. 2492.

32. But "**[a]s a general, rule it is not a crime for a removable alien to remain present in the United States.**" *Id.* at 407, 132 S.Ct. 2492 (emphasis added).

33. " 'The Fifth Amendment entitles [noncitizens] to due process of law' in the context of removal proceedings." *Trump v. J. G. G.*, 604 U.S. 670,

673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects." *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner's liberty interest is "being free from physical detention by one's own government," "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Moreover, Petitioner's liberty interest "is not liberty in the abstract, but liberty *in the United States*." *See Parra v. Perryman*, 172 F.3d 954, 958 (7th Cir. 1999).

34. Government detention violates the fundamental substantive Due Process rights guaranteed to non-citizens unless it is either ordered in a criminal proceeding with adequate procedural protections or it falls into "special and narrow non-punitive circumstances where a special justification, such as harm-threatening mental illness, outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (citations omitted); *see also Kansas v. Hendricks*, 521 U.S. 346, 356 (1997).

35. Case after case instructs us that in this country liberty is the norm and detention "is the carefully limited exception." *United States v. Salerno*, 481 U.S. 739, 755, 107 S.Ct. 2095, 95 L.Ed.2d 697 (1987). "We have always been careful not to minimize the importance and fundamental nature of the individual's right to liberty." *Foucha v. Louisiana*, 504 U.S. 71, 80, 112 S.Ct.

1780, 118 L.Ed.2d 437 (1992); *see also Hamdi*, 542 U.S. at 529–30, 124 S.Ct. 2633. In the same vein, "[i]t is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." *Jones v. United States*, 463 U.S. 354, 361, 103 S.Ct. 3043, 77 L.Ed.2d 694 (1983).

36. Due process requires that immigration detention "'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001)). Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico,* Inc., 446 U.S. 238, 242 (1980).

B. 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13.

37. Detention, release, and removal of individuals ordered removed—including those, like Mr. Rodriguez—is governed by 8 U.S.C. § 1231(a). *Johnson v. Arteaga-Martinez,* 596 U.S. 573, 578 (2022). A noncitizen shall be removed within 90 days of the removal order, subject to a potential 90-day extension. 8 U.S.C. § 1231(a)(1). However, once that period passes, and the

noncitizen is not removed, they "shall be subject to supervision under regulations prescribed by the Attorney General," which include statutorily mandated conditions. *Id.* § 1231(a)(3). The noncitizen may be detained beyond the removal period under certain conditions, but "if released, shall be subject to the terms of supervision in paragraph (3)." *Id.* § 1231(a)(6).

38. When removal is not reasonably foreseeable, continued detention is constitutionally limited. *Zadvydas v. Davis*, 533 U.S. 678 (2001). Moreover, 8 C.F.R. § 241.13(h) reiterates that "[t]he order of supervision shall include all of the conditions provided in section [1231(a)(3)]," as well as the conditions in "[8 C.F.R.] § 241.5, and shall also include the conditions that the alien obey all laws ...." In other words, even without a formal order of supervision, the released noncitizen is subject to certain conditions of release provided by statute and regulations, and ICE maintains its ability to detain the noncitizen outside the 90-day removal period. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 528–29 (2021) (holding that "an alien may be detained beyond the removal period or released under supervision" if they meet certain conditions).

39. ICE must comply with its obligation to provide Petitioner with "due process of law," including notice and an opportunity to be heard, in any future proceedings. *Reno* v. *Flores*, 507 U. S. 292, 306 (1993). It must also comply with its obligations under the Convention Against Torture. *See Convention Against Torture and Other Cruel and Inhuman or Degrading*

Treatment or Punishment, Dec. 10, 1984, S.Treaty Doc. No. 100–20, 1465 U. N. T. S. 113. Federal law governing detention and removal of immigrants continues, of course, to be binding as well. *See* 8 U. S. C. §1226(a) (requiring a warrant before a noncitizen "may be arrested and detained pending a decision" on removal); 8 CFR §287.8(c)(2)(ii) (2024) (requiring same); *see also* 8 CFR §241.4(*l*) (in order to revoke conditional release, the Government must provide adequate notice and "promptly" arrange an "initial informal interview . . . to afford the alien an opportunity to respond to the reasons for the revocation stated in the notification").

40. DHS regulations impose mandatory procedural safeguards before revoking an Order of Supervision, including notice, opportunity to respond, and review by authorized officials. Alongside the regulations establishing conditions of release are the regulations establishing the *revocation* of that release. *See* 8 C.F.R. §§ 241.4(l), 241.13(i); *Guzman Chavez*, 594 U.S. at 529 (citing 8 C.F.R. § 241.4 as "setting out procedures DHS must follow to impose continued detention" after the removal period). Both 8 C.F.R. § 241.4(l)(3) and § 241.13(i)(3) provide that, upon revocation of release, the noncitizen (1) "will be notified of the reasons for revocation of his or her release" and (2) will be given "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."

41. Government agencies are constitutionally required to follow their own regulations. *Morton v. Ruiz*, 415 U.S. 199 (1974). If the noncitizen continues to be detained after the informal interview, they shall be scheduled for the "normal review process." 8 C.F.R. § 241.4(l)(3); 8 C.F.R. § 241.13(i)(2) ("[I]f the alien is not released from custody following the informal interview ... the provisions of § 241.4 shall govern the alien's continued detention pending removal."). "The normal review process will commence with notification to the alien of a records review and scheduling of an interview, which will ordinarily be expected to occur within approximately three months after release is revoked." *Id.* § 241.4(l)(3). In simpler terms, in order to revoke release, the government must notify the noncitizen of the ***reason*** for the revocation and give them both an ***informal and formal interview***. (emphasis added).

42. ICE, like any agency, "has the duty to follow its own federal regulations." *Haoud v. Ashcroft*, 350 F.3d 201, 205 (1st Cir. 2003) (quoting *Nelson v. I.N.S.*, 232 F.3d 258, 262 (1st Cir. 2000)). To be sure, not every procedural misstep raises a constitutional issue. *See Matias v. Sessions*, 871 F.3d 65, 72 (1st Cir. 2017) (involving an inaccurate translation). However, where an immigration "regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute," like the opportunity to be heard, "and [ICE] fails to adhere to it, the challenged [action] is invalid." *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993); *see also Ying Fong v.*

Ashcroft, 317 F.Supp.2d 398, 403–04 (S.D.N.Y. 2004) (granting alien's habeas petition where He was deported fewer than 72 hours after her arrest and regulation mandated 72–hour rule).

C. Interference with counsel.

43. Noncitizens have a right to be represented by counsel of their choice in deportation proceedings. *See Cobourne v. I.N.S.,* 779 F.2d 1564, 1566 (11th Cir.1986). The right to counsel in the immigration context is "an integral part of the procedural due process to which the alien is entitled." *Saakian v. I.N.S.,* 252 F.3d 21, 24 (1st Cir.2001) (quoting *Batanic v. I.N.S.,* 12 F.3d 662, 667 (7th Cir.1993)); *see also Mejia Rodriguez v. Reno,* 178 F.3d 1139, 1146 (11th Cir.1999) ("Aliens enjoy the right to the effective assistance of counsel in deportation proceedings.") (citations omitted); *Dakane v. U.S. Att'y Gen.,* 399 F.3d 1269, 1273 (11th Cir.2005) (noting the Fifth Amendment due process right to counsel in deportation proceedings where counsel has been obtained).

