**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

MARIO ORLANDO HIDALGO PEREZ

Petitioner-Plaintiff,

v.

KRISTI NOEM, in their official capacity as Secretary of the United States Department of Homeland Security;

PAMELA BONDI, in their official capacity as Attorney General of the United States;

MATTHEW MORDANT, in their official capacity as Florida Soft Side South Field Office Director for Enforcement and Removal Operations, United States Immigration and Customs Enforcement;

TODD LYONS, in their official capacity as Acting Director of Immigration and Customs Enforcement

GARRET RIPA, in their Official capacity as, Director of Miami Field Office, U.S. Immigration and Customs Enforcement;

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE);

Respondents-Defendants.

Case No. __________

Verified Petition for Writ of Habeas Corpus

Oral Argument Requested

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Mario Orlando Hildalgo-Perez, submits this Petition for Writ of Habeas Corpus and for Related Relief, by and through undersigned counsel and alleges as follows:

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued and unlawful detention by United States Immigration and Customs Enforcement ("ICE"). The Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing.

2. Petitioner is neither a flight risk nor a danger to the community, but on or about December 16, 2025, ICE detained him without 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.

3. Petitioner was detained at his regular check-in appointment with ICE in Miramar, FL, and has remained in civil detention in the custody of the Department of Homeland Security's ("DHS") Immigration and Customs Enforcement ("ICE") at Florida Soft Side South, also known colloquially as Alligator Alcatraz.

4. 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.

5. This petition challenges the government's ongoing violation of Petitioner's statutory and constitutional rights. ICE's re-detention of Petitioner has become arbitrary, violating the Due Process Clause of the Fifth Amendment. Continued detention under these circumstances is prolonged, serves no legitimate governmental purpose and violates the humanitarian and constitutional principles that govern civil immigration custody.

6. The Petitioner's re-detention is in violation of ICE's own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has been significantly likely in the reasonably foreseeable future." 8 C.F.R §241.13(i)(2).

7. Additionally, and alternatively, ICE has failed to provide the Petition with an Informal Interview in violation of its own regulation. 8 C.F.R. § 241.4(l).

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and seeks a writ of habeas corpus challenging the legality of his continued civil detention by U.S. Immigration and Customs Enforcement ("ICE") in violation of the Constitution and laws of the United States.

9. Venue is proper in this Court under 28 U.S.C. § 2241(a) because Petitioner is detained within the geographic boundaries of the Middle District of Florida, at

Florida Soft Side South in Collier County, Florida, which lies within the Fort Myers Division of this District. (Please see Exhibit A)

PARTIES

10. Petitioner Mario Hildalgo-Perez is currently detained at Florida Soft Side South. He is in custody of ICE, and under the direct control, of Respondents and their agents.

11. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent NOEM is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent NOEM is a legal custodian of Petitioner.

12. Respondent PAM BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent BONDI is a legal custodian of Petitioner.

13. Respondent, MATTHEW MORDANT is sued in their official capacity as the Warden of the Florida Soft Side South Facility. Respondent Mordant has

immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement (ICE) to detain noncitizens and is a legal custodian of Petitioner. Respondent MORDANT therefore is a legal custodian of Petitioner.

14. Respondent TODD LYONS is sued in their official capacity as the Acting Director of Immigration and Customs Enforcement.

15. Respondent GARRET RIPA is sued in his official capacity as the Acting Director of the Miami Field Office of U.S. Immigration and Customs Enforcement. Respondent Ripa exercises authority over Petitioner's detention, transfer, and potential release.

16. U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) is the agency directly responsible for Petitioner's detention and custody.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

17. Petitioner was born in Cuba on [redacted] He was brought to the United States as a nine-year-old child and paroled in to seek refuge on May 1, 1979. (Please see Exhibit B). He has continuously resided in this country for the last forty-seven years.

18. On December 25, 2014, the Petitioner married Lucy Ann Vasquez, and the couple has remained married for sixteen (16) years. (Please see Exhibit C)

19. The Petitioner has four (4) United States citizen children, one (1) United States Citizen stepdaughter and two (2) United States citizen grandchildren. (Please see Exhibit D)

20. Mario Antonio Hidalgo was born on [redacted] 1993. He has two (2) United States Citizen children, which are the Petitioner's grandchildren. (Please see Exhibit D)

21. Marco Antonio Hidalgo was born on [redacted] 1994. (Please see Exhibit D)

22. [redacted] was born on [redacted] and is a Junior in High School. (Please see Exhibit D)

23. [redacted] was born on [redacted] in the United States. (Please see Exhibit D)

24. In 1999, the Petitioner was convicted of conspiracy with intent to distribute cocaine in Florida. He has had no other arrests or incidents with the law.

