UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

JORGE HERNANDEZ MENENDEZ,

Petitioner,

v. Case No.

GARRET RIPA, Miami Field Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations; WARDEN of Florida Soft Side South; Secretary of the U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General;

Respondents.
_______________________________________/

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241, COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF, AND EMERGENCY REQUEST FOR ORDER TO SHOW CAUSE

Petitioner, by and through undersigned counsel, respectfully petitions for a writ of habeas corpus under 28 U.S.C. § 2241 and seeks declaratory and injunctive relief against Respondents. Petitioner is a citizen and national of Cuba who has been subject to a final order of removal since 2015, but whose removal to Cuba was deferred by an Immigration Judge under the Convention Against Torture ("CAT"). After Petitioner was released on an Order of Supervision and faithfully complied with ICE reporting requirements for approximately 10 years, ICE abruptly re-detained him in November 2025 without following the notice and procedural requirements mandated by regulation. Since then, Respondents have continued to detain him while attempting to remove him to Mexico, a third country, through procedures that violate the Immigration and Nationality Act ("INA"), its implementing regulations, and the Due Process Clause of the Fifth Amendment. Petitioner therefore seeks immediate release from custody and an order barring his removal to Mexico or any other third country unless and until Respondents comply with all applicable legal requirements.

JURISDICTION

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and seeks a writ of habeas corpus challenging the legality of his continued civil detention by Respondents in violation of the Constitution and laws of the United States.

2. 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

3. Venue is proper in this Court under 28 U.S.C. § 2241(a) because, as of the filing of this Petition, Petitioner is detained within the geographic boundaries of the Middle District of Florida, at Florida Soft Side South

Detention Facility, also known as "Alligator Alcatraz", located in Ochopee, Florida. *See* Pl. App. at 1.

PARTIES

4. Petitioner, Jorge Hernandez Menendez, is a citizen and national of Cuba who was granted protection under CAT by the Krome Immigration Court on November 2, 2015. Pl. App. at 2. Petitioner has been in federal immigration custody since November 4, 2025. As of March 16, 2026, Petitioner is detained at the Florida Soft Side South Detention Facility, also known as "Alligator Alcatraz", located in Ochopee, Florida. Pl. App. at 1.

5. Respondent, Garret Ripa, is named in his official capacity as Field Office Director of the Immigration and Customs Enforcement ("ICE"), Enforcement & Removal Operations ("ERO") Miami Field Office. In this capacity, he is responsible for administering immigration laws and executing immigration detention operations in the Miami area, including the Florida Soft Side South Detention Facility, also known as "Alligator Alcatraz," located in Ochopee, Florida, where Petitioner is detained. *See* Pl. App. at 1. As such, he is a custodian of Petitioner.

6. Warden for Florida Soft Side South. The U.S. Department of Homeland Security does not provide information regarding the warden of the facility, but if said position were to exist, that person would be Petitioner's custodian, and therefore, is named as a Respondent.

7. Respondent, Secretary of the U.S. Department of Homeland Security ("DHS"), is the federal cabinet-level secretary responsible for implementing and enforcing the United States' immigration laws. DHS oversees its component agencies, e.g., Immigration and Customs Enforcement ("ICE") and the United States Citizenship and Immigration Services ("USCIS"). They are sued in their official capacity.

8. Respondent Pamela Bondi is the United States Attorney General. In this capacity, she directs agencies within the United States Department of Justice, including the Executive Office for Immigration Review ("EOIR"), which houses the Immigration Courts and the Board of Immigration Appeals. Respondent Bondi is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g) and oversees EOIR. She is sued in her official capacity.

RELEVANT FACTUAL BACKGROUND

9. Petitioner is a citizen and national of Cuba.

10. Petitioner was paroled into the United States on August 29, 1992.

11. On September 8, 2015, DHS filed a Notice to Appear with the Krome Immigration Court in Miami, Florida, seeking to remove Petitioner for crimes he was convicted of.