44. Furthermore, immigration detainees pending removal are "entitled to notice and opportunity to be heard 'appropriate to the nature of the case.' " *Trump v. J. G. G.*, 604 U.S. at 673 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950)). Due process requires Petitioner to be heard " 'at a meaningful time and in a *meaningful manner*.' " *Mathews*, 424 U.S. at 333 (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)) (emphasis added).

45. Recently the Fourth Circuit Court of Appeal in *Ozturk v. Hyde*, 136 F.4th 382 (2d Cir. 2025), observed that relocating detainees to distant or otherwise inaccessible facilities curtails the frequency and quality of attorney contact, resulting in diminished access to legal representation and legal resources. *Id.* at 392-393. The court emphasized that transfers separate detainees from existing counsel and community-based legal providers, producing delays in communication, increased costs, and logistical hurdles that chill representation and impede case preparation. *Id.*

46. Respondents' practice of rapidly transferring detainees out of state without an opportunity to consult with counsel is unconstitutionally excessive, and contrary to their own policy. The Immigration and Customs Enforcement ("ICE") Detainee Transfers Directive No. 11022.1, states that "[u]nless a transfer is deemed necessary by a [Field Office Director] or his or her designee," ICE "will not transfer a detainee when there is documentation to support," among other things, "[i]mmediate family within the [Area of Responsibility]" or "[a]n attorney of record...within the [Area of Responsibility.]" *Arroyo v. U.S. Dep't of Homeland Sec.,* No. SACV19815JGBSHKX, 2019 WL 2912848, at *3 (C.D. Cal. June 20, 2019) (concluding that transferring detainees to new immigration facilities would cause irreparable harm by burdening detainees' ability to interact with retained counsel); *see also* U.S. Immigration and Customs Enforcement, Performance-Based National Detention Standards

2011 (rev. 2016), *available at* https://www.ice.gov/doclib/detentionstandards/2011/pbnds2011r2016.pdf, which in turn states that "[d]ecisions to transfer detainees are made...on the basis of complete and accurate case information and principles set forth in the ICE/ERO Detainee Transfers Directive and other applicable ICE/ERO policies"); ICE/ERO Detainee Transfers Directive at 2, *available at* https://www.ice.gov/doclib/foia/policy/11022.1 DetaineeTransfers.pdf.).

47. The Ninth Circuit, almost four decades ago, acknowledged that enjoining transfer may be appropriate if transferring the detainee would interfere with an existing attorney-client relationship such that access to counsel is effectively denied. *Cent. Am. Refugees v. I.N.S.*, 795 F.2d 1434, 1439 (9th Cir.), *amended*, 807 F.2d 769 (9th Cir. 1986). However, other courts have concluded that a detainee's right to access counsel can still be violated even if they do not yet have an attorney. For example, in *Torres v. D.H.S.*, the court countenanced "extensive allegations regarding conditions so restrictive as to prevent them from forming any attorney-client relationship to begin with." 411 F. Supp. 3d 1036, 1049 (C.D. Cal. 2019). The same is true here.

D. Petitioner has a Fourth Amendment right to be free of unreasonable searches and seizures, and *ultra vires* detention.

48. "The Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional

arrest." *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975). Under the Fourth Amendment, "a fair and reliable determination of probable cause" must be provided "as a condition for any significant pretrial restraint of liberty." *Baker v. McCollan*, 443 U.S. 137, 142 (1979).

49. Additionally, due process requires "at a minimum ... that deprivation of life, liberty or property by adjudication be preceded by notice and opportunity for hearing." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313, 70 S.Ct. 652, 656, 94 L.Ed. 865 (1950). *See, e.g., Bell v. Burson*, 402 U.S. 535, 542, 91 S.Ct. 1586, 1591, 29 L.Ed.2d 90 (1971). Noncitizens who are re-detained after a final order of removal are entitled to adequate notice and an opportunity to contest their re-detention.

50. To satisfy due process, notice must "clarify what the charges are" in a manner adequate to apprise the individual of the basis for the government's proposed action. *Wolff v. McDonnell*, 418 U.S. 539, 564, 94 S.Ct. 2963, 2978, 41 L.Ed.2d 935 (1974). Notice must be provided sufficiently in advance of the hearing to "give the charged party a chance to marshal the facts in his defense." *Id.*, at 563, 564, 94 S.Ct., at 2978 (prisoners charged with disciplinary violations must be given "advance written notice of the claimed violation"). *See, e.g., Goldberg v. Kelly*, 397 U.S. 254, 267-268, 90 S.Ct. 1011, 1020, 25 L.Ed.2d 287 (1970) (welfare recipients must be given "timely and adequate notice detailing the reasons for a proposed termination"); *In re Gault*,

387 U.S. 1, 33, 87 S.Ct. 1428, 1446, 18 L.Ed.2d 527 (1967) (juvenile must be given notice of "the specific charge or factual allegations" to be considered at delinquency hearing "at the earliest practicable time, and in any event sufficiently in advance of the hearing to permit preparation").

51. The notice and interview requirements of 8 C.F.R. § 241.4(l) and § 241.13(i)(3), serve fundamental due process purposes. In *Hashemi v. Noem*, the Central District of California held that these "procedures are not optional or discretionary" under the regulations governing release and revocation, and "those procedures must be followed, and failure to do so renders the detention unlawful" (*Hashemi v. Noem*, No. 2:25-CV-10335-HDV-SR, 2025 WL 3468694, at *6 (C.D. Cal. Nov. 19, 2025). Although "no particular magic words are required in a notice of revocation" due process requires that "such a notice must provide real, specific, concrete information that a noncitizen could actually respond to". *Id.*

52. In *Morales Sanchez v. Bondi*, the Central District of California found that "a generic notice of revocation of release to a noncitizen under supervised release, stating only that officials 'reviewed the file' and determined 'there are changed circumstances,' fails to comply with Immigration and Customs Enforcement regulations or provide meaningful notice sufficient for due process" *Morales Sanchez v. Bondi*, No. 5:25-CV-02530-AB-DTB, 2025 WL 3651899, at *5 (C.D. Cal. Dec. 5, 2025).

53. It is well established that government agencies are required to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). A growing number of courts have unequivocally found that the government's failure to follow its release revocation procedures—in particular the failure to give a detainee the required notice and interview—renders the re-detention unlawful. *See Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) ("Because there is no indication that an informal interview was provided to Petitioner, the court finds Petitioner is likely to succeed on his claim that his re-detainment was unlawful."); *Ceesay v. Kurzdorfer*, No. 25-cv-267-LJV, 2025 WL 1284720, at *21 (W.D.N.Y. May 2, 2025) ("[B]ecause ICE did not follow its own regulations in deciding to re-detain Ceesay, his due process rights were violated, and he is entitled to release."); *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *3 (D. Kan. June 17, 2025) ("[B]ecause officials did not properly revoke petitioner's release pursuant to the applicable regulations, that revocation has no effect, and petitioner is entitled to release."); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387–88 (D. Mass. 2017) (holding that ICE's failures to follow the release revocation procedures in 8 C.F.R. § 241.4 rendered the petitioner's detention unlawful).

