

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

Case No.

MAURICIO CASTELLANOS-GORRA,

Petitioner,

v.

WARDEN OF ALLIGATOR ALCATRAZ,
in his official capacity;

MIAMI ICE FIELD OFFICE DIRECTOR,
in her official capacity;

KRISTI NOEM, Secretary of Department of
Homeland Security, in her official capacity.

Respondents.

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PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Mauricio Castellanos-Gorra (hereinafter “Petitioner”), is a Cuban national who has resided in the United States for over thirty years. Although he was issued an order of removal decades ago on account of a criminal conviction, the presiding immigration judge also granted Petitioner protection from deportation to Cuba under the Convention Against Torture. *See* 8 C.F.R. §1208.17. Because this protection, known as “deferral of removal,” has remained fully in force ever since, Petitioner could not and cannot legally be deported to his country of origin. After receiving protection under the Convention Against Torture, Petitioner was processed and released under an Order of Supervision (“OSUP”) after Immigration and Customs

Enforcement (ICE”) determined that he did not present a danger to the community, did not present a flight risk, and was not likely to be removed in the reasonably foreseeable future. *See* 8 C.F.R. §§ 241.4(e), 241.13(f)-(h). Petitioner has maintained a good record since being placed under supervision demonstrating rehabilitation, stability, and compliance with the laws and requirements of the United States for decades.

2. Once OSUP has been granted, ICE’s own regulations govern when, how, and who can revoke it. *See* 8 C.F.R. §§ 241.1(1), 241.13(i). These regulations provide core procedural protections; they guard against arbitrary revocation by low-level officers and require both notice and an opportunity to be heard.

3. However, in late October 2025, several immigration agents appeared without forewarning at the doorstep of Petitioner’s home and took him into custody even though he was reporting to immigration authorities for over 21 years without fail. These agents did not present a warrant, notice of revocation, or any other paperwork justifying the decision to revoke his OSUP and detain him. Despite his compliance with ICE requirements, Petitioner was taken into custody without explanation or a meaningful opportunity to be heard. The Petitioner is currently detained at the Alligator Alcatraz facility (hereinafter “Alligator Alcatraz”), also known as the Florida Soft Side South facility, in Ochopee, Florida.

4. Petitioner, on March 4, 2026, filed a new motion to reopen his 2004 removal order due to an intervening change of law at the Eleventh Circuit regarding the immigration consequences of the assault charge for which he was convicted. The immigration judge denied said motion on March 9, 2026, but his immigration counsel intends to pursue an appeal with the Board of Immigration Appeals.

5. At the time of his arrest, ICE did not explain its reasons for revoking Petitioner’s

OSUP, and nothing appears to indicate that the government's prior determination that his removal is not reasonably foreseeable has materially changed. Respondents violated federal regulations by revoking Petitioner's OSUP under 8 C.F.R. §241.4(l) (generally governing procedures for OSUP revocation). Petitioner did not violate the terms of his supervision, and the conditions supporting his 2004 release and conditions under the Order of Supervision remain unchanged. ICE provided no written explanation, no finding of violation, and no opportunity to respond during an informal interview before canceling his supervision order and taking him into custody, in violation of both agency regulations and his Fifth Amendment rights. Arbitrary or unexplained revocation is unlawful.

6. Petitioner's detention constitutes a punitive and otherwise illegal abuse of ICE's authority, untethered from a valid statutory purpose. Moreover, Respondents' actions contravene the *Accardi* doctrine, which requires agencies to follow their own binding regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). By disregarding the mandatory procedures of 8 C.F.R. §§ 241.4, 241.13, Petitioners' detention is procedurally defective and therefore unlawful.

7. Lastly, Petitioner is being detained at Alligator Alcatraz without legal authority. Respondents have elsewhere claimed that Florida is detaining people at the facility pursuant to the 287(g) program, codified at 8 U.S.C. §1357(g). But Section 1357(g) does not provide any authority for state agencies to conduct large-scale detention operations, and it has never before been used for that purpose before. What is more, Respondents have no valid contract or inter-governmental services agreement authorizing ICE to delegate the housing and care of immigrant detainees to a Florida state agency.