25. On March 23, 2006, the Petitioner was ordered removed from the United States to Cuba. (Please see Exhibit E)

26. Upon information and belief, the Petitioner was released from custody on an unknown date in 2006 and placed on an Order of Supervision ("OSUP") with Immigration and Customs Enforcement. The Petitioner has since lived his life as a law-abiding person with no further negative interactions with law enforcement.

With his work permit, he has supported his extensive family over the last twenty years.

27. The Petitioner has been an owner of a charter boat business. He has positively impacted his extensive family, friends and community. (Please see Exhibit F).

28. The Petitioner has routinely checked in with ICE over the last twenty years. The Petitioner has never violated the terms of his supervision order.

29. On December 16, 2025, the Petitioner presented himself at his yearly check-in appointment on his OSUP at the ICE Field Office at Miramar, FL. On that date, the Petitioner was detained without prior notice. He did not receive an interview on that date or subsequently.

30. ICE has not given the Petitioner any Notice of Revocation of Release. It is not clear under what regulation ICE decided to revoke the Petitioner's release and re-detain him.

31. To date, the Petitioner has not had any interview, formally or informally, with any ICE officers.

32. The Petitioner did not receive any information that the government of Cuba had found him eligible for a travel document at any point during this process.

33. The Petitioner's family, consisting of his U.S. Citizen wife, five children and two (2) grandchildren, is suffering due to his detention. (Please see Exhibit G) The

Petitioner has been the patriarch of a large family. Additionally, the Petitioner himself suffers from a medical condition, requiring the use of a prosthetic eye.

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision and Detain an Individual

34. "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 Clause protects." *Id.* at 690.

35. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's OSUP and detention 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).

36. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's OSUP. *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).

Prolonged Detention and *Zadvydas*

37. Pursuant to 8 U.S.C. § 1231(a)(1)(A), "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days."

38. Once a noncitizen's order of removal becomes administratively final, the Government shall remove the noncitizen during the 90-day removal period. 8 U.S.C. § 1231(a)(1)(A). The removal period begins on the date the order of removal becomes administratively final. 8 U.S.C. § 1231(a)(1)(B)

39. 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).

40. The government may detain an alien beyond the removal period if he or she is, among other things, a criminal alien or the Attorney General has determined whether the alien is a risk to the community or unlikely to comply with the order of removal. 8 U.S.C. § 1231(a)(6).

41. While § 1231(a)(6) does not include a specific detention period, the Supreme Court in *Zadvydas* held that six months is a presumptively reasonable period to detain a removable alien awaiting deportation. *See Zadvydas* 533 U.S. at 701. The Supreme Court explained that:

> After this 6–month 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. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink.

Id.

42. Thus, 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)]." *Id.* at 699-700.

43. To state a claim under *Zadvydas* the non-citizen not only must show post-removal order detention in excess of six months but also must provide "evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

44. If an alien makes these showings, then the burden shifts to the government to rebut the presumption with sufficient evidence establishing that there is a

likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701.

Statute and Regulations Governing Procedures for Revoking an Order of Supervision

45. 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").

46. 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).

47. 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 v. Davis*, 533 U.S. 678, 699-700.

48. The Regulations for issuance and revocation of an OSUP, and re-detention of a non-citizen past the removal period relevant here are 8 C.F.R. § 241.4 and § 241.13.

49. 8 C.F.R. § 241.4 generally governs the detention and release of non-citizens under a final order of removal, unless the Service releases a non-citizen after making a determination under §241.13 that there is no significant likelihood of removal in the reasonably foreseeable future. 8 C.F.R. § 241.13

50. Generally, the Service may release an alien on an OSUP under § 241.4 if it determines that the alien would not pose a danger to the public or a risk of flight, without regard to the likelihood of the alien's removal in the reasonably foreseeable future.