54. In *Constantinovici v. Bondi*, the Southern District of California found that "ICE's failure to follow its regulations regarding noncitizen's re-

detention constituted a violation of noncitizen's Fifth Amendment due process rights, so as to warrant habeas relief" where "ICE failed to provide noncitizen with reasons for his rearrest and a meaningful opportunity to contest the revocation of his order of supervision through an ***informal interview***." *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, 2025 WL 2898985 (S.D. Cal. Oct. 10, 2025) (emphasis added).

55. Both 8 C.F.R. § 241.4(l) and § 241.13(i)(3) require that upon revocation of a noncitizen's release, "the alien will be notified of the reasons for revocation of his or her release" and will receive "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. § 241.13); (8 C.F.R. § 241.4). These procedural safeguards are not optional or discretionary; they "must be followed, and failure to do so renders the detention unlawful" *Hashemi*, 2025 WL 3468694, at *6.

56. While not a model of clarity, the text of 8 U.S.C. § 241.4(*l*) is inconsistent with Respondents decision to detain Petitioner without notice or an informal interview. Both 8 C.F.R. § 241.13 and 8 C.F.R. § 241.4 require that prior to revoking an Order of Supervision, the noncitizen must be provided notice, and an informal hearing to contest the Government's re-detention. *See, e.g.*, *M.S.L. v. Bostock*, No. 25-cv-01204, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (Notice of Revocation stated that a "determination was made

pursuant to 8 C.F.R. [§] 241.4(*l*)(2)(ii) that [p]etitioner had violated the conditions of release," rather than citing to 8 C.F.R. § 241.4(*l*)(1) (citation omitted)).

57. Recently, in *Ceesay v. Kurzdorfer*, the government argued that "under section 241.4, an informal interview is required only if supervision is revoked based on a violation of a condition of release." 781 F.Supp.3d at 163. The court examined the regulations and concluded that it "does not make sense" that paragraphs (*l*)(1) and (*l*)(2) "provide two entirely different tracks for revocation" because paragraph (*l*)(2)(ii) includes violations of supervised release "as one of the possible reasons for revoking release." *Id.* at 164 n.25. The *Ceesay* court rejected the government's proposed interpretation of paragraph (*l*)(2) and held that, consistent with the weight of authority, the procedures of notice and an interview were required "regardless of the reason for the revocation." *Id.* at 163 ("[T]he government does not cite a single case holding that an informal interview is not required when release is revoked for a reason other than a violation.").

58. Similarly, in *Perez-Escobar v. Moniz*, 792 F.Supp.3d 224 (D. Mass. July 24, 2025), the petitioner, as here, had been ordered removed years prior to when the petition was filed, but had been released subject to conditions for more than five years. *Id.* at 225. The petitioner complied with his conditions of release but was detained without notice during a check-in at an ICE field office.

Id. He received a notice of revocation of release the following day, which "asserted that 'there [was] a significant likelihood of removal in the reasonably foreseeable future,' that 'the purpose of [petitioner's] release ha[d] been served,' and that 'it [was] appropriate to enforce the removal order,' " but "[did] not identify any specific changed circumstances to support these assertions." *Id.* at 226 (citation omitted). There was no assertion that the petitioner had violated a condition of release. Notwithstanding that, the court held that when the Department of Homeland Security revokes the release of a noncitizen to enforce an order of removal, 8 C.F.R. § 241.4(*l*) requires the noncitizen to be notified of the reasons for revocation under paragraph (*l*)(1), *id.* at 226, and that such notice must provide "adequate notice of the basis for the revocation decision such that he [can] meaningfully respond at the post-detention 'informal interview,' " *id.* at 226. *See also Zhen Yi Mei v. Doe*, No. 25-cv-01507, 2025 WL 2258586, at *10 n.19 (N.D. Ohio Aug. 7, 2025) (observing, in case of petitioner whose release was revoked pursuant to paragraph (*l*)(2)(iii), that "there are certain procedural requirements when revoking supervision pursuant to § 241.4," including "notif[ying] [her] of the reasons for [the] revocation [and] ... her return to [ICE] custody," and "afford[ing] her an opportunity to respond to the reasons for revocation stated in the notification," which "precedes a full custody review conducted 'approximately three months after release is revoked' " (alterations and omission in original) (quoting *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 652 (D. Mass. 2018))).

59. These recent cases are not outliers. In *Rombot v. Souza*, the government revoked petitioner's supervised release to enforce his removal order, citing "a significant likelihood of removal in the foreseeable future." 296 F. Supp. 3d at 385. The court concluded that section 241.4 required ICE to provide an informal interview promptly, and that it had violated its own procedures by failing to do so. *Id.* at 387-88. In *You Xiu Qing v. Nielsen*, the court rejected the government's argument that section 241.4 permitted it to revoke the petitioner's release without "providing him with notice and an informal interview." 321 F. Supp. 3d at 463; *see also Noem v. Abrego Garcia*, — — U.S. ——, 145 S. Ct. 1017, 1019, 225 L.Ed.2d 655 (2025) (statement of Sotomayor, J.) (emphasizing that 8.C.F.R. § 241.4(*l*) required notice and an informal interview to revoke conditional release); *M.Q. v. United States*, 776 F. Supp. 3d 180, 187, 190, 190 n.1 (S.D.N.Y. 2025) (paragraph 241.4(*l*) required ICE to provide petitioner who had not violated conditions of release with notice and an informal interview). These cases support the Court's conclusion that redetention under section 241.4 requires notice and an informal interview, even when a noncitizen is detained because it is "appropriate to enforce a removal order" under paragraph (*l*)(2)(iii).

60. Assuming *arguendo* that Respondents interpretation of paragraph 241.4(*l*), allows them to re-detain Petitioner without providing notice or an opportunity to be heard, the consequent effect is an imbalance in procedural safeguards for noncitizens re-detained under section 241.4. Specifically, in the Government's view, noncitizens who are re-detained because they violated the terms of supervision, but not others, would be entitled to notice and a prompt interview. Thus, "a noncitizen suspected of violating a condition of release gets more process than a noncitizen — like [Petitioner] — who has met his obligations to report." *Ceesay*, 781 F.Supp.3d at 164.

61. Sections 241.4(l)(1) and (l)(2) enumerate grounds upon which DHS may revoke supervision. They do not define the exclusive procedures applicable once revocation occurs. Respondents' interpretation collapses grounds and procedures into one and creates a loophole allowing DHS to bypass all process simply by labeling the revocation discretionary. That construction is incompatible with the regulation's structure and purpose and would permit DHS to avoid safeguards even where revocation is pretextual or factually contested.