8. Petitioner has spent months shackled in the middle of the Everglades, away from his U.S. citizen wife, four U.S. citizen children, and U.S. citizen parents, for over five (5) months. Amnesty International¹ has documented systemic abuses at the site of Petitioner's confinement, a state-run facility facing mounting criticism for human rights violations, including torture and other inhumane conditions, *inter alia*.

CUSTODY

9. Petitioner satisfies the "in custody" requirement for habeas review because they are currently being physically detained by ICE-ERO at Alligator Alcatraz in Ochopee, Florida.

JURISDICTION

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1331 (federal question) and the U.S. Constitution, art. I, § 9, cl. 2 (Suspension Clause). While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(1), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus claims by aliens challenging "the constitutionality of the entire statutory scheme under the Fifth Amendment."² This case arises under the United States Constitution; the Immigration and Nationality Act ("INA"), 8 U.S.C. §§1101 *et seq.*, and the Due Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. §1651.

¹ Amnesty Int'l, *Torture and Enforced Disappearances in the Sunshine State: Human Rights Violations at "Alligator Alcatraz" and Krome in Florida* (Dec. 4, 2025), <https://www.amnestyusa.org/wp-content/uploads/2025/12/Torture-and-Enforced-Disappearances-in-the-Sunshine-State-Human-Rights-Violations-at-Alligator-Alcatraz-and-Krome-in-Florida.pdf>.

² *Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018). District courts also have jurisdiction to review "collateral challenges to unconstitutional practices and policies" used by Respondents in reaching their decision. *McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479, 896 (1991).

11. Furthermore, 28 U.S.C. §2241 authorizes district courts to grant writs of habeas corpus to individuals "in custody in violation of the Constitution or laws or treaties of the United States." federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention as well as claims by noncitizens seeking to protect their due process rights. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas*, 533 U.S. at 687. Petitioners are currently detained by U.S. Immigration and Customs Enforcement ("ICE") within this judicial district, satisfying the "in custody" requirement at the time of filing. *See Zadvydas; Demore*.

12. This Court further has jurisdiction under Article I, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion.

13. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioner is not challenging the validity of a final order of removal, but rather the legality of detention in violation of federal regulations and due process under the Fifth Amendment. *See Clark v. Martinez*, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens).

14. Interpreting §1252(g) as barring judicial review of these claims risks conflicting with the Supreme Court's instruction that § 1252(g) is not a broad jurisdictional limitation on "all claims arising from deportation proceedings." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 487 (1999); *see also Grigorian v. U.S. Atty. Gen.*, No. 1:25-cv-22914 (S.D. Fla. Sept. 9, 2025). Indeed, the Supreme Court has emphasized that 28 U.S.C. § 2241 provides federal courts with jurisdiction to consider challenges to the lawfulness of immigration-related detention. *Zadvydas*, 533 U.S. at 687.

VENUE

15. Venue is proper because Petitioner is detained in ICE custody at Florida Soft Side South in Ochopee, Florida, within the geographical confines of the Middle District of Florida. *See* 28 U.S.C. § 1391(e)(1)(B), 28 U.S.C. § 1391(e)(1)(C); 28 U.S.C. §2241(d).

PARTIES

16. Mauricio Castellanos-Gorra (“Petitioner”) is a citizen of Cuba who is currently detained at Alligator Alcatraz. Despite complying with his order of supervision, he was taken into custody at his home in late October 2025.

17. Respondent, Warden of Alligator Alcatraz, also known as Florida Soft Side South facility, is sued in his official capacity.

18. Respondent Field Office Director for the ICE Miami Office of Enforcement and Removal Operations (“ICE ERO”) is sued in his official capacity. In this capacity, he has jurisdiction over Petitioner, and is his legal custodian.

