

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

MANUEL FORTE CUETO,

Petitioner,

v.

WARDEN, Florida Soft Side South
facility, in his official capacity;

KELIE WALKER, in her official
capacity as Field Office Director of U.S.
Immigration and Customs Enforcement
Miami Field Office;

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

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

PAMELA BONDI, in her official
capacity as Acting Attorney General of
the United States

Respondents.

Case No. 2:26-cv-733-KCD-NPM

**Amended Verified Petition for Writ
of Habeas Corpus**

INTRODUCTION

The Petitioner, Manuel Forte Cueto, hereby petitions for issuance of a writ of habeas corpus pursuant to 28 U.S.C. § 2241 seeking immediate release as he

has been unlawfully held in civil immigration detention since January 9, 2026. The Petitioner in support thereof states:

1. This case challenges the unlawful detention of Manuel Forte Cueto (“Petitioner” or “Mr. Forte”), who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at Florida Soft Side South, 54575 Tamiami Trail, E, Ochopee, Florida 34141. Petitioner is neither a flight risk nor a danger to the community. But on or about January 9, 2026, ICE detained him without compliant notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules.

2. The Petitioner came to the United States from Cuba approximately fifty-four years ago. Petitioner has continuously resided in the United States since that time. On September 28, 1999, an Immigration Judge at Orlando Immigration Court ordered Petitioner removed to Cuba. On or around the 1999 removal order, Petitioner served approximately ten (10) months in Florida state prison and was thereafter detained by immigration authorities. The Department of Homeland Security was unable to execute the removal order. Petitioner’s detention extended for approximately eighteen (18) months, during which Cuba refused to accept his repatriation and his removal was not reasonably foreseeable. In the wake of the Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and with Petitioner already detained well beyond the six-month presumptive limit, ICE

released the Petitioner from custody on or around 2001 pursuant to an Order of Supervision (“OSUP”) under 8 C.F.R. § 241.4. ICE found that Petitioner was neither a flight risk nor a danger to the community when it previously released Petitioner from ICE detention on or around 2001 under an OSUP.

3. Since his OSUP release, Petitioner has complied with all conditions of supervision, including regularly scheduled check-ins and reporting to ICE under the Intensive Supervision Appearance Program (“ISAP”), has maintained lawful employment authorization, and has established strong familial and community ties.

4. On or about January 9, 2026, ICE called Petitioner and directed him to report immediately to the Miami Lakes ICE field office regarding a malfunctioning ankle monitor that ICE itself had placed on Petitioner in October 2025. Petitioner complied. Upon his arrival, Respondents suddenly revoked Petitioner’s OSUP and arrested him without explanation or an opportunity to be heard. Petitioner has been detained at Florida Soft Side South Detention Center since then. Despite his full compliance with ICE’s requirements, Petitioner was taken into custody without compliant notice or opportunity to be heard. In detaining Petitioner, ICE violated his due process rights by failing to comply with the statutory requirements of 8 C.F.R. §241(l)(1), which required notice of the reasons for OSUP revocation and a prompt interview to respond, and 8 C.F.R. §241.4(l)(2), which required that revocation be carried out by an authorized official upon findings that revocation was in the public

interest. § 241.4(1)(2). Petitioner has never violated the terms of his supervision, and the conditions supporting Petitioner's release on supervision have not changed.

5. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

6. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents to release him.

CUSTODY

7. Petitioner satisfies the "in custody" requirement for habeas review because he is currently being physically detained by ICE Enforcement and Removal Operations ("ICE ERO") at the Florida Soft Side South, 54575 Tamiami Trail, E, Ochopee, Florida 34141.

PARTIES

8. Petitioner, Mr. Forte, is a citizen of Cuba and has lived in the United States for approximately fifty-four (54) years. Petitioner is currently detained indefinitely at the Florida Soft Side South. He was taken into custody in violation of due process on or around January 9, 2026.

9. Respondent is sued in his official capacity as Warden of Florida Soft Side South Detention Center, where Petitioner is currently detained.

10. Respondent Kelie Walker is the Acting Field Office Director for the ICE Miami Office of ICE ERO. In this capacity, she has jurisdiction over Petitioner and is a legal custodian of Petitioner. Ms. Walker is sued in her official capacity.

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), the arm of the U.S. government responsible for enforcement of immigration laws. ICE is a subdivision of DHS. Ms. Noem is the ultimate legal custodian of Petitioner. Ms. Noem is sued in her official capacity.

12. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). In this capacity, he has responsibility for the enforcement of the immigration laws, including detention and removal. As such, he is a legal custodian of Petitioner. Mr. Lyons is sued in his official capacity.

13. Respondent Pamela Bondi is the Attorney General for the United States Justice Department. Ms. Bondi is the official ultimately responsible for proper enforcement of federal immigration law. She is sued in her official capacity.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

15. Venue is proper because Petitioner's detention and removal proceedings have all occurred in the Middle District of Florida. 28 U.S.C. § 1391(e)(1)(B). Venue is also proper because Petitioner resides in Ochopee, Florida, which is in the Middle District of Florida, and Mr. Forte is detained in ICE custody in the Middle District of Florida. 28 U.S.C. § 1391(e)(1)(C) and 28 U.S.C. § 2241(d).

REQUIREMENTS OF 28 U.S.C. § 2243

16. 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.*

17. 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). “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. INS*, 208 F.3d 1116, 1120 (CA9 2000) (citation omitted).

STATEMENT OF FACTS AND PROCEDURAL HISTORY

18. Petitioner is seventy (70) years old and came to the United States from Cuba about fifty-four (54) years ago. Petitioner has resided in the United States continuously since then. Petitioner was previously a lawful permanent resident until his green card was revoked following a final order of removal entered by an Immigration Judge at the Orlando Immigration Court on September 28, 1999.