12. Petitioner sought relief from removal in the form of protection under Article III of the Convention Against Torture ("CAT").

13. On November 2, 2015, the Immigration Court granted Petitioner's application for deferral of removal under CAT, thereby deferring his removal to Cuba. Pl. App. at 2.

14. Three days later, on November 5, 2015, DHS released Petitioner from custody, subject to an Order of Supervision requiring Petitioner to maintain contact with ICE and comply with regular check-ins. Pl. App. at 4.

15. Petitioner faithfully complied with that Order of Supervision and routinely reported to ICE for approximately 10 years. *See* Pl. App. at 5.

16. On August 8, 2025, Petitioner, seeking immigration relief, filed an application for adjustment of status under the Cuban Adjustment Act with DHS, along with an application for a waiver of inadmissibility for his previous convictions.

17. On October 21, 2025, DHS notified Petitioner that it had scheduled his interview on his adjustment of status application for November 25, 2025.

18. Thereafter, ICE suddenly informed Petitioner that he needed to report in for an unscheduled check-in on November 4, 2025.

19. On November 4, 2025, Petitioner complied with the unscheduled check-in, during which ICE detained him.

20. Petitioner filed suit in the Southern District of Florida, Case No. 1:25-cv-25238-PCH, under the Administrative Procedure Act, to compel DHS to adjudicate his pending adjustment of status application.

21. On November 25, 2025, in response to litigation, DHS interviewed Petitioner at the Krome North Service Processing Center regarding his adjustment of status application.

22. Almost two months after Petitioner's re-detention, on December 20, 2025, ICE purportedly served a "Notice of Removal" to Mexico on Petitioner. *See* Pl. App. at 8.[1]

23. On February 11, 2026, without prior notice, Petitioner and his counsel were called by DHS's asylum unit, informing Petitioner that a credible/reasonable fear interview would be conducted right there and then because Respondents had decided to remove Petitioner to the third country of Mexico.

24. Petitioner's counsel objected to the interview because neither Petitioner nor counsel had been notified in advance and because the proper regulatory mechanism for a CAT grantee was not a surprise interview conducted in that manner, but to file a motion with the Immigration Court.

25. The officer agreed to reschedule the interview and asked counsel to provide dates and times of availability.

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[1] This document was filed by the defendants in Petitioner's previous suit against DHS. Case No. 1:25-cv-25238-PCH, ECF No. 8-2.

26. On February 17, 2026, however, a different DHS officer, Officer Farrow [sic], again called Petitioner's counsel without advance notice and sought to proceed immediately with a fear interview.

27. Again, Petitioner's counsel protested that DHS had failed to advise Petitioner and counsel ahead of time, and counsel informed the officer that the proper procedure for a CAT grantee is for DHS to file a motion with the Immigration Court, *see* 8 C.F.R. §§ 208.17, 1208.17, and that in any case, counsel could not appear right then as counsel was preparing a witness for trial in a different case.

28. Petitioner's counsel also protested what the point was of requesting counsel's calendar if DHS was going to cold call anyway.

29. Officer Farrow stated that the interview would proceed without Petitioner's counsel and conducted the interview with Petitioner over counsel's objection.

30. USCIS Officer Farrow proceeded to conduct the interview without Petitioner's counsel's presence in violation of federal regulations. *See* 8 C.F.R. § 208.31(c) ("The alien may be represented by counsel . . . at the interview, at no expense to the Government, and may present evidence, if available, relevant to the possibility of persecution or torture.").

31. On March 2, 2026, USCIS denied Petitioner's adjustment of status application.

32. On March 5, 2026, Petitioner voluntarily dismissed his APA suit against DHS.

33. On information and belief, Respondents' asserted basis for continuing to detain Petitioner is a speculative plan to pursue third-country removal to Mexico.

34. In the week of March 9, 2026, Petitioner was transferred from Port Isabel Service Detention Center in Los Fresnos, Texas, back to Florida Soft Side South Detention Facility, also known as "Alligator Alcatraz", located in Ochopee, Florida, where Petitioner is confined as of the filing of this Petition.