51. When a non-citizen is initially released on an OSUP pursuant to 8 C.F.R. § 241.13(g), after the service made a determination there was no significant likelihood of removal in the reasonably foreseeable future, the subsequent decision to revoke the OSUP is regulated by 8 C.F.R. §241.13(i), which states that any non-citizen released under an OSUP under this section who violates any of the conditions of release may be returned to custody. 8 C.F.R. §241.13(i)(1).

52. The Service may also revoke an alien's release under section 241.13(i)(2) and return the non-citizen to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2).

53. Upon revocation pursuant to section 241.13(i), the non-citizen will be notified of the reasons for revocation of his release. 8 C.F.R. §241.13(i)(3). The

Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the non-citizen an opportunity to respond to the reasons for revocation stated in the notification. *Id.* The non-citizen may submit any evidence or information that he believes shows there is no significant likelihood he will be removed in the reasonably foreseeable future, or that he has not violated the OSUP. *Id.* The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release. *Id.*

54. Thereafter, if the alien is not released from custody following the informal interview, the provisions of § 241.4 shall govern the alien's continued detention pending removal. 8 C.F.R. § 241.13(i)(2).

55. If, however, the initial decision to release the non-citizen and place them on an OSUP was made pursuant to 8 C.F.R. § 241.4, ICE can revoke an OSUP pursuant to §241.4(l) if the individual violates conditions of release or:

> in the exercise of discretion when, in the opinion of the revoking official: (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(l).

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

57. If the non-citizen is not released from custody following the informal interview, ICE must then commence "[t]he normal review process ...with notification to the alien of a records review and scheduling of an interview, which will ordinarily be expected to occur within approximately three months after release is revoked." *Id.* at § 241.4(l)(3).

58. ICE's regulations permit only certain officials to revoke an OSUP: 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." 8 C.F.R. §§ 1.2, 241.4(l)(2). If the field office director or a delegated official intends to revoke an OSUP, 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).

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

59. 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) (using habeas to ensure the "due process required by the regulations" because the "crucial question is

whether the alleged conduct of the Attorney General deprived Petitioner of any of the rights guaranteed him by the statute or by the regulation issued pursuant thereto."); *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."). Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions.

60. *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).

Petitions raising new and distinct claims

61. "For a § 2241 petition to be barred as successive under 28 U.S.C. § 2244(a), the same claim must have been raised and adjudicated on the merits in the Petitioner's prior habeas proceedings." *See Watson v. United States,* 392 F. App'x 737, 742 (11th Cir. 2010) *citing Kuhlmann v. Wilson,* 477 U.S. 436, 444 n.6 (1986).

CLAIMS FOR RELIEF

Count One

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

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

63. When ICE issued Petitioner an OSUP, the Service found that he is neither a danger to the community nor a flight risk, or that there was no significant likelihood he would be removed in the reasonably foreseeable future.

64. When Respondents revoked the OSUP, Petitioner had complied with every condition of the order and ICE had not secured necessary travel documents for removal. No change in circumstances warranted the order's revocation.

65. 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.

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

Count Two

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

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

68. Courts 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. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

69. 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. The Petitioner has been out of custody for twenty years and has a significant liberty interest.

70. 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, the statute specifies the limited number of reasons that an OSUP 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 a certainty. Requiring Respondents to give notice and an opportunity to

respond prior to revoking an OSUP 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.

71. 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 OSUP, 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 OSUP reduces fiscal and administrative burdens on the government.

72. For these reasons, revoking Petitioner's OSUP after twenty years without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Three

Continued Prolonged detention is in Contravention of Supreme Court's framework in *Zadvydas*

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

74. The Petitioner has been living in the United States as an exiled Cuban person for almost forty-seven years.

75. ICE released the Petitioner from detention in 2006, after he was ordered removed. No appeal was filed and the order was administratively final as of March 23, 2006. When he was released, ICE determined that removal was not significantly likely in the reasonably foreseeable future, placing him on an OSUP.

76. In the twenty years that have transpired, the Petitioner checked in with ICE regularly as required, and he has not violated any of the terms of his supervision.

77. Additionally, ICE has not been able to remove him in the twenty (20) years that have transpired between the order and his recent detention on December 16, 2025, and instead rescheduled him every year on an OSUP.

Count Four

Violation of Statute and Regulations Governing Procedures for Revoking an Order of Supervision

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

79. Respondents violated agency regulations at 8 C.F.R. §241.4 and §241.13, governing who and upon what findings the Service may properly revoke an OSUP when it revoked Petitioner's order.