62. Numerous district courts, "have determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered." *Rokhfirooz v. Larose,* Case No.: 25-cv-2053-RSH-VET, 2025 WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025) (granting

a habeas petition and ordering the petitioner's release where the Government failed to comply with § 241.13); *see Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner was likely to succeed on his unlawful re-detention claim because "there is no indication that an informal interview was provided"); *Rombot*, 296 F. Supp. 3d at 387–88 (holding that ICE's failures to follow the revocation procedures in § 241.4 rendered the petitioner's detention unlawful); *Ceesay*, 781 F. Supp. 3d at 164 ("[B]ecause ICE did not follow its own regulations in deciding to redetain [the petitioner], his due process rights were violated, and he is entitled to release.").

63. In this case, upon information and belief, Petitioner was not given any notice of the reasons for his re-detention prior to his arrest or an opportunity to respond to such reasons. First, despite both regulations requiring notice "*upon revocation*," ICE did not provide Petitioner with a Notice of Revocation of Release until long after he was taken into custody. 8 C.F.R. § 241.4(l)(1) (emphasis added); *id.* § 241.13(i)(3). It is clear that Petitioner did not receive notice at any point before, or at the time of his arrest. *See M.S.L.*, 2025 WL 2430267, at *11 (holding ICE failed to provide the petitioner a timely notice of revocation where it was issued "after nearly a month in detention.").

64. In the same vein, an informal interview is required "*promptly* after [the noncitizen's] return to Service custody." 8 C.F.R. § 241.4(l)(1) (emphasis added); § 241.13(i)(3). Upon information and belief, Petitioner was *never*

provided with an interview in connection with the revocation of his release or otherwise afforded an opportunity to respond to the reasons for his re-detention. This cannot reasonably be construed as a "prompt" informal interview. *See M.S.L.*, 2025 WL 2430267, at *11 ("More fundamentally, ICE's failure to provide Petitioner with a timely Notice of Revocation or conduct an informal interview until nearly a month after taking her into custody is a grave violation of Petitioner's due process rights in that they deprived her both of meaningful notice and an opportunity to be heard."); *Hoac*, 2025 WL 1993771, at *4 (finding petitioner was likely to succeed on his unlawful re-detention claim as "there [was] no indication that an informal interview was provided").

65. Even if the regulations were ambiguous, the Due Process Clause independently requires notice and an opportunity to respond where the government revokes a significant liberty interest. For more than half a decade, Petitioner has lived in the community under DHS imposed supervision, worked lawfully, complied with reporting requirements, married a United States Citizen, and relied on the government's representation that his liberty would not be withdrawn absent cause. Revocation of that liberty inflicts a grievous loss. *Morrissey v. Brewer*.

66. ICE's failure to follow such regulations thereby also violated Petitioner's constitutional due process rights. *See Diaz*, 2025 WL 2581575, at *7 ("DHS's failure to follow its own procedural regulations may constitute a

due process violation."); *Santamaria Orellana*, 2025 WL 2444087, at *8 ("[T]here is absolutely no record of the decision to revoke [the petitioner's] release ... which reveals an even more significant due process problem because no one ... knows with any degree of certainty what legal and factual basis was relied upon in making the determination, which hinders any meaningful challenge to the decision."); *Grigorian v. Bondi*, CASE NO. 25-CV-22914-RAR, 2025 WL 2604573, at *6 (S.D. Fla. Sept. 9, 2025) ("Although [the petitioner's release] was subject to § 241.4(l) and not § 241.13(i), the Court nevertheless finds that ICE failed to provide [him] with a meaningful opportunity to contest the revocation of his [order of supervision] through an informal interview [in violation of] both ICE's own regulations and the Due Process Clause of the Fifth Amendment.").

67. Courts consistently hold that revocation of conditional liberty requires procedural protections even where the government retains discretion. *Young v. Harper* and *Gagnon v. Scarpelli* apply this principle. Respondents' position that DHS may re-detain a person after more than half a decade of compliance with no notice, no explanation, and no opportunity to respond, raises serious constitutional concerns and should be rejected.

E. Administrative Procedures Act requires government agencies to follow their own rules and procedures.

68. Government agencies are required to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). However, only final agency actions are subject to APA review. *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 867–68 (9th Cir. 2022). An agency action is final when two conditions are met. *Id.* First, "the action must 'mark the consummation of the agency's decision-making process[,]' " and, second, "it must also determine 'rights or obligations' or be one 'from which legal consequences will flow.' " *Id.* (quoting *Bennett v. Spear*, 520 U.S. 154, 177–78 (1997)). In applying this test, courts consider "whether the action amounts to a definitive statement of the agency's position, whether it has a direct and immediate effect on the day-to-day operations of the subject party, and if immediate compliance ... is expected." *Prutehi Litekyan: Save Ritidian v. Dep't of Airforce*, 128 F.4th 1089, 1108 (9th Cir. 2025) (cleaned up).

69. Here, the arrests constituted final agency actions. The arrest decisions and the detention decisions were final. There remained no further agency decision-making, no pending process by which Respondents could review or appeal those decisions. And there can be no doubt that the arrests and resulting detentions had a direct and immediate effect on Petitioner and that immediate compliance was expected. But for the habeas petition,

Petitioner has no remedy to address the legality of his arrest, detention, and continued custody. The arrest thus constituted final agency actions that were unlawful because they were conducted contrary to constitutional right in violation of 5 U.S.C. § 706(2)(b), and they exceeded Respondents' statutory authority under 8 U.S.C. § 1231 in violation of 5 U.S.C. § 706(2)(c).

F. Separation of Powers

70. Nonetheless, there is a stronger constitutional reason to reject the Government's incorrect interpretation of the INA, namely separation of powers. *See Daniela Guaiquire, v. Louis A. Quinones, Jr., et al.*, No. 6:26-CV-169-RBD-RMN, 2026 WL 279369 (M.D. Fla. Feb. 3, 2026) (citation cleaned up). The dangers of the Government's current trend of encroaching upon the judiciary requires Article III courts to curb the "tide in the affairs of men..." William Shakespeare, *Julius Caesar*, Act 4, sc. 3.

> While the relative sphere of power of the three branches is currently under great strain, Article III courts are serving as the proverbial "judicial finger in the constitutional dike." *Conejo Arias v. Noem*, No. SA-26-CV-415 (W.D. Tex. Jan. 31, 2026) (Biery, J.).
>
> "It is emphatically the province and duty of the judicial department"—not the Executive—"to say what the law is." *Marbury v. Madison*, 5 U.S. 137, 177 (1803). The Judiciary "has imposed upon it by the constitution, the solemn duty to interpret the laws,...and however disagreeable that duty may be, in cases where its own judgment shall differ from that of other high functionaries, it is not at liberty to surrender, or to waive it." *United States v. Dickson*, 40 U.S. 141, 162 (1841). "Separation-of-powers principles are intended, in part, to protect each branch of government from incursion by the others. Yet the dynamic

between and among the branches is not the only object of the Constitution's concern. The structural principles secured by the separation of powers protect the individual as well." *Bond v. United States*, 564 U.S. 211, 222 (2011).