19. 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 the DHS. Ms. Noem is the ultimate legal custodian of Petitioner. Ms. Noem is sued in her official capacity.

FACTUAL AND PROCEDURAL HISTORY

20. Petitioner, Mauricio Castellanos-Morra, is a native and citizen of Cuba who was initially paroled into the United States on or about May 1, 1986, as a child accompanying his parents and siblings.

21. Petitioner received his lawful permanent resident status under the Cuban Adjustment Act retroactive from May 1, 1986, and has resided in the United States for more than thirty years. See Exh. "F," Petitioner's Previous Legal Permanent Resident Card; Exh. "G," Petitioner's Identity Document.

22. Petitioner's parents and close family members, including his wife, four children and his parents are U.S. citizens. See Exh. "H," Petitioner's Family Identification Documents.

23. Petitioner had been arrested in the U.S. for various minor offenses, and one serious conviction ultimately resulted in a plea agreement (nolo contendere) to indecent assault under Florida Statute 800.04. and a sentence of 1 year of community control, 2 years probation, and sex offender registration. See Exh. "I," Florida Department of Law Enforcement (FDLE) Search Results.

24. Petitioner was originally placed in removal proceedings in 2002 after a short trip abroad sometime after his conviction. See Exh. "D," Notice to Appear.

25. Ultimately, the Petitioner was granted deferral of removal under the Convention Against Torture (hereinafter "DCAT") on May 7, 2004, based on the likelihood of torture if he were returned to Cuba. See Exh. "B," Order of the Immigration Judge.

26. Petitioner was released and placed on an Order of Supervision shortly after his grant of DCAT, and he has been faithfully reporting to ICE for years. See Exh. "C," Order of Supervision.

27. Since that time, the Petitioner has been attending all of his ICE check-ins without fail, and other than some technical issues that arose regarding his 1999 charge, he has not committed any serious offenses since the date of his last conviction in 2000, over 26 years ago. See Exh. "C," Order of Supervision; "L," FDLE Search Result.

28. Petitioner was originally placed in removal proceedings after a brief trip abroad, and he was ordered removed subject to a grant of deferral of removal to Cuba under the Convention Against Torture in 2004. See Exh. “B.” The Petitioner filed a motion to reopen with other counsel on or around July 30, 2019, that was based on a pending I-130 (spousal petition for an alien relative) of his US citizen wife and related family circumstances. However, the motion to reopen was denied because the pending I-130 was not found by the court to be an exceptional circumstance.

29. Petitioner filed a second motion to reopen his removal proceedings on March 4, 2026, based on a change of law that puts into question whether the Petitioner was actually inadmissible or removable from the U.S. at the time that he was placed in removal proceedings. Although that motion was denied, see Exh. “A,” Order Denying Motion to Reopen, Petitioner’s immigration counsel will be pursuing an appeal before the Board of Immigration Appeals.

30. Petitioner, in late October 2025, was detained after over 22 years of reporting to his Order of Supervision check-ins and after his grant of deferral of removal under CAT, which prohibits his deportation to Cuba.

31. Immigration agents appeared at his home supposedly for a routine home visit, but then immediately advised him that he was being taken into custody, without a warrant, notice of revocation, or other paperwork justifying this decision.

32. Petitioner remains detained in Petitioner’s custody in Ochopee, Florida, where he has languished for more than five (5) months separated from his family. As further explained *infra*, Respondents lack the authority to arrest and detain him under present circumstances.