19. On or around the 1999 removal order, Petitioner served approximately ten (10) months in Florida state prison and was thereafter detained indefinitely by immigration authorities. The Department of Homeland Security was unable to execute the removal order. Petitioner's detention extended for approximately eighteen (18) months. In the wake of the Supreme Court's decision in *Zadvydas*, and with Petitioner already detained well beyond the six-month presumptive limit and during which Cuba refused to accept his repatriation and his removal was not reasonably foreseeable, ICE released the Petitioner from custody on or around 2001 pursuant to an OSUP under 8 C.F.R. § 241.4. Since his OSUP release, Petitioner has fully complied with all conditions of supervision, including regularly scheduled check-ins and reporting to ICE under the Intensive Supervision Appearance Program (ISAP), has maintained lawful employment authorization, and has established strong familial and community ties. Petitioner has remained under that order of supervision for more than two decades.

20. Since his release under the OSUP, Petitioner has fully complied with all conditions, including periodic reporting to ICE under ISAP. No circumstances have changed that make Petitioner a flight risk or a danger to the community.

21. Petitioner has maintained lawful employment authorization under category C-18, corresponding to 8 C.F.R. § 274a.12(c)(18), which is available exclusively to individuals with final orders of removal who remain in the United States under orders of supervision because removal is not practicable. (Exhibit A). Petitioner has renewed this authorization annually.

22. Petitioner has worked consistently throughout the period of his supervision and has paid taxes. He has been employed as an estimator and project coordinator at a Miami-based fire sprinkler and life safety company serving commercial and residential properties throughout South Florida. His employer has attested that Petitioner "plays a critical role in our organization," that he is "trustworthy" and "principled," and that he conducts himself "with integrity." (Exhibit B).

23. Petitioner is deeply rooted in the Miami-Dade community. He has volunteered without compensation for years caring for stray and community cats throughout Miami-Dade County, fostering, transporting, and coordinating spay and neuter services for multiple colonies in Kendall, Pinecrest, and surrounding neighborhoods. Multiple community members have attested to his reliability,

compassion, and positive contributions over many years of service. (Exhibit C-1 through C-4)

24. Petitioner suffers from serious medical conditions that are exacerbated by the stress and circumstances of detention. Petitioner has been diagnosed with hypertension, peripheral vascular disease, hypercholesterolemia, chronic joint pain, hyperuricemia, a raised antibody titer currently under investigation for autoimmune disease, psoriasis, anemia, and umbilical hernia. His treating provider has noted that Petitioner's health had already suffered a downturn in the months prior to his arrest. Detention at Florida Soft Side South separates Petitioner from his established medical providers and treatment regimen, rendering his continued confinement punitive in effect (Exhibit D).

25. For many years prior to his recent arrest, Petitioner reported to ICE on an annual basis in compliance with his order of supervision. In July 2025, at a scheduled check-in, ICE instructed Petitioner to return in three months. At his October 2025 check-in, ICE instructed Petitioner to return in March 2026. Shortly after that October appointment, however, ICE called Petitioner and directed him to report immediately to the Miami Lakes ICE field office. Upon that appearance, ICE fitted Petitioner with an ankle monitor and placed him on a monthly reporting schedule that included home visits. Petitioner complied with all monthly reporting requirements from October through December 2025 without incident.

26. On or about January 9, 2026, ICE called Petitioner and informed him that his ankle monitor was malfunctioning and that he was required to report immediately to the Miami Lakes ICE field office. Petitioner complied. Upon arriving at the office as directed, ICE agents took Petitioner into custody.

27. Upon information and belief, Petitioner was served with a Notice of Revocation of Release purportedly issued by Zoelle Rivera, who is identified on the notice as Assistant Field Office Director, Miami Field Office, acting as Field Office Director/Designated Representative. The Notice was unsigned (Exhibit E). Petitioner was afforded no opportunity to respond before, during, or after the arrest.

28. Upon information and belief, the official responsible for revoking Petitioner's order of supervision did not first refer the case to the ICE Executive Associate Director, did not make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director, and had not been delegated authority to revoke an order of supervision, as required under federal regulations.

29. Upon information and belief, at no time following Petitioner's arrest did ICE explain why it revoked Petitioner's order of supervision or give him an interview to respond to those reasons in a format that is compliant with the federal regulations.

30. Upon information and belief, at the time ICE revoked Petitioner's order of supervision, the agency had not secured travel documents necessary for removal from the United States.

31. Petitioner has been on an order of supervision since on or around 2001. Petitioner has complied with all conditions of the order, including periodic check-ins with ICE. No circumstances warrant revocation under 8 C.F.R. § 241.4(1)(2). The purposes of Petitioner's release have not been served, as no travel documents have been secured. Petitioner has not violated any condition of release. There is no appropriate basis to enforce the removal order at this time, as Cuba has not accepted Petitioner's return. Nor does Petitioner's conduct or any other circumstance indicate that release would no longer be appropriate. To the contrary, Petitioner has complied with the requirements of his order of supervision without interruption for over two decades. Even with an unscheduled call from ICE regarding a malfunctioning ankle monitor placed on Petitioner and demanding that Petitioner appear and report in-person, Petitioner followed those instructions, and ICE suddenly revoked Petitioner's order of supervision and arrested him instead. Considering these facts, there is no significant likelihood of removal in the reasonably foreseeable future, and continued detention violates the fundamental constitutional protections of due process provided in *Zadvydas*.