The American people rebelled against the tyrant King George III in part because he "made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries," leading to judges abusing the rights of the people to curry favor with the Executive. THE DECLARATION OF INDEPENDENCE ¶ 11 (U.S. 1776). So the Framers, in their genius, established the Judiciary as independent from the Executive to protect the people—for, as Alexander Hamilton wrote, "liberty can have nothing to fear from the judiciary alone, but would have every thing to fear from its union with either of the other departments." THE FEDERALIST No. 78, at 403 (Alexander Hamilton) (Gideon ed., 1818). "A Judiciary free from control by the Executive and the Legislature is essential if there is a right to have claims decided by judges who are free from potential domination by other branches of government." *United States v. Will*, 449 U.S. 200, 217–18 (1980).

Often unappreciated by the general public is that immigration judges serve at the whim of the President. *See generally* Alisa Chang, *The Trump Administration Fires at Least 7 Immigration Judges in New York*, NPR (Dec. 2, 2025), https://www.npr.org/2025/12/02/nx-s1-5628393/the-trump-administration-fires-at-least-7-immigration-judges-in-new-york. They are members of the Executive branch, not independent Article III judges. They lack life tenure and are dependent on the President for their livelihood. They cannot always be expected to safeguard the rights of individuals in the same way as the independent

Judiciary must. *See Stern v. Marshall*, 564 U.S. 462, 483–84 (2011). So no, the Judiciary won't be deferring to the Executive branch about what the law says.

Nor will this Court acquiesce to a statutory interpretation urged by the Executive that reads out entire sections drafted by the Legislature. Just as the Judiciary must remain independent for

> this country to function, so too must the Legislature. The power to eliminate entire portions of statutes rests with the elected members of the Congress of these United States. *See id.*; *Marbury*, 5 U.S. at 177. Adopting the Government's interpretation of § 1225, which by necessity acts as if § 1226 does not exist, amounts to the Executive's unilateral elimination of an act of Congress, something wholly alien to our system. *See Bautista v. Santacruz*, No. 5:25-CV-01873, 2025 WL 3713987, at *12 (C.D. Cal. Dec. 18, 2025) ("Respondents' expansive interpretation...would effectively nullify a portion of the INA through [ ] DHS's . . . interpretive exercise of power."). What the Government is in effect urging is to give the Executive free rein to rewrite acts of Congress to suit its purpose and to tell the Judiciary what those laws must mean. This the Court cannot do, for it would fall victim to the very evils the Framers rejected 250 years ago. So the Court gives *Hurtado* the deference a decision drafted by immigration judges wholly beholden to the Executive deserves: none.

Daniela Guaiquire, 2026 WL 279369 at *8-9.

G. Due Process Necessitates an Impartial Tribunal

71. The immigration court system ("ICS") has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights. The ICS is not an independent adjudicative body. It operates under the Department of justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with the Department of Homeland Security ("DHS") have systematically dismantled the integrity of the ICS to turn it into an extension of DHS' deportation and detention operations. The evidence of EOIR's institutional capture falls into five categories, each independently sufficient to establish

bias, but together demonstrating systematic destruction of judicial independence:

(1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda;
(2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate;
(3) the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications;
(4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and
(5) explicit instructions to defy district court rulings that impede DHS's enforcement goals. Each category is addressed in turn below.

72. As of September 26, 2025, the administration has terminated 128 immigration judges[1] ("IJs"). Former New York IJ David K.S. Kim[2] explained the targeting criteria: "I do not know the exact reason for my termination, but most of those dismissed, including myself, were judges with high asylum approval rates." This is not the complaint of disgruntled employees—these are career jurists with decades of combined experience who felt compelled to speak out publicly.

73. The terminated and resigned judges consistently reported three

[1] *Trump Administration Continues Firing Immigration Judges -- IFPTE responds*, IFPTE (Sept. 26, 2025), https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-respondsnbsp.
[2] Woo-Sun Lim, *Former judge highlights legal failures in U.S. worker detentions*, The Dong-A Ilbo (Sept. 20, 2025), https://www.donga.com/en/article/all/20250920/5859412/1.

themes, the first being explicit pressure to act as instruments of mass deportation rather than as neutral adjudicators. Former Baltimore IJ Emmett Soper[3] stated: "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that they see the immigration courts as a tool for this administration to advance its policy objectives." Former San Francisco IJ Jeremiah Johnson[4] similarly understood "the hint that they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due process, essentially." Former San Francisco IJ George Pappas[5] was even more direct: "We were told to facilitate deportation... Due process is dead in immigration courts."

74. The second theme reported is a pervasive climate of fear designed to ensure compliance. Former Baltimore IJ David C. Koelsch[6] described it as "an atmosphere of paranoia and fear, which is exactly what they want." Former

[3] Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog

[4] Hilda Gutierrez, Michael Bott & Son Vo, *'An all-out attack on immigration court:' SF immigration judges speak out after firings*, NBC Bay Area (Nov. 25, 2025), https://www.nbcbayarea.com/investigations/san-francisco-immigration-judges-speak-out-firings/3986850/.

[5] Marco Poggio, *Judges See an Immigration Court Gutted from Inside*, Law360 (Oct. 31, 2025), https://www.law360.com/articles/2381003/judges-see-an-immigration-court-gutted-from-inside.

[6] Poggio, *supra* note 5.

Annandale IJ Anam Petit observed: "There's a climate of fear…Judges feel like, if they step a toe out of line right now…or they're one [asylum] grant away from being fired because of the arbitrary nature of the firings." [7] Former New York IJ Carmen Maria Rey Caldas[8] similarly described judges working "under 'constant threat' of getting fired if they don't follow certain rules from leadership."

75. The final theme reported is the inevitable compromise of judicial independence when self-preservation requires favoring the government. Former San Francisco IJ Elizabeth Young[9] explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'"[12] Former Boston IJ Sarah Cade[10] reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process. So I left and I went to private practice."[13]

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[7] Eric Katz, *'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings*, Gov't Executive (Nov. 14, 2025), https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-syste m-jeopardy-due-trumps-firings/409544/.

[8] Isabela Dias, *"Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts*, Mother Jones (Oct. 9, 2025), https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-purge-dhs-ice/.

[9] Poggio, *supra* note 5.

[10] Poggio, *supra* note 5.

76. The message to remaining immigration judges is unmistakable: impartiality is a terminable offense. No adjudicator can remain objectively neutral when faced with the choice between upholding due process and maintaining their livelihood. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their position.

77. A parallel purge ensued at the BIA reducing its membership from 28 members to 15 members. All Biden appointees on the BIA were fired. The statistical impact is stark. As of January 22, 2026, the reconstituted BIA has issued 71 published decisions.[11] Of those, 69 decisions (97%) favored the administration. By contrast, during the entire four-year span of the prior administration, the BIA issued 76 published decisions.[12] Of those, 46 decisions (60%) favored the administration. The transformation from 60% to 97% pro-government outcomes—achieved through wholesale termination[13] of one administration's appointees—speaks for itself.

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[11] Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't of Just. (Jan. 21, 2025), https://www.justice.gov/eoir/volume-29.

[12] Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025), https://www.justice.gov/eoir/volume-28. (First decision, *Matter of DIKHTYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

[13] Am. Imm. Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12, 2025), https://www.americanimmigrationcouncil.org/blog/bia-ruling-immigration-judges-bond-mandatory-detention-undoc umented-immigrants/.