33. Petitioner is in the physical custody of Respondents at Alligator Alcatraz in Ochopee, Florida.

34. As noted above, Petitioner is not deportable to Cuba because he has been granted deferral of removal under the Convention Against Torture. *See* 8 C.F.R. §1208.17

35. Upon information, knowledge, and belief, Petitioner never saw a warrant or other paperwork prior to his sudden re-detention at his home. He did not receive a document titled “Notice of Revocation of Release” or other written or oral notice of the grounds for revoking his supervised release. Nor did he receive notice indicating that his case had been reviewed or that he would be detained based on ICE’s conclusion that there is a significant likelihood of removal in the reasonably foreseeable future. Such notices cite to ICE’s authority pursuant to 8 C.F.R. §§ 241.4 and 241.13 and indicate that a noncitizen is entitled to a prompt informal interview at which he may respond and submit evidence demonstrating that his removal is unlikely or that he did not violate the terms of his supervision. Such notices further indicate that, if release is not granted following the interview, Petitioner will receive notification of a subsequent custody review scheduled to occur three months from the date of the notice.

36. Since receiving his order of supervision in 2004, Petitioner has complied with the requirements of his release, including regular reporting to ICE. He has been a productive member of American society. By all accounts, prior to his re-detention, he had been lawfully employed, has various companies, served as a church leader and led a responsible life as a father, husband, and son upon whom his family relied. If Petitioner had been provided with an interview as required by law, he would have offered evidence of his compliance with OSUP requirements, and the lack of changed circumstances since his OSUP was put in place. He is not legally deportable to Cuba in view of his protection under the Convention Against Torture.

37. In detaining Petitioner, ICE violated his due process rights in failing to comply with the baseline requirements required to revoke an OSUP outlined in 8 C.F.R. §§ 241.4, 241.13, *inter*

alia. Petitioner has complied with the terms of his supervision, and the conditions supporting Petitioner's release on supervision have not changed in any material way. Thus, any subsequent detention by ICE was and is arbitrary and unlawful. He was not given proper notice or an opportunity to be heard.

Violations of Due Process, Federal Statutes and Regulations, and the *Accardi* Doctrine

38. Petitioner was previously released on an OSUP after the government made a determination that he did not present a danger to the community, did not present a flight risk, and/or was not likely to be removed in the reasonably foreseeable future. The conditions of Cuba have not changed so as to undermine the basis of Petitioner's order of supervision and warrant his detention. In fact, the relationship between the U.S. and Cuba, as has been widely reported on international news, has only gotten worse.

39. *There is no basis for the government to assert that deportation to Cuba is foreseeable, because he cannot legally be deported to Cuba under the Convention Against Torture.*

Even if it were hypothetically possible, U.S.–Cuba relations have deteriorated significantly in recent years, resulting in reduced diplomatic engagement, limited consular functions, and repeated public reporting that repatriation negotiations between the two governments have stalled.³ The Cuban government continues to reject or fail to issue travel documents, and the United States has not secured any new agreements that would make removals to Cuba more likely.⁴ The worsening

³ See Johana Tablada, *Cuba Tried to Improve Its Relations with the U.S. by Cooperating with Deportation Flights. It Didn't Work.*, Politico (June 2, 2025), <https://www.politico.com/news/2025/06/02/cuba-us-relations-deportation-flights-johana-tablada-00381355> (reporting Cuban official's statement that bilateral relations "are now 'at zero'"); Reuters, *Trump Administration Yet to Talk to Cuba over Migration, Foreign Vice Minister Says* (Mar. 12, 2025), <https://www.reuters.com/world/americas/trump-administration-yet-talk-cuba-over-migration-foreign-vice-minister-says-2025-03-12/> (noting Cuba has received no new U.S. request for repatriation talks and that mass removals were "not contemplated" by prior agreements).

⁴ See *supra* note 3.

bilateral relationship, combined with Cuba's ongoing refusal to accept certain nationals, means there is no foreseeable prospect that Cuba would accept Petitioner now or in the reasonably foreseeable future. But, again, as a beneficiary of the protections of the Convention Against Torture, any efforts to remove Petitioner to Cuba would constitute grossly illegal violations of domestic law and of the United States' international treaty obligations. *See* 8 C.F.R. §1208.17 (regulations implementing U.S. treaty obligations vis-à-vis deferral of removal.)