35. Respondents have not provided Petitioner with any valid, fact-specific explanation identifying the changed circumstances that allegedly make his removal significantly likely in the reasonably foreseeable future.

36. Petitioner remains in detention. Without relief from this Court, he faces the prospect of months or even years in immigration custody or an unlawful removal to a third country.

FIRST CLAIM FOR RELIEF

Unlawful Re-Detention in Violation of 8 C.F.R. § 241.13(i)

37. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

38. "Agencies must follow their own regulations." *Saengnakhone S. v. Noem*, No. 25-cv-4775 (ECT/LIB), 2026 WL 34132, at *3 (D. Minn. Jan. 6, 2026)

(citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954); *Webster v. Doe*, 486 U.S. 592, 602 n.7 (1998)).

39. When ICE detains a noncitizen pursuant to a final order of removal, it is required to release the noncitizen on an order of supervision if there is no significant likelihood of removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(g)-(h).

40. Here, on November 5, 2015, DHS released Petitioner on an Order of Supervision following the entry of a CAT deferral of removal to Cuba at the conclusion of his removal proceedings. *See* Pl. App. at 2-7.

41. Once ICE releases a noncitizen on an Order of Supervision, it can only revoke his release in two circumstances: (1) for violations of conditions of an order of supervision, 8 C.F.R. § 241.13(i)(1); or (2) if "on account of changed circumstances, [DHS] determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future," 8 C.F.R. § 241.13(i)(2).

42. Here, Petitioner did not violate any condition of his Order of Supervision, as he faithfully complied with it for approximately ten years. *See* Pl. App. 4-7.

43. Therefore, DHS's revocation of Petitioner's release could only have been based on changed circumstances under 8 C.F.R. § 241.13(i)(2), i.e., a significant likelihood of his removal in the reasonably foreseeable future.

44. "ICE's decision to re-detain a noncitizen . . . who has been granted supervised release is governed by ICE's own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future." *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)); *see also Choy v. Woosely*, No. 4:25-cv-197 DJH, 2026 WL 324601, at *4 (W.D. Ky. Feb. 6, 2026); *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 (D. Mass. 2025) (quoting *Kong*, 62 F.4th 608); *Espada v. Doe*, No. 5:25-cv-2983 JWH KES, 2026 WL 181539, at *4 (C.D. Cal. Jan. 20, 2026).

45. The regulations instruct ICE to consider the following factors: [T]he history of the [noncitizen's] efforts to comply with the order of removal, the history of [ICE's] efforts to remove [noncitizens] to the country in question or to third countries, including the ongoing nature of [ICE's] efforts to remove this [noncitizen] and the [noncitizen's] assistance with those efforts, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding the prospects for removal of [noncitizens] to the country or countries in question. 8 C.F.R. § 241.13(f).

46. "Changed circumstances that make [a noncitizen's] removal likely in the foreseeable future must have existed at or before the [Order of Supervision] revocation; post-hoc justifications are inadequate." *Munagi v. McDonald*, No. CV 25-13175-NMG, 2025 WL 3688023, at *2 (D. Mass. Dec. 19,

2025) ("The question before the Court is not whether petitioner's deportation is now likely in the reasonably foreseeable future but whether such likelihood existed at the time his OSUP was revoked.").

47. Section 241.13(i)(3) states that "[u]pon revocation, the [noncitizen] will be notified of the reasons for revocation of his or her release." 8 C.F.R. § 241.13(i)(3).

48. Therefore, per the regulations, and as various courts around the country have determined, Respondents were required to make a pre-re-detention, individualized determination, based on changed circumstances, that Petitioner's removal had become significantly likely in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(f)-(h). And most importantly, presented Petitioner with this detailed determination.

49. Here, Petitioner asserts that upon his arrest and re-detention on November 4, 2025, ICE failed to provide notice of any facts or reasons for the revocation of his release—let alone specific individualized facts—either in writing or orally as the regulations required.