78. To replace purged judges, the DOJ launched recruitment for what it explicitly marketed as "deportation judges." DHS—a party in immigration proceedings before EOIR—promoted these IJ openings on social media[14] with enforcement-focused language: "Bring the hammer down on criminal illegal aliens" and "Defend your communities, your culture, your very way of life."

79. In addition, the DOJ has authorized up to 600 military lawyers to serve as temporary IJs for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary IJ.[15] Previously, temporary judge candidates were required to have served as a former immigration judge, appellate immigration judge, or administrative judge within another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing "any attorney" to be selected as a temporary IJ and reduced training to approximately two weeks—far less than the standard training for permanent immigration judges, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.[16]

[14] dhsgov, Instagram (Nov. 21, 2025), https://www.instagram.com/p/DRVT8DmCQKD/?hl=en.

[15] Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025).

[16] Margy O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal,* Brennan Ctr. for Just. (Sept. 29, 2025), https://www.brennancenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-ill-advised-and-potentially.

Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting[17]: "I see more deportations of illegal immigrants in the near future"—an explicit acknowledgment of the mass deportation policy objective underlying these appointments and the erosion of institutional boundaries between DOJ and DHS. In December, one of the appointed temporary judges was fired just a month into his six-month term. "That judge, Christopher Day, had granted asylum claims in just over half the cases he heard."[18]

80. Beyond personnel changes, EOIR's new acting director, Sirce E. Owen, quickly released "a string of sharply worded policy memos" that immediately "[set] the tone for her leadership." "Sources familiar with Owen described her as a 'restrictionist loyalist' with a reputation for denying cases." The Catholic Legal Immigration Network (CLINIC) observed that "these memos also seem intended to reshape EOIR, which is meant to be a neutral arbiter, into a politically driven tool advancing the Trump administration's clearly anti-immigrant views." The policy directives include: a memorandum dated June 27, 2025 warning judges not to demonstrate "bias directed against

[17] Corey R. Lewandowski (@CLewandowski_), X (Sept. 2, 2025, 1:47 PM), https://x.com/clewandowski_/status/1962950546652070269.
[18] Radley Balko, *"The courts are dead." An interview with a fired immigration judge*, The Watch (Jan. 8, 2026), https://radleybalko.substack.com/p/the-courts-are-dead-an-interview

DHS" or to be "adjudicatory outliers," at risk of "close examination and potential action"; a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections; and memorandums restricting immigration judges' ability to grant continuances and administrative closure.

81. However, the clearest evidence that EOIR has abandoned its role as an impartial tribunal comes from its response to federal court orders protecting bond hearing rights. In *Maldonado Bautista v. Santacruz*, the Central District of California issued both declaratory and injunctive relief holding that noncitizens who entered without inspection but were not apprehended at the border are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Judge Sunshine Sykes certified a nationwide class and entered final judgment. *Id.* Rather than comply with the order, EOIR leadership directed all immigration judges to ignore the order. On January 13, 2026, Chief Immigration Judge Teresa L. Riley sent an email to all immigration judges instructing:

Please provide the following guidance to all immigration judges

> forthwith: *Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore *Yajure Hurtado* remains binding precedent on agency adjudications. For clarification, declaratory judgments differ from injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of compelling specific action by a party. Thank you for your attention to this matter.

The effect was immediate: ACLU lawyers reported that immigration judges who had begun granting bond hearings in compliance with Judge Sykes' ruling reversed course after receiving Chief Judge Riley's directive. Immigration judges were placed in an impossible position—comply with a federal district court order and risk termination or defy the federal court and retain their positions.

82. On January 16, 2026, Judge Sykes issued a scathing order directly addressing the government's systematic defiance:

> This matter is yet another in a slew of habeas petitions following the Court's ruling in *Bautista v. Santacruz* that has unfortunately become routine in this Court. But individuals filing these habeas petitions are not to blame; rather, the current volume of habeas petitions and temporary restraining orders being filed can be attributed to ***Respondents' deliberate choice to continue defying the final judgment entered in Bautista***. ...
> Despite the clarity of the Court's previous orders and legal doctrines that preclude Respondents from relitigating issues at the heart of these requests, Respondents continue to manufacture arguments for sake of opposition. At this point in time, **the Court can no longer confer Respondents with the benefit of the doubt as to the intent of their filings.**

> Despite the final judgment in Bautista, it appears that immigration judges continue to rely on legal interpretations that were expressly found unlawful. ... Respondents are collaterally estopped from relitigating the issue as to whether Bond Eligible Class members are entitled to the exact relief as provided in the Bautista final judgment. Accordingly, Respondents are collaterally estopped from relitigating this issue against all members of the Bond Eligible Class.

Palomera Baltazar v. Janecka, No. 5:26-cv-00019-SSS-BFM at *2-3 (C.D. Cal. Jan. 16, 2026). (emphasis added).

83. As evinced *supra*, Judge Sykes' findings are a condemnation of the Executive Branch's encroachment upon the judiciary: the government is not merely disagreeing with her legal conclusions—it is engaged in "deliberate" defiance, "manufacturing arguments," and instructing immigration judges to rely on "interpretations that were expressly found unlawful." This is not a case of good-faith disagreement over statutory interpretation. "Judges across the country—the vast majority who have considered this question—have told the Government many times in the past few months that its interpretation of the law is wrong." *See Gimenez Rivero v. Sheriff John Mina, et al.*, No. 6:26-cv-66-RBD-NWH, 2026 WL 199319, at *5 (M.D. Fla. Jan. 26, 2026); *see also id* ("If the Government is going to argue for expanding the interpretation of a law or maintain a widely rejected position to preserve its appellate rights, it may do so. But its lawyers must make those arguments in a way that comports with their professional obligations, as lawyers have done since time immemorial:

Cite the contrary binding authority and argue why it's wrong. Don't hide the ball. Don't ignore the overwhelming weight of persuasive authority as if it won't be found.").

84 The Government is engaged in systematic institutional defiance of federal court orders, orchestrated by EOIR leadership and enforced through the threat of termination. No clearer evidence of institutional capture could exist—when presented with a federal court order protecting noncitizens' rights—EOIR's response was to order judges to violate it. The ultimate victim is the detained noncitizen, who like Petitioner, remains detained in violation of the due process and is denied their fundamental right to have an impartial adjudicator determine whether their continued detention serves any legitimate purpose related to flight risk or community safety.

85. This detention is also averred to endure the entirety of the noncitizen's removal process. According to latest TRAC Immigration and Executive Office for Immigration Review ("EOIR") reports, the average length of time from a Notice to Appear ("NTA") to a final order of removal is from two (2) to three (3) years nationwide (with some busier jurisdictions taking longer). As a result, this newly discovered detention authority invented by ICE is akin to a confinement sentence in a term of years to any noncitizen picked up off the street by ICE today, tomorrow, and unless nationwide compulsory injunctive relief is issued or until—similar to the unlawful termination of SEVIS status

cases that surged earlier this year—the Executive acquiesces to the eventuality of nearly universal defeat in a court of law and surrenders to the futility of pursuing that line.