32. ICE's revocation of the Petitioner's release violates his substantive and procedural due process rights, the *Accardi* doctrine, and applicable federal regulations. 8 C.F.R. § 241.4. The Petitioner challenges the legality of his detention based on the process used to revoke his release. The Petitioner does not challenge the commencement of his removal proceeding, the adjudication of a case, or the execution of his removal order. The Petitioner is not seeking a review of his removal order.

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision

33. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Id.* at 690 (2001).

34. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal.

See Zadvydas v. Davis, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

35. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty,” like the decision to revoke a non-citizen’s order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). “The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at 333 (citation modified).

Statute and Regulation Govern Procedures for Revoking an Order of Supervision

36. A non-citizen with a final order of removal “who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3) (titled “Supervision after 90-day period”).

37. A non-citizen may only be detained past the 90-day removal period following a removal order if found to be “a risk to the community or unlikely to comply with the order of removal” or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).

38. But even where initial detention past the 90-day removal period is authorized, if “removal is not reasonably foreseeable, the court should hold continued

detention unreasonable and no longer authorized by [§ 1231(a)(6)].” In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances” *Zadvydas*, 533 U.S. at 699-700.

39. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained past the removal period: “(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(1)(2); (permitting revocation of an order of supervision only if a non-citizen “violates any of the conditions of release”). Because “[r]egulations cannot circumvent the plain text of the statute[,]” courts question whether these regulations are ultra vires of statutory authority. *See, e.g., You v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal period only if person is a risk to the community, unlikely to comply with the order of removal, or was ordered removed on specified grounds).

40. When a noncitizen is subject to a final order of removal, the INA starts a 90-day removal period during which detention is mandatory. 8 U.S.C. § 1231(a)(1)-(2). If removal is not accomplished within that window, the government may continue

to detain the noncitizen or release him under supervision. *Id.* § 1231(a)(6). *Zadvydas* interpreted § 1231(a)(6) to limit post-removal-order detention to “a period reasonably necessary to bring about that alien’s removal from the United States.” 533 U.S. at 678. The Supreme Court established six months as the presumptively reasonable period. *Id.* at 701. After that period, “once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* The Eleventh Circuit confirmed that both showings must be made at the time the petition is filed. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

I. Six-Months Post-Removal Period

41. District courts are split on when the six-month presumptively reasonable period begins. Under one approach, the period commences at the beginning of the statutory removal period following entry of the final removal order, regardless of whether the noncitizen is in physical custody. *See Beltran v. Ripa*, No. 2:25-cv-01174-SPC-NPM, slip op. at 5 (M.D. Fla. Jan. 5, 2026) (quoting *Akinwale*, 287 F.3d at 1052 n.3) (“[T]he Supreme Court’s stated rationale for establishing a presumptively reasonable ‘6-month period’ for detention pending removal supports our conclusion that this period commences at the beginning of the removal period.”)); *Godinez Perez v. Noem*, No. 2:25-cv-00429-JES-NPM (M.D. Fla. Oct. 2, 2025). Under another approach, the period runs only from the commencement of actual

physical detention, because *Zadvydas* “used the words ‘detain’ and ‘custody’ to refer exclusively to physical confinement and restraint.” *Jennings v. Rodriguez*, 583 U.S. 281, 311 (2018); see *Tran v. Warden*, No. 2:25-cv-1224-KCD-NPM, 2026 WL 672969, at *3 (M.D. Fla. Mar. 10, 2026); *Khalil al Ellary v. Noem*, No. 2:26-cv-112-KCD-DNF (M.D. Fla. Feb. 27, 2026). Here, Petitioner satisfies the six-month threshold under either approach, as set forth in Count One below.

II. Prior Detention Counts Towards the Six-Month Threshold

42. District courts are also split on whether prior time in ICE post-order custody should be aggregated to satisfy the six-month *Zadvydas* clock. Some courts have firmly rejected the cumulative approach, reasoning that if prior detentions are counted in the aggregate, “any subsequent period of detention, even one day, would raise constitutional concerns,” improperly obstructing the executive branch’s statutory discretion to effectuate removal. *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *8 (S.D. Fla. Aug. 8, 2025); see also *Meskini v. Att’y Gen.*, No. 4:14-CV-42, 2018 WL 1321576, at *3 (M.D. Ga. Mar. 14, 2018). Other courts within this Division have adopted a hard aggregation rule, holding that allowing the clock to reset upon re-detention is “inconsistent with *Zadvydas*” because it “would effectively allow ICE to detain noncitizens indefinitely and avoid judicial scrutiny by simply releasing and re-detaining them every 180 days.” *Coca Pineda v. Warden*, No. 2:26-CV-335-JES-FNF, slip op. at 4 (M.D. Fla. Mar. 10, 2026) (aggregating 89 days of

prior 2009 custody with current detention period); *see also Beltran v. Ripa*, No. 2:25-cv-01174-SPC-NPM, slip op. at 5 (M.D. Fla. Jan. 5, 2026) (same); *Pierre v. Field Office Director*, No. 0:25-cv-62475-WPD (S.D. Fla. Jan. 29, 2026) (same). As the Eleventh Circuit recognized, “[t]he Supreme Court’s stated rationale for establishing a presumptively reasonable ‘6-month period’ for detention pending removal supports our conclusion that this period commences at the beginning of the removal period.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 n.3 (11th Cir. 2002). The Southern District of Florida recently rejected the Government’s position in an analogous case:

In this case, the Government has had over thirteen years to make such arrangements for Petitioner’s removal. Petitioner’s period of detention did not restart on December 3, 2025: it has been running since December 17, 2013. Most of these arrangements could have “likely be[en] pursued even while the noncitizen [was] on release.” The Government may not sit on its hands for thirteen years before deciding to implement an order of removal and then hold the non-resident in detention while it figures out how to effectuate removal. Such conduct runs afoul of the very danger outlined in *Zadvydas*. *Pierre v. Field Office Director*, No. 0:25-cv-62475-WPD (S.D. Fla. Jan. 29, 2026) (internal citations omitted).¹