50. Respondents have not identified any concrete changed circumstances existing at the time of the OSUP revocation on November 4, 2025 that satisfy that standard.

51. Even if an intended and speculative third-country removal to Mexico counted as changed circumstances, which it does not, the "Notice of

Removal" in ICE's records was dated almost two months after Petitioner was re-detained and therefore was a post hoc justification that violated the regulations. *See* Pl. App. at 8.

52. Furthermore, even in instances in which ICE has provided notice to detainees, when the notice merely parrots the regulatory language governing re-detention, courts have found such notice insufficient to satisfy the "reasons for revocation" under the regulation. *See Yee S. v. Bondi,* 806 F. Supp. 3d 894, 898–900 (D. Minn. 2025); *Sarail A. v. Bondi,* 803 F. Supp. 3d 775, 781–84 (D. Minn. 2025); *Roble v. Bondi,* 803 F. Supp. 3d 766, 771–72 (D. Minn. 2025).

53. Here, there was no language of any kind, as there were no reasons presented to the Petitioner at all.

54. Moreover, had Respondents presented Petitioner with the reasons for revocation, he was, on top of that, owed an opportunity to respond to the reasons stated for revocation. *See* 8 C.F.R. § 241.13(i)(3) ("[ICE] will conduct an initial informal interview promptly after his or her return to [ICE] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification."); s*ee also Nguyen v. Warden of Golden State Mcfarland Det. Facility,* No. 2:25-cv-3297 SKO (HC), 2026 WL 72110, at *3 (E.D. Cal. Jan. 9, 2026) ("In addition to the [1] notice provision, section 241.13(i)(3) requires ICE to [2] 'promptly,' after re-detainment, conduct 'an

initial informal interview' to [3] 'afford the [noncitizen] an opportunity to respond to the reasons for revocation.' "); *Hakim v. Noem*, No. 5:26-cv-0145-CV (DTBx), 2026 WL 252493, at *3, n. 1 (C.D. Cal. Jan. 22, 2026) ("[W]hen ICE revokes an OSUP, the regulations require ICE to provide (1) notice of the reasons for revocation, and (2) an 'informal interview . . . to afford the lien an opportunity to respond to the reasons for revocation stated in the notification.') (alterations in original) (citation omitted).

55. Here, Petitioner never received a notice of reasons for revocation, and there was no interview or the opportunity to respond.

56. Additionally, travel documents requested and/or received after the revocation of release are not changed circumstances that can justify revocation under § 241.13(i)(2) because they did not exist or occur at or before the time of revocation. *Munagi v. McDonald*, No. CV 25-13175-NMG, 2025 WL 3688023, at *2 (D. Mass. Dec. 19, 2025); *Duong v. Charles*, No. 1:25-cv-1375 SKO, 2025 WL 3187313, at *3 (E.D. Cal. Nov. 14, 2025); *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 788 (D. Minn. 2025); *Sphabmixay v. Noem*, No. 25CV2648 LL VET, 2025 WL 3034071, at *2 (S.D. Cal. Oct. 30, 2025). When travel documents are requested after revocation of release, courts have granted the petition for writ of habeas corpus and ordered the petitioner's immediate release, even if travel documents were subsequently secured.

57. Here, there is no evidence (1) that Respondents have a travel document, or that they have submitted a request for a travel document to Mexico; (2) that Mexico has promised that a travel document will be forthcoming; and (3) that there is a known timeline for when a travel document will be produced, assuming one is eventually issued.

58. A post hoc speculative hope of future third-country removal to Mexico does not itself establish that Petitioner's removal is significantly likely in the reasonably foreseeable future, particularly where Respondents have not lawfully completed the process necessary to re-detain Petitioner, and much less to effect such removal.