40. Accordingly, the factual basis underlying Petitioner's original release under an order of supervision has not changed. If anything, the current geopolitical circumstances make removal even less likely than at the time their Orders of Supervision were issued.

41. In addition, Petitioner did not receive a prompt informal interview regarding ICE's decision to revoke his OSUP and detain him, either when he was being detained or soon thereafter. Nor was Petitioner given the opportunity at any point to submit any evidence or information showing that there is no significant likelihood of removal in the reasonably foreseeable future, or that he had not violated his orders of supervision.

42. To detain Petitioner indefinitely without any previous identification and notification of a third country, a hearing on that third country, a change in country conditions, or a violation of the terms of his supervision order is an arbitrary and unlawful detention that violates Petitioners' constitutional rights.

43. Moreover, Respondents' actions contravene the *Accardi* doctrine, which requires agencies to follow their own binding regulations. ICE may release a noncitizen from detention after the removal period, subject to certain conditions, on an OSUP. 8 U.S.C. §1231(a)(1)(A). DHS has promulgated two generally applicable regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, that govern when a noncitizen may be released on an OSUP and when that release may be revoked.

Section 241.4 provides generic requirements governing the use of OSUPs. Section 241.13 applies specifically when OSUPs are used or revoked because there has been a change in the likelihood of the noncitizen's removal in the reasonably foreseeable future. Neither of these regulations has been followed.

44. Finally, Petitioner is being detained at Alligator Alcatraz without legal authority. Federal law does not allow DHS to delegate detention authority to entities outside of any process or framework devised or even contemplated by Congress. Yet the state agencies that operate the facility have no authority under federal law to detain non-citizens pending removal proceedings. Federal law places that responsibility with DHS. And unlike every other immigration detention facility in the country prior to this one, DHS has not signed any contract or Intergovernmental Services Agreement (IGSA) for Alligator Alcatraz. Thus, if Petitioner is not released outright, they must at minimum be released from this facility because its detention of noncitizens is ultra vires.

45. Release from Alligator Alcatraz is critical given the alarming conditions present there. Amnesty International has documented a number of egregious conditions at Alligator Alcatraz, including widespread shackling and limited access to medical care, among many others violations of human rights. These are the self-same conditions Petitioner is experiencing:

Amnesty International's research concludes that people arbitrarily detained in 'Alligator Alcatraz' are being held in inhuman and unsanitary conditions including overflowing toilets with fecal matter seeping into where people are sleeping, limited access to showers, exposure to insects without protective measures, lights on 24 hours a day, poor quality food and water, and lack of privacy. People interviewed shared that access to medical care is inconsistent, inadequate, or denied altogether, placing individuals at serious risk of both physical and mental harm. People reported being always shackled when they were outside their cage. Other treatment people have endured amounts to torture, including being put in the 'box', described as a 2x2 foot cage-like structure people are put in as punishment – sometimes for hours at a time exposed to the elements with hardly any water – with their feet attached to restraints on the ground.

Amnesty Int'l, USA: Torture and Enforced Disappearances in the Sunshine State, supra note 1.

STATEMENT OF LAW

46. The Due Process Clause of the Fifth Amendment states that “[n]o person shall be ... deprived of life, liberty, or property without due process of law.” U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lie at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This applies to everyone in this country, including aliens. *Id.* at 693 (“[T]he Due Process clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful [or] unlawful ...”); *Reno v. Florida*, 507 U.S. 292, 306 (1993) (“the Fifth Amendment entitles aliens to due process of law in deportation proceedings”).

47. What is more, Respondents have also failed to provide Petitioner with notice of the reasons for his continued detention or revocation of his OSUP as required by 8 C.F.R. §241.4(l) or §241.13. Respondents have not afforded Petitioners a meaningful opportunity to respond to these reasons. Arbitrary or unexplained revocation, especially without identifying a country for removal, violates both agency regulations and due process protections under the Fifth Amendment. *See Castaneda v. Souza*, 810 F.3d 15, 43 (1st Cir. 2015) (en banc) (recognizing liberty interest in avoiding arbitrary immigration detention); *Diouf v. Napolitano*, 634 F.3d 1081, 1086 (9th Cir. 2011) (recognizing procedural due process rights in prolonged detention under § 241).