¹ Courts have found that when a non-citizen “was previously detained, then released on supervised release . . . his 90-day removal period has long expired.” *See Balouch v. Bondi*, No. 9:25-CV-216-MJT, 2025 WL 2871914, at *2 (E.D. Tex. Oct. 9, 2025). That is, Courts have “broadly agree that ‘the six-month period [under *Zadvydas*] does not reset when the government detains an alien under 8 U.S.C. § 1231(a), releases him from detention, and then re-detains him again.’” *Diaz-Ortega v. Lund*, No. 1:19-CV-670-P, 2019 WL 6003485, at *7 n.6 (W.D.La. Oct. 15, 2019) (quoting *Sied v. Nielsen*, 17-CV-06785-LB, 2018 WL 1876907, at *6 (N.D.Cal. Apr.

43. This Court has declined to adopt a blanket aggregation rule but has expressly held that aggregation is "entirely appropriate" where the record reveals bad faith, specifically, "a calculated pattern of catch-and-release designed merely to reset the *Zadvydas* clock or evade judicial review." *Tran*, No. 2:25-cv-1224-KCD-NPM, 2026 WL 672969, at *3 (M.D. Fla. Mar. 10, 2026). Petitioner satisfies the six-month threshold under the hard aggregation rule applied by other courts in this Division, and independently satisfies this Court's bad faith standard, as set forth in Count One below.

III. Equitable Analysis and Substantive Due Process

44. Regardless of which approach to the six-month threshold this Court applies, *Zadvydas* does not operate as a rigid mathematical formula. The writ of habeas corpus is, at its core, an equitable remedy, and courts are empowered to look beyond a mechanical tally of custody days to examine the totality of the

19, 2018)), *report and recommendation adopted*, No. 1:19-CV-670-P, 2019 WL 6037220 (W.D.La. Nov. 13, 2019); *accord Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *9 (S.D.Tex. Sept. 26, 2025) ("The government's contention that it may avoid the holding of *Zadvydas* and re-start the six-month presumptively constitutional detention clock by simply releasing and then re-detaining a noncitizen has no basis in either the statutes, the regulations, or *Zadvydas* itself."); *accord Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (finding that "re-detention after release on an Order of Supervision "is not your typical first round detainment of an alien awaiting removal."); *see also Solis Nolasco v. Noem*, No. CV GLR-25-3847, 2026 WL 25002, at *4 (D. Md. Jan. 5, 2026). Likewise, the Eleventh Circuit speaks in terms of a "removal period," not "periods," immediately following the finality of the order of removal. *See Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

circumstances. *See Munaf v. Geren*, 553 U.S. 674, 693 (2008); *Tran*, 2026 WL 672969, at *3. The Supreme Court in *Zadvydas* itself eschewed a formula, instructing lower courts to ask whether "the detention in question exceeds a period reasonably necessary to secure removal" and to "measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." 533 U.S. at 699. That directive calls for a case-specific inquiry into the actual likelihood of future deportation. *See Tran*, 2026 WL 672969, at *3. Where the record establishes that removal is not realistically foreseeable, not because of a temporary diplomatic delay but because of a decades-long, unbroken pattern of failure under the same removal order, the equitable foundations of the writ and the constitutional concerns animating *Zadvydas* permit the courts to look at the full picture. A court exercising habeas jurisdiction is not constrained to ask only how many days a petitioner has spent in a detention cell during the current episode of confinement; it may ask whether, in light of everything the record shows, continued detention still serves any purpose that the removal statute recognizes. *See Zadvydas*, 533 U.S. at 699-700.

45. It is clear, however, that regulations permit only certain officials to revoke an order of supervision: the ICE Executive Associate Director, a field office director, or an official "delegated the function or authority . . . for a

particular geographic district, region, or area.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intends to revoke an order of supervision, they must first make findings that “revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director].” 8 C.F.R. § 241.4(l)(2). And for a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order that “refers only to a limited set of powers under part 241 that do not include the power to revoke release” insufficient to grant authority to revoke an order of supervision).

46. Upon revocation of an order of supervision, ICE must give a non-citizen notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(l)(1).

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

47. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow

procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

48. *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. *See Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud). Where a release notification issued alongside an order of supervision instructs that a non-citizen with a final order of removal will be given an opportunity to prepare for an “orderly departure,” ICE’s failure to follow that instruction is an *Accardi* violation. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), *vacated and remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering release of petitioners to give an opportunity to prepare for orderly departure). Respondents committed additional *Accardi*

violations by failing to follow the procedures required by 8 C.F.R. § 241.4 upon revocation of Petitioner's order of supervision, as discussed *supra*.

CLAIMS FOR RELIEF

Count One

Violation of 8 U.S.C. § 1231(a)(6) as Construed in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Fifth Amendment's Due Process Clause Unlawful Indefinite Post-Order Detention

49. Petitioner realleges all paragraphs above as if fully set forth here.

50. Under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), post-removal-order detention beyond six months is presumptively unreasonable. To obtain relief, a petitioner must show: (1) post-removal-order detention in excess of six months; and (2) good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Akinwale*, 287 F.3d 1050 at 1052. Once both elements are established, the burden shifts to the government to respond with evidence sufficient to rebut the showing. *Zadvydas*, 533 U.S. at 701. If the government cannot carry that burden, continued detention is no longer authorized by statute and violates the Fifth Amendment's Due Process Clause. *Id.* at 699-700. Petitioner satisfies both elements under every permissible approach to the six-month threshold.