59. Because ICE violated its own regulations when it re-detained Petitioner, he is entitled to habeas relief.

SECOND CLAIM FOR RELIEF

Violation of the INA, CAT Regulations, and the Fifth Amendment Based on Threatened Removal to a Third Country Without Lawful Process

60. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

61. Individuals in removal proceedings are entitled to receive protection under the Convention Against Torture ("CAT"), in the form of withholding or deferral of removal, upon demonstrating a likelihood of torture if removed to the designated country of removal. *See* FARRA [8 U.S.C. § 1231];

8 C.F.R. §§ 208.16(c), 208.17(a), 1208.16(c), 1208.17(a); 28 C.F.R. § 200.1. CAT protection is mandatory. *Id.*

62. Here, Petitioner has already been granted a CAT deferral of removal to Cuba in Immigration Court, where he demonstrated a likelihood of torture were he to be removed. Pl. App. at 2.

63. With respect to any individual granted CAT, the Immigration Judge "shall also inform the [noncitizen] that removal has been deferred only to the country in which it has been determined that the [noncitizen] is likely to be tortured, and that the [noncitizen] may be removed at any time to another country where he or she is not likely to be tortured." 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

64. Removal to a third country is permissible only if it is "impracticable, inadvisable, or impossible" to remove a noncitizen to: (a) the country the noncitizen has designated for removal; (b) the country of which the noncitizen is a subject, national, or citizen; (c) the country from which the individual was admitted to the United States, or which contains the port from which they disembarked for the United States or a contiguous territory; or (d) the noncitizen's country of birth (or the country that now contains their birthplace) or immediate previous residence. 8 U.S.C. § 1231(b)(2)(E).

65. Under such circumstances, the government may remove the noncitizen to "another country whose government will accept [them] into that country." *Id.* § 1231(b)(2)(E)(vii).

66. Still, the government may not remove any person to a country where they will be persecuted or tortured. 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16, 1208.16.

67. "Where third-country removal is anticipated, due process requires, *inter alia*, notice of the country to which the noncitizen will be removed that is not be provided 'last minute,' but instead with sufficient time for the noncitizen to have a meaningful opportunity to apply for fear-based protection from removal." *Ahmed Zohir Saadeldin Saadhom, v. Bondi, et al.*, No. 2:26-CV-00425-TL, 2026 WL 698786, at *5 (W.D. Wash. Mar. 12, 2026) (citing *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999)).

68. With respect to the CAT, the regulations allow removal to a third country, but only "where [the individual] is not likely to be tortured," and only upon a motion to the immigration court, to be determined by an Immigration Judge. 8 C.F.R. §§ 208.17, 1208.17.

69. Although individuals granted CAT may be removed to a third country, the regulations provide that they may not be removed to a country where they are likely to be tortured. 8 C.F.R. §§ 208.17(d). The Regulations

place the burden on DHS and require Cit to file a motion with the Immigration court to meet that burden. *Id.*

70. Pursuant to 8 U.S.C. § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an Immigration Judge if they have a fear of persecution or torture in that country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408–09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (permitting designation of third country where individuals received "ample notice and an opportunity to be heard").

71. Meaningful notice and opportunity to present a fear-based claim prior to removal to a country where a person fears persecution or torture are also fundamental due process protections under the Fifth Amendment. *See Andriasian*, 180 F.3d at 1041; *Protsenko*, 149 F. App'x at 953; *Kossov*, 132 F.3d at 408; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019).

72. Notice is only meaningful if it is presented sufficiently in advance of the removal to stop the removal, is in a language the person understands, and provides for an automatic stay of removal for a time period sufficient to permit the filing of a motion to reopen removal proceedings so that a third country for removal may be designated as required under the regulations and the noncitizen may present a fear-based claim. *Andriasian*, 180 F.3d at 1041;

Aden, 409 F. Supp. 3d at 1009 ("A noncitizen must be given sufficient notice of a country of deportation [such] that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation.").

73. Regulations provide that CAT may be terminated based on evidence that the person will no longer face torture, but, before that, provide certain protections to the noncitizen.