48. Petitioner was suddenly and without explanation detained after years of compliance with his OSUP. There was no notice of alleged violations, no opportunity to rebut the government’s reasoning, and no indication that any viable removal country had been identified. The revocation of his OSUP and/or their subsequent detention without formal revocation of their OSUPs was therefore unreasonable, arbitrary, and unconstitutional.

49. Detaining Petitioner, without prior notice, without identifying any parole or supervision violation, and without providing an opportunity to contest the revocation, constitutes the very sort of arbitrary governmental action that violates the constitutional guarantee of due process. Courts repeatedly hold that custody cannot be re-imposed without procedural safeguards, especially where the person has complied with all conditions and is living in the community. See *Morrissey v. Brewer*, 408 U.S. 471 (1972) (recognizing that a parolee's conditional liberty is a protected liberty interest and may not be terminated without orderly procedural safeguards). Thus, revoking an Order of Supervision with no violation, no notice, and no meaningful opportunity to be heard is a clear violation of the Fifth Amendment.

50. ICE's actions violate the *Accardi* doctrine, which requires agencies to follow their own binding regulations. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). *Accardi* prohibits the Respondents from disregarding mandatory procedures governing OSUP revocations.

51. The applicable regulations here, 8 C.F.R. §§241.4(l), 241.13, create enforceable rules that Respondents must follow before re-initiating detention, or attempting removal. Respondents have ignored these rules entirely.

52. Furthermore, as the Southern District Court of Florida explained in *Grigorian* regarding the revocation of an Order of Supervision and the requirement for a meaningful informal interview, "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause. This compels Petitioner's release." *Grigorian*, No. 1:25-cv-22914, at *18-19.

53. The *Grigorian* court continued to explain its power to ensure that such discretion is exercised in accordance with regulations and constitutional due process requirements:

To be clear, the Court is not ‘reviewing and reversing the manner in which discretion was exercised.’ *Accardi*, 347 U.S. at 268. As the Court has already explained, the Government may revoke Petitioner’s OSUP for any of the reasons stated in § 241.4(l)(2). But they may not detain him without offering a meaningful opportunity to contest those reasons. After all, ‘if men must turn square corners when they deal with the government, it cannot be too much to expect the government to turn square corners when it deals with them.’ *Niz-Chavez*, 593 U.S. at 172. The Court therefore finds that Petitioner must be released from custody. *Id.* at *20.

54. Numerous courts throughout the nation have reached similar conclusions. See, e.g., *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *7-9 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, No. 6:25-CV01204-AA, 2025 WL 2430267, at *10–12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25- CV-00182-MJT, 2025 WL 2491782, at *3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25- cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Wing Nuen Liu v. Carter*, Case No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025); *M.Q. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

55. Here, Petitioner’s final order of removal has remained unexecuted for years, and no immigration judge has ever designated a third country of removal. Nor is there any indication that Cuba is willing to accept him. No alternative country has been identified by the government because no acceptable, alternative country can be identified. Respondents have failed to provide Petitioner or his counsel with any advance notice of a third country of removal and has failed to provide Petitioner and his counsel with the requisite due process to ensure he is not tortured in any third country where he may be potentially removed.