86. At bottom, this radical shift in policy constitutes a thinly veiled attempt to utilize detention as an instrument of suffering and to psychologically and financially coerce immigrants to abandon the legal process as both the foreseeable result and unstated goal undergirding the change. John Gihon, a Board Certified Immigration and Nationality Law Attorney in Florida, and former DHS Attorney, commented[19] on this, stating, "[d]etention is the easiest way to deport people… People who would stay in the country and fight their case on the non-detained docket … [decide] 'I don't want to sit in custody at all, I just want to go back to my country.' "

87. It is unfortunate that Respondents recent about-face toward mass detention requires this Court to serve as the proverbial "judicial finger in the constitutional dike"—*Conejo Arias v. Noem*, No. SA-26-CV-415 (W.D. Tex. Jan. 31, 2026) (Biery, J.)—so that "the political branches have [not] the power to switch the Constitution on or off at will" lest it "lead to a regime in which … [the Executive Branch], not th[e Supreme] Court, say[s] 'what the law is.' "

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[19] Jason Buch, *How Trump's ICE Is Locking Up Longtime Texans with Paths to Legal Status*, Texas Observer (Feb. 9, 2026, 11:44 AM CST), https://www.texasobserver.org/trump-ice-detention-bond-prosecutorial-discretion/

Boumediene v. Bush, 553 U.S. 723, 765 (2008) (quoting *Marbury v Madison*, 5 U.S. (1 Cranch) 137, 177 (1803)).

H. Proposed Remedies

88. The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. V*elasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) ("[H]abeas corpus is, at its core, an equitable remedy"). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted"). Here, the EOIR–a clearly compromised adjudicatory body–cannot properly redress the statutory and constitutional violations present in this matter, Petitioner urges the court to provide an alternative corrective measure:

> **Petitioner submits that immediate release is the most appropriate remedy.** Petitioner's lack of criminal history, strong family ties to the United States, and long duration of residency all support his immediate release. "In recent months, courts across the country have ordered the release of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (**given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail**

waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing). (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosadó v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025). *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025)("Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of [Petitioner's] due process rights through her continued detention.")

FACTS

89. Petitioner is a national and citizen of Cuba. Upon information and belief, he entered the United States on or around January 30, 2020, in San Luis, Arizona, without possession of a valid immigrant visa, reentry permit, or border crossing identification card. (Attached hereto and incorporated herein is Determination of Inadmissibility as Petitioner's Exhibit "B").

90. Petitioner was provided a credible fear interview on January 31, 2020, which was subsequently denied on March 9, 2020. (Attached hereto and incorporated herein is Order of IJ Denying Credible Fear as Petitioner's Exhibit "C").

91. On November 9, 2020, Petitioner was provided a Custody Determination by DHS/ICE and determined that Petitioner would be released pursuant to an Order of Supervision. (Attached hereto and incorporated herein is Notice of Custody Determination as Petitioner's Exhibit "D").

92. On November 10, 2020, Petitioner was released on an Order of Supervision. (Attached hereto and incorporated herein is Order of Supervision as Petitioner's Exhibit "E").

93. Subsequently, on January 9, 2025, Petitioner was provided Interim Notice Authorizing Parole, which was valid through January 9, 2026. *See* Exhibit A. The Interim Notice Authorizing Parole was retroactively granted to November 20, 2020, and was valid at the time Petitioner was detained.

94. Upon information and belief, on or about December 9, 2025, Petitioner was re-arrested by DHS/ICE agents at an annual check-in in Miramar, Florida. Upon information and belief, DHS/ICE agents re-detained Petitioner without issuing Notice of Revocation of Supervised Release, and without providing Petitioner an informal interview prior to re-detaining him.

95. Mr. Rodriguez has every reason to return to Immigration Court, as he has been in the United States for over five (5) years and applied to Register Permanent Residence or Adjust Status under the Cuban Adjustment Act, on January 18, 2022. (Attached hereto and incorporated herein is Receipt of Form I-485 as Petitioner's Exhibit "F"). He has developed strong ties to the community, including marrying a United States Citizen and reconnected with his family. Mr. Rodriguez is not a threat to anyone or our national security. Petitioner is not a terrorist, has never been a terrorist, and he has never

participated otherwise in the persecution of any individual or group of individuals. Petitioner is not a flight risk. Petitioner will comply with any and all lawful conditions placed on him by DHS/ICE. Mr. Rodriguez has no criminal history. Mr. Rodriguez has secured a custodial sponsor, that has pledged to provide support and assistance as needed throughout his immigration proceedings. Mr. Rodriguez has a fixed address to stay, should he be released on an Order of Supervision. Mr. Rodriguez intends to comply with any terms of release. Mr. Rodriguez will be represented by the undersigned during these proceedings. Mr. Rodriguez has friends and family that have pledged to provide transportation for him.

96. Following Petitioner's arrest and transfer to Glades County Detention Center, ICE failed to provide Petitioner notice or an opportunity to contest his re-detention through an informal hearing pursuant to §§ 241.4(l)(2), or 241.13(i).

97. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Unlawful Revocation of Order of Supervision
(Due Process Violation)

98. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

99. ICE re-detained Petitioner without complying with 8 C.F.R. § 241.4. The regulations require notice of the reasons for revocation and a prompt informal interview allowing the noncitizen to respond.

100. Sections 241.4 and 241.13 both require ICE to provide "an initial informal interview promptly ... to afford the alien an opportunity to respond to the reasons for revocation." *See* §§ 241.4(l)(1), 241.13(i)(3). ICE failed to provide these procedural protections.

101. The revocation of Petitioner's supervised release without due process renders his current detention unlawful. *See e.g., Noem v. Abrego Garcia*, 145 S. Ct. 1017, 1019 (2025) (SOTOMAYOR, J., concurring).

COUNT II

Violation of the Fifth Amendment

102. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

103. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

104. Petitioner has a fundamental interest in liberty and being free from official restraint. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

105. Pursuant to *Mathews*, courts weigh the following three factors: (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." *Mathews*, 424 U.S. at 335.

106. Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

107. Petitioner is being held at a county jail in the same conditions as criminal inmates and is far from his Family, which desperately requires both his financial assistance and logistical support.

108. There is a large risk of erroneous deprivation of Petitioner's liberty interest through the procedures used in this case (in this case nil) and there are available alternative procedures which would ameliorate those risks.

109. The risk of deprivation is high because, contrary to law, Respondents refuse to afford Petitioner any meaningful notice or other individualized and constitutionally adequate hearing under 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13.

110. Respondents have not determined Petitioner to be flight risk or danger to the community or any other individualized factors; rather, they have unliterally deprived Petitioner of his liberty based upon an erroneous reinterpretation of legal authority that strains credulity and runs against the grain of long-standing precedent, existing statutory and regulatory authority, and established agency policies and practices.

111. There are no significant governmental interest at stake related to Petitioner's continued detention because his availability for removal proceedings may be secured by less restrictive means, *i.e.*, an Order of Supervision, in light of the fact that Petitioner's removal is unquestionably not reasonably foreseeable and ICE has not identified a country willing to accept

Petitioner or any concrete steps demonstrating imminent removal, as well as the high likelihood he will succeed in obtaining favorable relief in his removal proceedings.