I. Element One – Six-Months Post-Removal Period

51. Under the statutory period approach, the six-month period commences at the beginning of the statutory removal period following entry of the final removal

order, regardless of whether the noncitizen is in physical custody. As the Eleventh Circuit recognized, "[t]he Supreme Court's stated rationale for establishing a presumptively reasonable '6-month period' for detention pending removal supports our conclusion that this period commences at the beginning of the removal period." *Akinwale*, 287 F.3d at 1052 n.3. This threshold was satisfied no later than March 2000 when Petitioner's removal order became final on September 28, 1999, more than twenty-five years before the filing of this petition. The government has had more than twenty-five years to effectuate that order. It has not done so. The six-month presumption expired decades ago and has never been satisfied.

52. Under the approach requiring actual physical detention, Petitioner's prior post-order custody independently satisfies the six-month threshold. Following entry of the September 28, 1999, removal order, Petitioner was held in ICE post-order custody for approximately eighteen (18) months from approximately late 1999 through approximately mid-2001. ICE ultimately released Petitioner pursuant to the Supreme Court's decision in *Zadvydas*, because Cuba refused to accept his return and removal was not practicable. *Id.* at 699-700. Eighteen months of actual post-order physical detention exceeds the six-month presumptively reasonable period under any formulation of *Zadvydas*. *Id.*

II. Prior Detention Counts Towards the Six-Month Threshold

53. Under the aggregation approach, prior and current custody combine to exceed six months. Courts within this Division applying the aggregation rule hold that the six-month period does not reset upon re-detention under the same unexecuted removal order. See *Coca Pineda*, No. 2:26-CV-335-JES-FNF, slip op. at 4 (M.D. Fla. Mar. 10, 2026)(Beltran, No. 2:25-cv-01174-SPC-NPM, slip op. at 5 (M.D. Fla. Jan. 5, 2026); *Pierre*, No. 0:25-cv-62475-WPD, slip op. at 4–5 (S.D. Fla. Jan. 29, 2026)). Petitioner's approximately eighteen months of prior post-order physical custody from 1999 to 2001, during which he was held indefinitely until released pursuant to *Zadvydas*, 533 U.S. at 699-700, because Cuba refused repatriation, combined with his current detention commencing January 9, 2026, yields an aggregate post-order physical custody period that exceeds the six-month threshold by a substantial margin. Permitting reset would allow the government to evade *Zadvydas* through successive cycles of release and re-arrest, the precise danger *Zadvydas* was designed to prevent. *Id.* at 10 (government "may not sit on its hands" for years and then detain a noncitizen while it determines how to effectuate removal; "[s]uch conduct runs afoul of the very danger outlined in *Zadvydas*").

54. This Court has declined to adopt a blanket aggregation rule but has expressly held that aggregation is "entirely appropriate" where the record reveals bad faith, specifically, "a calculated pattern of catch-and-release designed merely to reset the *Zadvydas* clock or evade judicial review." *Tran* , No. 2:25-cv-1224-KCD-NPM,

2026 WL 672969, at *3. The record here satisfies that standard. ICE fitted Petitioner with an ankle monitor at his October 2025 reporting appointment, then called him in January 2026 claiming the device was malfunctioning and instructed him to report immediately. When Petitioner arrived as directed, he was arrested. No prior notice of revocation was provided. No explanation was offered at the time of arrest. There was no attempt to fix any ankle monitor or change the device. The government summoned a fully compliant petitioner under false pretenses, arrested him without the procedural steps that a good-faith removal effort would have required, and offered no justification grounded in any new development. A re-detention premised on no identifiable changed circumstance, executed through the pretext of a malfunctioning monitor, without compliant notice or interview, is not a genuine independent effort to effectuate a newly viable removal. Unlike *Tran*, where the petitioner had been detained for only a brief initial period before his release on supervision and where no bad faith was found on the record, Petitioner was previously held by ICE for eighteen (18) months, long enough that the Supreme Court's decision in *Zadvydas* itself compelled his release, and is now re-detained twenty-five years later without any intervening change in the circumstances that made his removal significantly unlikely in the first place.

III. Equitable Analysis and Substantive Due Process

55. Regardless of which approach to the six-month threshold this Court applies, *Zadvydas* does not operate as a rigid mathematical formula. The writ of habeas corpus is, at its core, an equitable remedy, and courts are empowered to look beyond a mechanical tally of custody days to examine the totality of the circumstances. See *Munaf v. Geren*, 553 U.S. 674, 693 (2008); *Tran*, 2026 WL 672969, at *3. The Supreme Court in *Zadvydas* itself eschewed a rigid formula, instructing lower courts to ask whether "the detention in question exceeds a period reasonably necessary to secure removal" and to "measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal." 533 U.S. at 699. That directive calls for a case-specific inquiry into the actual likelihood of future deportation, not a mechanical tally of days. See *Tran*, 2026 WL 672969, at *3.

56. This case is fundamentally different from cases in which a brief initial detention, followed by supervised release, is later followed by a renewed removal effort grounded in a genuine change of circumstances. In *Tran*, the petitioner had been detained for only a brief initial period before release on supervision, and the Court found no evidence of bad faith or deliberate cycling on the record. *Tran*, 2026 WL 672969, at *3. This case is the opposite. Petitioner was already held indefinitely for approximately eighteen months following his 1999 removal order, long enough that the Supreme Court's decision in *Zadvydas*, compelled his release as a

constitutional matter because Cuba's refusal rendered removal not reasonably foreseeable. He was then supervised in the community for over twenty-five years, during which the government annually certified that removal remained impracticable. He was re-detained without compliant notice, without a compliant interview, without a changed circumstance, and without any indication that the situation that made his removal impossible in 1999 has changed in 2026. The concern animating *Tran's* caution about automatic aggregation, that a petitioner who spent only a brief time in custody long ago should not automatically benefit from that history, is simply not present here. This is not a case of mathematical gamesmanship. This is a man who was released under the Supreme Court's ruling in *Zadvydas* because he previously met the 6 month period and because his removal was not foreseeable, re-detained a quarter century later under the same impossible removal order due to unchanged circumstances that the government now bears the burden to prove have changed.