56. The revocation of Petitioner's OSUP and ongoing detention are a stark violation of constitutional protections under the Fifth Amendment and Petitioner's rights to due process. Petitioner has lived at liberty in the United States for decades and are, at a minimum, entitled to notice of any purported country of removal and a meaningful opportunity to be heard regarding the government's asserted ability to remove them there.⁵ Therefore, ICE's failure to provide the required procedures violates the *Accardi* doctrine. *Grigorian* explained:

[T]he faint promise of an opportunity to be heard three months down the line [does not] satisfy what due process requires. See 8 C.F.R. § 241.4(l)(3) (providing that the formal review process will begin "within approximately three months" only "if the alien is not released from custody following the informal interview"). If the eventual promise of a formal review were enough to cure a due process violation, ICE would be able to hold individuals for approximately three months after revocation with no meaningful opportunity to be heard.

Grigorian, No. 1:25-cv-22914, at *18.

57. Analogous to *Grigorian*, Respondents' actions do not adhere to ICE's own regulations and fall short of the fundamental requirements of due process. Due process under the Fifth Amendment requires reasonable notice and an opportunity to be heard. The right to be heard before being condemned to suffer grievous loss of any kind is a principle basic to society. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). To now detain Petitioner with no notice or explanation and attempt to deport him to an unknown and unidentified third country where it has not been determined that Petitioner will be safe is arbitrary, unlawful, and a violation of Petitioner's constitutional and human rights.

58. Lastly, DHS may detain individuals only pursuant to valid statutory or regulatory authority. Detention without such authority is ultra vires and unlawful. *See Youngberg v. Romeo*,

⁵ The Supreme Court's recent decision in *Dep't of Homeland Sec. v. D.V.D.*, 602 U.S. (2025) (granting stay) does not preclude individual petitions for habeas, it merely precludes pursuit of a separate universal injunction on the matter.

457 U.S. 307, 316-17 (1982) (holding that when the state confines an individual, it must do so pursuant to lawful authority and provide constitutionally adequate protections for personal liberty and safety). And states cannot participate in immigration enforcement absent permission from Congress. *Arizona v. United States*, 567 U.S. 387, 408 (2012).

59. Federal law is emphatic that DHS itself—either through its employees or contractors—must be the one to detain non-citizens pending removal proceedings or removal. Every statute that provides authority for long-term immigration detention gives that authority to DHS alone. *See* 8 U.S.C. §§ 1225(b)(2)(A), 1226(a), (c), 1231(a)(2)(A) (requiring the “Secretary” or “Attorney General” to carry out all detention).

60. Upon information, knowledge, and belief, the authority Respondents have elsewhere cited for detention at Alligator Alcatraz is 8 U.S.C. §1357(g). Section 1357(g) allows DHS to delegate a limited number of “immigration officer functions” to individual state and local officers who complete training and certification and receive federal supervision, and are also known as “287(g) agreements” under the Immigration and Nationality Act and federal regulations. 8 U.S.C. § 1357(g)(1)-(5); 8 C.F.R. §287.1.

61. But Section 1357(g) has never been used before as the authority to operate a detention facility. Nor can it be used in this way.

62. Section 1357(g) does not provide authority for Petitioner’s detention at this facility for at least two reasons.

63. First, the statute does not allow local police officers to be assigned authority to conduct large-scale and long-term detention operations. It only allows them to be delegated “a function of an immigration officer.” 8 U.S.C. §1357(g)(1). The broader Section 1357 statute provides these “[p]owers of immigration officers.” *Id.* §1357 (title); *see El Cenizo v. Texas*, 890

F.3d 164, 177 (5th Cir. 2018). And none of the statute’s immigration-officer functions include detention during removal proceedings. Rather, the functions of individual immigration officers are policing activities, like interrogations and arrests of individual noncitizens. *See* 8 U.S.C. § 1357(a)(1) (interrogation), (a)(2)-(5) (arrests), (c) (search), (f) (taking fingerprints).

64. In other words, nothing in Section 1357 or any other statute lists detention operations as an “immigration officer function” that could be delegated to state officials under Section 1357(g). Because immigration detention is a complex and multifaceted undertaking, the INA assigns detention operations to DHS as an agency. For instance, it provides that “*the Attorney General*” may detain noncitizens “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a) (emphasis added); *see id.* § 1225(b)(2)(A) (similar); *id.* § 1231(a)(2)(A) (similar). Indeed, *every* statute that mentions the authority to manage detention operations assigns that power to DHS as an agency, not to individual immigration officers. *See* 8 U.S.C. §§ 1103(a)(10), 1231(g).