80. The Respondent's gave the Petitioner no notice, actual or otherwise, signed by any official, as to the reasons for revocation or the process by which his release on an OSUP was being revoked.

81. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Petitioner "is entitled to release on that basis alone." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (*citing Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); see also, e.g., *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) (releasing habeas Petitioner where revocation of an ICE OSUP was ordered by someone without regulatory authority to do so).

82. If the Petitioner was released initially on an OSUP pursuant to 8 C.F.R. §241.13(g), as evidenced by the fact that his removal was not reasonably likely in the future, then the revocation of his OSUP is accomplished by adherence to 8 C.F.R. 241.13(i)(1) or (2). However, the Petitioner did not violate any of the conditions of release and there was no determination that there is a significant likelihood that the Petitioner may be removed in the reasonably foreseeable future.

83. Alternatively, even if the Petitioner was released initially on an OSUP pursuant to 8.C.F.R. § 241.4, the revocation is flawed and violates the agency's regulations as he has not been provided notice of the reasons for revocation and an interview during which he can be heard or offer a response to the reasons.

84. There is no indication of any changes in the Petitioner's circumstances or the issuance of a travel document. There is no significant likelihood of removal in the reasonably foreseeable future.

Count Four

Violation of the *Accardi* Doctrine

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

86. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violates agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 ("If Petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

87. Respondents violated agency regulations at 8 C.F.R. §241.4 and §241.13, governing who and upon what findings the Service may properly revoke an OSUP when it revoked Petitioner's order.

88. Respondents also violated agency regulations in failing to provide the notice after revocation and failing to provide any interview upon revocation.

89. Under *Accardi*, Respondents' revocation of the OSUP, a decision to ignore the requirements of the regulations, should be set aside.

90. Petitioner has suffered substantial prejudice for this failure as he has been detained since December 16, 2025.

Count Five

The Petition is not barred as successive because it raises new and distinct claims.

91. The Petitioner filed a petition for habeas in this court, and it was denied on January 15, 2026. *Hidalgo v. Parra,* No. 2:25-CV-01214-SPC-NPM, 2026 WL 113587 (M.D. Fla. Jan. 15, 2026). [i]

92. In Count 1, prior counsel for Petitioner asserted the respondents were violating the Petitioner's Fifth Amendment due-process rights by seeking to deport him to a country not identified in the 2006 removal order without adequate notice. This honorable court found Count 1 was not cognizable as a habeas claim because it challenged the manner in which ICE is executing the removal order and even if count 1 were cognizable, the Court would find dismissal appropriate because it duplicates the class-action claim in *D.V.D. v. U. S. Dep't of Homeland Sec.,* 778 F. Supp. 3d 335 (D. Mass. 2025).

93. In count 2, prior counsel claimed the Petitioner did not challenge the 2006 removal because he believed it would be unenforceable, and he asserted the government is violating the Petitioner's right to due process by attempting to execute it now. Count 2 failed because it was not cognizable. It challenged the execution of the removal order and not his detention. Additionally, Count 2 was barred by the jurisdiction stripping provision at 8 U.S.C. §1252(g).

94. Finally, Count 3 asserted the respondents would violate Petitioner's right to counsel if they transferred him out of this district. Count 3 was an attack on the

conditions of his confinement and in so far as the claim sought to challenge speculative violations, Count 3 was dismissed as unripe.

96. Notably, he specifically stated he was not challenging the length of Petitioner's detention under *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001).

95. The petition now before the Court is not barred as successive because it raises new and distinct claims. *See Watson v. United States*, 392 F. App'x 737, 742 (11th Cir. 2010) ("For a § 2241 petition to be barred as successive under 28 U.S.C. § 2244(a), the same claim must have been raised and adjudicated on the merits in the petitioner's prior habeas proceedings." (citing *Kuhlmann v. Wilson*, 477 U.S. 436, 444 n.6 (1986)).

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations and the *Accardi* doctrine;

d. Order Petitioner's immediate release;

e. Award Petitioner costs and reasonable attorneys' fees; and

f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

/s/Carolina A. Collado
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8 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.

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[i] In the prior petition, prior counsel referred to the Petitioner as "Carlos" but upon information and belief the Petitioner has never been known by that name.