112. As a direct and proximate result of the violation of Petitioner's procedural due process rights, Petitioner has suffered and will continue to suffer injury and the government's detention of Petitioner without providing notice, without providing an opportunity to contest his re-detention and without acknowledging his Application for Adjustment, violates his right to due process.

COUNT III

Violation of Administrative Procedure Act

113. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

114. Under § 706(a) of the APA, final agency action can be set aside if it is "contrary to a constitutional right, power, privilege, or immunity." *See* 5 U.S.C. § 706(2)(B). As discussed, *supra*, Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court.

115. Respondents have deprived Petitioner of his liberty without providing any meaningful notice, or individualized and constitutionally adequate hearing, prior to re-detaining him.

116. Continued re-detention of Petitioner, absent notice, or an opportunity to contest his re-detention via an individualized and constitutionally adequate hearing, or sufficient and compelling legitimate government interest constitutes a violation of Due Process Clause of the Fifth Amendment to the United States Constitution.

117. The adverse agency action at issue is therefore necessarily contrary to a constitutional right and thus falls within the ambit of 5 U.S.C. § 706(2)(B).

118. As a direct and proximate result of the unauthorized and unlawful re-detention alleged herein, Petitioner has suffered and will continue to suffer injury.

COUNT IV

Violation of APA (Arbitrary and Capricious Deprivation of Liberty)

119. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

120. Under § 706(a) of the APA, final agency action can be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," including if it fails to make a rational connection between the facts found and the decision made. *See* 5 U.S.C. § 706(2)(A).

121. Respondents have failed to articulate any facts or sufficient legal authority that forms a basis for their decision to re-detain Petitioner, and

Respondents have failed to articulate any rational connection between the facts found and their adverse decision made.

122. Due to the lack of notice or individualized and constitutionally adequate hearing, Respondents have made no determinations of fact at issue.

123. As discussed, *supra*, Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court. Petitioner's continued detention absent notice or individualized and constitutionally adequate hearing under 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13 is unlawful.

124. The adverse action by Respondents is therefore arbitrary and capricious. As a direct and proximate result of his wrongful, unlawful, and *ultra vires* detention by Respondents, absent notice or any individualized and constitutionally adequate hearing under 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13, Petitioner has suffered and will continue to suffer injury.

COUNT V

Fourth Amendment Violation and *Ultra Vires* Detention

125. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

126. Although immigration detention may be civil in nature, it must be accompanied by procedures sufficient to ensure that confinement is not arbitrary. *Demore v. Kim*, 538 U.S. 510, 527 (2003). Further, "[a]gency actions

beyond delegated authority are 'ultra vires,' and courts must invalidate them." U.S. *ex rel. O'Keefe v. McDonnell Douglas Corp.*, 132 F.3d 1252, 1257 (8th Cir. 1998); *see also Romero v. INS*, 39 F.3d 977, 980 (9th Cir. 1994) (holding that an immigration regulation that is inconsistent with the statutory scheme is invalid).

127. Respondents' detention of Petitioner, without probable cause, or a criminal arrest warrant, without notice and without an individualized hearing under 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13, exceeds their delegated authority, and is a violation of Petitioner's right to be free from unreasonable searches and seizures, his right to due process, and Petitioner's right to be free from cruel and unusual punishment.

COUNT VI

Violation of the APA

128. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

129. Government agencies are constitutionally required to follow their own regulations. *Morton v. Ruiz,* 415 U.S. 199 (1974). ICE, like any agency, "has the duty to follow its own federal regulations." *Haoud v. Ashcroft,* 350 F.3d 201, 205 (1st Cir. 2003) (quoting *Nelson v. I.N.S.*, 232 F.3d 258, 262 (1st Cir. 2000)).

130. Under § 706(a) of the APA, final agency action can be set aside if it is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; . . . [or] without observance of procedure required by law." *See* 5 U.S.C. § 706(2)(A), (C)-(D).

131. As discussed, *supra*, Petitioner is being detained in direct violation of the governing statutory and regulatory scheme, as interpreted by the Supreme Court. Respondents, without notice, without an individualized hearing under 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13, and without probable cause, have denied under erroneous and *ultra vires* authority, Petitioner any notice of the basis of his detention, an opportunity to contest his re-detention before a neutral arbiter at an individualized hearing with constitutionally adequate procedures.

132. Petitioner is subject to §§ 241.4 and 241.13, which both require ICE to provide "an initial informal interview promptly ... to afford the alien an opportunity to respond to the reasons for revocation." See §§ 241.4(l)(1), 241.13(i)(3). ICE failed to provide these procedural protections. Additionally, nothing in Petitioner's criminal history or other history provides any basis or justification for his continued detention and/or re-detention without notice or an individualized hearing with constitutionally adequate procedures. Continued detention of Petitioner is therefore not in accordance with law, in

excess of statutory authority, and without observance of procedure required by law.

133. As a direct and proximate result of his wrongful, unlawful, and *ultra vires* detention by Respondents absent notice and any an opportunity to contest his re-detention before a neutral arbiter at an individualized hearing with constitutionally adequate procedures under 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13, Petitioner has suffered and will continue to suffer injury.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Order that Petitioner shall not be transferred outside the Middle District of Florida while this habeas petition is pending;
b. Issue an Order to Show Cause directing Respondents to show cause why this Petition should not be granted within three days;
c. Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner;
d. Order Respondents to return all of Petitioner's property in Respondents' custody;
e. Declare that Petitioner's detention is unlawful and prohibit ICE from invoking the automatic stay provisions under 8 C.F.R. § 1003.19(i)(2), and enjoin Respondents permanently from re-detaining Petitioner, and retain jurisdiction to ensure compliance;
f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
g. Grant any other and further relief that this Court deems just and proper.

DATED this 11th day of March 2026.

By: */s/ Joel Alexis Caminero*

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Attorney for Petitioner

NOTICE OF LEAD COUNSEL DESIGNATION

In accordance with Local Rule 2.02(a), notice is hereby given that undersigned attorney, Joel Alexis Caminero, is designated and will serve as Lead Counsel for Petitioner YOSLEMU ESCALONA RODRIGUEZ in the above-styled cause.

/s/ Joel Alexis Caminero
Joel Alexis Caminero, Esq.
Florida Bar # 127294
Attorney for Petitioner

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

In accordance with 28 U.S.C. § 2242, undersigned counsel hereby submits this verification on behalf of Petitioner, YOSLEMU ESCALONA RODRIGUEZ, because I am Petitioner's legal counsel. I have discussed with Petitioner and/or his family, the events described in the foregoing Petition. Based on those discussions, as well as documents provided to me by Petitioner's family, pursuant to 28 U.S.C. § 1746, I hereby verify under penalty of perjury, that I have reviewed the foregoing and the facts stated therein are true and accurate to the best of my knowledge and belief.

<u>*/s/ Joel Alexis Caminero*</u>
Joel Alexis Caminero, Esq.
Florida Bar # 127294
Attorney for Petitioner