74. First, regulations require DHS to move for a new hearing, requiring that DHS support their motion with evidence relevant to the possibility that the noncitizen would not be tortured in the country to which removal has been deferred, and that evidence was not presented at the previous hearing. 8 C.F.R. §§ 208.17(d)(1), 1208.17(d)(1).

75. Second, even if a new hearing is granted, the regulations require that the Immigration Judge provide the noncitizen with notice "of the time, place, and date of the termination hearing. Such notice shall inform the [noncitizen] that the [noncitizen] may supplement the information in his or her initial application for withholding of removal under the Convention Against Torture and shall provide that the [noncitizen] must submit any such supplemental information within 10 calendar days of such notice (or 13 calendar days if service of such notice was by mail)." 8 C.F.R. 208.17(d)(2),

1208.17(d)(2). Thus, not only is the person provided notice, but also an opportunity to submit documentation in support of their claim for protection.

76. In the instant case, this lack of procedure, especially in light of Respondent's efforts to remove Petitioner to Mexico, while he has granted CAT relief from the Immigration Court, is in violation of the law.

77. The INA, FARRA, and the implementing regulations do not permit Respondents to remove Petitioner to a third country while depriving him of *meaningful* notice and a *meaningful* opportunity to present fear-based objections.

78. Here, Respondents attempted to effectuate third-country removal through surprise, same-moment interviews conducted without meaningful advance notice and, on the second occasion, without counsel despite counsel's objection and despite the regulation recognizing the ability to be represented by counsel at the interview.

79. The Supreme Court has held that "the Due Process Clause protects [a noncitizen] subject to a final order of deportation...." *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001) (citing *Wong Wing v. United States*, 163 U.S. 228, 238 (1896)); *see also Demore v. Kim*, 538 U.S. 510, 523 (2003) (recognizing that Fifth Amendment due process protections extend to removal proceedings, but noting that "detention during deportation proceedings [is] a constitutionally valid aspect of the deportation process").

80. The *Zadvydas* Court held that the INA does not authorize "indefinite, perhaps permanent, detention" of noncitizens subject to final orders of removal under Section 1231(a)(6), *id.* at 699, instead construing the statute to contain an "implicit 'reasonable time' limitation," *id.* at 682.

81. The Supreme Court determined that it is "presumptively reasonable" for DHS to detain a noncitizen for six months following entry of a final removal order while it works to remove the individual from the United States. *Id.* at 701. However, "[a]fter this 6-month period, once the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* If the Government fails to rebut the noncitizen's showing, the noncitizen is entitled to habeas relief. *Id.*

82. "[F]or detention to remain reasonable, as the prior period of postremoval confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Id.*

83. In the present case, Petitioner's removal order was entered on November 2, 2015, meaning it has been over 10 years, and he has been detained for almost six months since his unlawful re-detention.

84. Respondents have failed to provide an explanation for what circumstances suddenly changed 10 years after he was released on an Order of

Supervision that made his removal reasonably foreseeable on November 4, 2025.

85. As the Ninth Circuit has recognized, a grant of withholding of removal under the Convention Against Torture to a noncitizen "is a powerful indication of the improbability of his foreseeable removal, by any objective measure." *Nadarajah v. Gonzales*, 443 F.3d 1069, 1081 (9th Cir. 2006); *see also Nguyen v. Field Office Director*, No. C26-394, 2026 WL 538487, at *3 (W.D. Wash. Feb. 26, 2026) (finding petitioner satisfied his burden of demonstrating that removal was not reasonably foreseeable because he had been in detention seven months, had been granted withholding of removal prohibiting removal to his home country, and there had been no indication from third-country consulates that they would accept petitioner); *Shadalo v. Mattos*, No. C25-2076, 2025 WL 3568234, at *6 (D. Nev. Dec. 14, 2025) (finding petitioner satisfied his burden that removal was not reasonably foreseeable, in part, because petitioner could not be removed to his birth country pursuant to the CAT); *Vishal v. Chestnut*, No. C25-1469, 2025 WL 3511815, at *3 (E.D. Cal. Dec. 8, 2025) (finding petitioner satisfied his burden that removal was not reasonably foreseeable where petitioner was granted withholding of removal and ICE had not identified a third country willing to accept petitioner, despite petitioner's having been detained for seven months); *Gomez v. Mattos*, No. C25-975, 2025 WL 3101994, at *5 (D. Nev. Nov. 6, 2025) (finding petitioner