IV. Element Two – No Significant Likelihood of Removal in the Reasonably Foreseeable Future

57. Once the six-month threshold is met, *Zadvydas* requires Petitioner to provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. 533 U.S. at 701. Four independent grounds establish that removal is not significantly likely in the reasonably foreseeable future.

58. First, removal is not reasonably foreseeable as Cuba has declined to accept Petitioner many times. Cuba has refused repatriation for over twenty-five years, and nothing has changed. Cuba refused to accept Petitioner's return when his removal order became final in 1999. Cuba refused again when ICE sought to effectuate removal during Petitioner's approximately eighteen months of initial post-order custody, a refusal so definitive that ICE was compelled to release Petitioner pursuant to *Zadvydas*. Cuba has not agreed to repatriation at any point during the more than two decades of Petitioner's supervised release.

59. Cuba's refusal is not a temporary diplomatic obstacle. It is a long-standing, consistent policy that persisted through multiple administrations, compelled Petitioner's release as a matter of constitutional law, and has shown no sign of change. As of the filing of this petition, Petitioner has not received compliant notice of any repatriation agreement, compliant notice of secured travel documents, and no compliant notice of any change in Cuba's position. The factual predicate for detention, a significant likelihood of removal to Cuba in the reasonably foreseeable future, does not exist in this record and has not existed since 1999.

60. Second, no travel documents exist, and no third country has been identified and properly noticed to the Petitioner. At the time of Petitioner's re-detention on January 9, 2026, the government had not secured travel documents necessary for removal. As of the filing of this petition, Petitioner has received no

federally compliant notification of any third-country designation, no federally compliant notice of any travel document request, and no indication that any country has agreed to accept him. Removal cannot occur in the reasonably foreseeable future without travel documents and a receiving country. The government has neither. *See Beltran*, slip op. at 6 (finding no significant likelihood of removal where Cuba refused repatriation and no travel documents or third country were identified).

61. Third, the government's own C-18 renewals are formal admissions that removal is not practicable. Throughout the entire period of Petitioner's supervised release, from 2001 through the date of his arrest in January 2026, the Department of Homeland Security annually renewed Petitioner's employment authorization under C-18 status, corresponding to 8 C.F.R. § 274a.12(c)(18). (Exhibit A). That category is available exclusively to noncitizens with final orders of removal who remain in the United States under orders of supervision because removal is not practicable. Each annual renewal constituted a formal, affirmative agency determination that Petitioner's removal was not practicable. The government cannot now assert, in good faith, on the same unchanged factual predicate and without identifying any change in circumstances, that removal is significantly likely in the reasonably foreseeable future all of a sudden. The government's own unbroken, twenty-five-year record of annual admissions and no actual evidence to support their vague assurance forecloses the position it now advances.

62. Fourth, no material change in circumstances preceded or accompanied the re-detention. The government revoked Petitioner's OSUP on January 9, 2026, twenty-five years after concluding that removal was not practicable, solely based on a vague assurance without identifying a single changed circumstance that would make removal significantly likely now. No new repatriation agreement was reached. No travel documents were obtained. Petitioner has received no written explanation of any change. The government simply arrested Petitioner at a reporting appointment under the pretext of a malfunctioning ankle monitor.

63. Because Petitioner has been subjected to post-removal-order detention in excess of six months, there is no significant likelihood of his removal in the reasonably foreseeable future, and the equitable and substantive due process analysis set forth herein confirms that continued detention serves none of the legitimate, non-punitive objectives that the removal statute or the Fifth Amendment recognize, Petitioner's ongoing detention violates 8 U.S.C. § 1231(a)(6) as construed in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and the Due Process Clause of the Fifth Amendment to the United States Constitution.

Count Two
Violation of the Fifth Amendment of the U.S. Constitution
Substantive Due Process

64. Petitioner realleges all paragraphs above as if fully set forth here.

65. When ICE issued Petitioner an order of supervision, it found that he is neither a danger to the community nor a flight risk.

66. When Respondents revoked the order of supervision, Petitioner had complied with every condition of the order. None of the grounds for revocation under 8 C.F.R. § 241.4(1)(2) were present. The purposes of Petitioner's release had not been served, as Petitioner had not been removed and no travel documents for his removal to Cuba or a third country had been secured and properly noticed to the Petitioner. Petitioner had not violated any condition of his order of supervision. Nor did Petitioner's conduct or any other circumstance indicate that his release was no longer appropriate. Petitioner had reported to ICE without fail for over two decades and presented to the agency when directed to do so on January 9, 2026. No change in circumstances warranted the order's revocation.

67. Petitioner's detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

68. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision, Petitioner's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

Count Three
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

69. Petitioner realleges all paragraphs above as if fully set forth here.

70. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

71. The first factor, the private interest at issue, favors Petitioner. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690. Petitioner is a seventy-year-old man who has resided continuously in the United States for fifty-four years, held lawful employment authorization, complied without interruption with every condition of his order of supervision for more than two decades, and was separated from his established medical providers upon re-detention on January 9, 2026. The private interest at stake is the liberty of a specific individual with deep community roots whose detention serves no demonstrated penological or regulatory purpose.

72. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

73. The third factor, the government's interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

74. No change in circumstances warranted the order of supervision's revocation. The revocation of Petitioner's order of supervision was not carried out by an official with authority to do so under 8 C.F.R. § 241.4(1)(2). The Notice of Revocation of Release was unsigned. (Exhibit E). The Notice identifies Zoelle Rivera, Assistant Field Office Director, Miami Field Office, as the purported issuing official, acting as Field Office Director/Designated Representative. Ms. Rivera is not the Executive Associate Commissioner (the senior official within ICE vested with authority over post-order custody determinations under § 241.4), is not a Field Office Director or district director, and upon information and belief had not been delegated authority in writing to revoke an order of supervision. The absence of a signature and date on the Notice further calls into question whether the revocation was authorized by any official with the requisite authority under § 241.4(1)(2). Even assuming the revocation had been carried out by an authorized official, none of the grounds for revocation under § 241.4(1)(2) were present. First, the purposes of Petitioner's release had not been served. Petitioner had not been removed, and no travel documents for his removal had been obtained. Second, Petitioner had not violated any condition of his order of supervision; he had complied with every reporting requirement without interruption for over two decades and appeared at the Miami Lakes ICE office on January 9, 2026, as directed. Third, enforcement of the removal order was not appropriate at the time of revocation because Cuba had not agreed to accept

Petitioner's return, and no third country had been identified, secured, or properly noticed to Petitioner.

75. Fourth, nothing in Petitioner's conduct or any other circumstance indicated that his release was no longer appropriate. To the contrary, Petitioner's uninterrupted compliance with his order of supervision for more than twenty years demonstrated that continued release remained appropriate.

76. For these reasons, revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Four **Violation of the *Accardi* Doctrine**

77. Petitioner realleges all paragraphs above as if fully set forth here.

78. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260. Courts have uniformly applied *Accardi* to require strict compliance with the procedural requirements governing revocation of an order of supervision. *See Ceesay*, 781 F. Supp. 3d 137 at 162–69; *Rombot*, 296 F. Supp. 3d 383 at 388. The revocation of Petitioner's Order of Supervision on January 9, 2026, violated multiple independent requirements of 8 C.F.R. § 241.4 and, in the

alternative, 8 C.F.R. § 241.13. Each violation independently requires the revocation to be set aside and Petitioner to be released.

I. Respondents Violated 8 C.F.R. § 241.4(l)(1) by Failing to Provide a Compliant Written Notice of the Reasons for Revocation and Prompt Informal Interview.

79. Section 241.4(l)(1) mandates that upon revocation of an order of supervision, the agency must notify the non-citizen of the reasons for revocation and afford him "an initial informal interview promptly after return to DHS custody so that the person can respond to the reasons stated in the notice." 8 C.F.R. § 241.4(l)(1).

80. The factual record establishes that neither requirement was met. On January 9, 2026, ICE called Petitioner and directed him to report immediately to the Miami Lakes ICE field office regarding a malfunctioning ankle monitor that ICE itself had placed on him in October 2025. Petitioner complied. Upon arriving at the office as directed, ICE agents took Petitioner into custody without federally compliant notice. Petitioner was afforded no opportunity to respond before, during, or after the arrest as required by 8 C.F.R. § 241.4(l)(1). At no time following Petitioner's arrest did ICE explain why it revoked Petitioner's Order of Supervision or give him an opportunity to respond to any stated reasons in a federally compliant manner required by 8 C.F.R. § 241.4(l)(1).

geographic area. The Notice of Revocation identifies Zoelle Rivera as the issuing official, described as "Assistant Field Office Director, Miami Field Office, acting as Field Office Director/Designated Representative." (Exhibit E). The Notice bears no signature or date. Ms. Rivera is not the Executive Associate Commissioner and is not a district director. Upon information and belief, no written delegation order expressly conferring authority to revoke an order of supervision was issued to Ms. Rivera. A delegation order that does not specifically enumerate the power to revoke an order of supervision is insufficient. *Cesay*, 781 F. Supp. 3d at 161 (delegation "refers only to a limited set of powers under part 241 that do not include the power to revoke release" insufficient). The absence of a signature and date on the Notice (Exhibit E) further defeats any inference that a properly authorized official reviewed and approved the revocation. Because Ms. Rivera lacked regulatory authority to revoke Petitioner's Order of Supervision, the revocation is void and Petitioner is entitled to release on that basis alone. *Id.* at 162; *Rombot*, 296 F. Supp. 3d at 388-89; *see also Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025).

84. Section 241.4(l)(2) separately requires that the authorized official make an affirmative finding, before executing the revocation, that "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." 8 C.F.R. § 241.4(l)(2). The Notice of

Revocation contains no such finding. (Exhibit E). No public interest finding was communicated to Petitioner orally or in writing before or after his arrest. The absence of this prerequisite finding is an independent and freestanding basis for invalidity under *Accardi*, separate from the question of whether the issuing official possessed authority to revoke at all.

85. Even if the issuing official had possessed authority and made the required public interest finding, the revocation would still be unlawful because none of the four enumerated grounds in § 241.4(l)(2) existed on January 9, 2026. Each ground is addressed in turn. As to ground (i), the purposes of release have been served: The purposes of Petitioner's release were to supervise him in the community while removal remained impracticable. Those purposes had not been served because Petitioner had not been removed and no travel documents for his removal had been obtained. Cuba had not agreed to accept his return, and no third country had been identified to receive him. Ground (i) does not apply. As to ground (ii), the non-citizen has violated a condition of release: Petitioner had complied with every condition of his Order of Supervision without exception for more than two decades. He reported to ICE on a regular basis under ISAP, appeared at every scheduled check-in, and presented at the Miami Lakes ICE office on January 9, 2026, as directed by ICE itself, in response to a call about a malfunctioning ankle monitor that ICE had installed. There was no violation of any condition of release. Ground (ii) does not apply. As to

ground (iii), it is appropriate to enforce the removal order or commence removal proceedings: Cuba has refused repatriation for more than twenty-five years, beginning with the finality of Petitioner's removal order in 1999. Cuba refused when ICE sought removal during Petitioner's initial eighteen-month post-order custody. Cuba has not agreed to accept Petitioner's return at any point during his twenty-five years on supervised release. As of the filing of this petition, no repatriation agreement is in place, no travel documents have been secured, and no third country has been identified to receive him, or properly noticed to Petitioner. It was not appropriate to enforce the removal order because removal was not and is not significantly likely in the reasonably foreseeable future. Ground (iii) does not apply. As to ground (iv), the conduct of the non-citizen or another circumstance indicates that continued release would no longer be appropriate: Nothing in Petitioner's conduct or any known circumstance as of January 9, 2026, indicated that his release was no longer appropriate. His uninterrupted compliance with every condition of supervision for more than two decades, his stable long-term employment, his deep community ties, and his compliance with ICE's own directive to report that day all weigh decisively in favor of continued supervision. The government has identified no changed circumstance because none existed. Ground (iv) does not apply. Because none of the four grounds existed, the revocation lacked any substantive predicate under § 241.4(1)(2), independently rendering it void under *Accardi*.

III. Respondents Violated 8 C.F.R. § 241.4(l)(3): Failure to Initiate the Required Post-Revocation Records Review and to Notify Petitioner of a Forthcoming Interview.

86. Section 241.4(l)(3) requires that following revocation of an order of supervision, the HQPDU Director schedule a records review of the non-citizen's case file and notify the non-citizen that a review will occur and that an interview will ordinarily be expected within approximately three months after release is revoked. This post-revocation review requirement exists to ensure that continued detention following revocation is affirmatively evaluated by the agency rather than allowed to continue without oversight. As of the filing of this petition, more than seventy-five days have elapsed since Petitioner's re-detention on January 9, 2026. Petitioner has received no notification of any records review, no scheduling of a post-revocation interview, and no indication that the HQPDU Director has initiated any review process whatsoever. Even accepting that the three-month window has not yet technically expired, the complete absence of any initiation of the § 241.4(l)(3) process to date, including no notification, no scheduling, and no records review, confirms that Respondents have not begun to comply with this independent regulatory obligation. The failure to initiate the § 241.4(l)(3) process is an additional and independent *Accardi* violation that separately renders Petitioner's continued detention unlawful.

87. Respondents committed a further *Accardi* violation by failing to honor the agency instruction contained in Petitioner's Order of Supervision release notification. That notification instructed that Petitioner would be given an opportunity to prepare for an orderly departure prior to enforcement of the removal order. *See Ceasay*, 781 F. Supp. 3d at 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017). ICE instead summoned Petitioner under the pretext of a malfunctioning ankle monitor and arrested him without any advance notice, without any opportunity to prepare, and without any indication that enforcement of the removal order was even contemplated. The failure to honor this binding agency instruction constitutes an independent *Accardi* violation requiring the revocation to be set aside. *Morton v. Ruiz*, 415 U.S. at 235.

88. For the foregoing reasons, each of the following independent violations of 8 C.F.R. § 241.4, as described above, independently requires the revocation to be set aside and Petitioner to be released: (a) failure to provide a compliant written notice of the reasons for revocation, as required by § 241.4(l)(1); (b) failure to afford a prompt and compliant informal interview, as required by § 241.4(l)(1); (c) failure to afford an opportunity to secure counsel before the informal interview, as required by § 241.4(l)(1); (d) revocation by Zoelle Rivera, an official lacked regulatory authority under § 241.4(l)(2); (e) failure to make the required public interest finding before

executing the revocation, as required by § 241.4(l)(2); (f) absence of any applicable ground for revocation under § 241.4(l)(2)(i)-(iv); (g) failure to initiate the post-revocation records review and scheduling process required by § 241.4(l)(3); and (h) failure to honor the binding agency instruction that Petitioner be afforded an opportunity to prepare for an orderly departure. Because the revocation was procedurally void from inception, Petitioner's detention since January 9, 2026, has lacked any lawful basis. Petitioner is entitled to immediate release.

Count Five Ultra Vires Action

89. Petitioner realleges all paragraphs above as if fully set forth here.

90. There is no statute, constitutional provision, or other source of law that authorizes Respondents to detain Petitioner. The only statutory authority permitting detention of a non-citizen past the 90-day removal period is 8 U.S.C. § 1231(a)(6), and even that authority does not extend to detention where there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 699-701 (2001). Removal of Petitioner to Cuba is not reasonably foreseeable, and no third country has been identified to receive him. Respondents therefore have no statutory authority to detain Petitioner.

91. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Middle District of Florida while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release the Petitioner within twenty-four hours;
- e. Declare the Petitioner's detention is unlawful;
- 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 such other and further relief that this Court deems just and proper.

Respectfully submitted,

DATED: MARCH 23, 2026
MIAMI, FLORIDA

Raul J. Muniz, Esq.
2385 NW 70th Ave Unit A-06
Miami, FL 33122-1810

/s/ Raul J. Muniz

RAUL J. MUNIZ
Florida Bar No. 1045403
Raul.j.muniz1@gmail.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: MARCH 23, 2026
MIAMI, FLORIDA

/s/ Raul J. Muniz
Attorney for Petitioner