satisfied his burden that removal was not reasonably foreseeable where petitioner put forth evidence that he was granted withholding of removal from his home country and that DHS has not identified a third country to which it could remove him).

86. Accordingly, per *Zadvydas*, there is no significant likelihood of removal in the reasonably foreseeable future, because not only does Petitioner have CAT relief granted from his native country, but Petitioner was recently transferred back to Florida from an immigration detention center in Texas on the border with Mexico, where Respondents intend to remove Petitioner.

87. Petitioner has shown good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future. He is protected from removal to Cuba under the CAT grant; Respondents have not identified a third country that has affirmatively agreed to accept him; Respondents have not shown that the legal process necessary to effect lawful third-country removal has been completed; and Respondents' own conduct demonstrates that any such removal remains speculative.

88. Moreover, the unlawful and surprise ad hoc procedures utilized by Respondents to carry out their intent to remove Petitioner to Mexico are not a lawful substitute for the procedures required by statute, regulation, and due process.

89. Absent relief from this Court, Petitioner faces irreparable injury through removal to a third country without the meaningful notice and opportunity to be heard that federal law and the Fifth Amendment require.

90. Because Petitioner has already indicated a fear of removal to Mexico, this Court should hold that Respondents must give him an opportunity to pursue a claim for withholding of deportation or deferral under CAT in reopened removal proceedings before an Immigration Judge. *See Abubaka v. Bondi*, No. C25-1889, 2025 WL 3204369, at *6 (W.D. Wash. Nov. 17, 2025); *see Arenado-Borges v. Bondi*, No. C25-2193, 2025 WL 3687518, at *6 (W.D. Wash. Dec. 19, 2025).

91. Moreover, Petitioner notes that a district court in the First Circuit has recently ruled in the summary judgment context that the third-country removal policy at issue is unlawful. *D.V.D. v. United States Dep't of Homeland Sec.*, No. CV 25-10676 BEM (D. Mass.) is a class-action lawsuit involving a class of:

> [a]ll individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the [Immigration and Nationality Act ("INA")] (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

D.V.D., ___ F. Supp. 3d ____, 2026 WL 521557, at *3, *44 (D. Mass. Feb. 25, 2026). The court found that "class members have the right to meaningful notice before removal to any third country" and "to a meaningful opportunity to raise a country-specific claim against removal before removal to any third country." *Id.* The third-country removal policy was set aside as unlawful. *Id.*

92. Based on the foregoing, Petitioner is entitled to habeas relief.

REQUEST FOR RELIEF

Petitioner respectfully request this Honorable Court to:

a) Accept jurisdiction of the 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 directing Respondents to immediately release Petitioner under appropriate conditions of release;

e) Declare that Petitioner's re-detention and continued detention violate 28 U.S.C. § 2241, 8 U.S.C. § 1231(a)(6), 8 C.F.R. § 241.13(i), and the Due Process Clause of the Fifth Amendment;

f) Temporarily restrain and preliminarily and permanently enjoin Respondents from removing Petitioner to Mexico or any other third country unless and until Respondents comply with all applicable statutory, regulatory, and constitutional requirements;

g) Enjoin Respondents from re-detaining Petitioner in the future, absent compliance with the statutory, regulatory, and constitutional protections governing revocation of release;

h) Award Petitioner his costs and, where otherwise available, reasonable attorney's fees; and

i) Grant such other and further relief as the Court deems just and proper.

Dated: March 16, 2026

Respectfully submitted,

/s/Diego Monserratte
Diego Monserratte
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