65. Nevertheless, ICE Deputy Executive Associate Director Thomas Giles has stated in a sworn declaration in *Friends of the Everglades, Inc. v. Noem*, 1:25-cv-22896 (S.D.Fla July 2, 2025) (D.E. 21-1):

“ICE is not providing any funding for the construction of the TNT Detention Facility [Alligator Alcatraz]. The State of Florida is responsible for the funding and construction of the facility. ICE’s role concerning the development of the TNT Detention Facility has been limited to touring the facility to ensure compliance with ICE detention standards, and meeting with officials from the State of Florida to discuss operational matters.” *Id.*

66. Giles further states:

“The ultimate decision of who to detain at the TNT Detention Facility belongs to Florida.... If Florida decides to detain any illegal aliens at the TNT Detention Facility, they would do so under the authority delegated pursuant to section 287(g) of the Immigration

and Nationality Act, codified at 8 U.S.C. § 1357(g). Many Florida entities have entered 287(g) agreements since President Trump took office, including the Florida National Guard and several Florida law enforcement entities. Those agreements, including the date they were signed, are available on ICE's website... The agreements generally authorize those entities to detain aliens under the immigration laws. ICE's understanding is that Florida intends to operate its 287(g) facilities under those existing agreements." *id.*

67. Section 1357's implementing regulations confirm that detention during removal proceedings is not an "immigration officer function" that could be delegated under Section 1357(g). Those regulations list the powers of "immigration officers." 8 C.F.R. § 287.5 (title), 287.8. And *none* of them include immigration detention operations. *See, e.g.*, 8 C.F.R. § 287.5(a) (interrogation), (c), (e) (arrest), (d) (search). The only detention-related activities they include are policing activities like the other immigration-officer functions: the authority to "take and maintain custody of and transport any person who has been arrested by an immigration officer," 8 C.F.R. § 287.5(c), and the authority to "briefly detain [a] person for questioning," *id.* § 287.8(b)(2).

68. This is why, prior to Alligator Alcatraz, no detention facility ever claimed to operate under state control pursuant to Section 1357(g). The statute does not authorize this detention, so Petitioners must be released from the facility.

69. Second, even if Section 1357(g) did authorize state officers to conduct long-term immigration detention, their detention is being managed and conducted by individuals who have not been deputized under any 287(g) agreement. Upon information, knowledge, and belief, Alligator Alcatraz is run by the Florida Department of Emergency Management (FDEM), which has no 287(g) agreement, and therefore none of its employees are deputized to exercise any immigration officer functions. Furthermore, the facility is almost entirely staffed by *private contractors*, who are not and cannot be deputized under Section 1357(g). The statute only allows

authority to be conveyed to “an officer or employee of [a] State or subdivision,” 8 U.S.C. § 1357(g)(1), not a private contractor.

70. Because they are not and cannot be deputized, these FDEM officials and private contractors have satisfied *none* of the statute’s requirements. They have not “received adequate training” in the complexities of immigration law and procedures. *See* 8 U.S.C. § 1357(g)(2). They have no “written agreement” which lays out the extent and limits of their immigration authority. 8 U.S.C. § 1357(g)(1), (5). And they have no assigned federal official “who is required to supervise and direct” their immigration activities. 8 U.S.C. § 1357(g)(5). These non-deputized individuals cannot exercise 287(g) authority outside the “highly regulated scheme for adopting 287(g) agreements.” *El Cenizo*, 890 F.3d at 177; *see Creedle v. Miami-Dade*, 349 F. Supp. 3d 1276, 1302 (S.D. Fla. 2018) (explaining that training and federal supervision are necessary to help deputized officers navigate “the significant complexities involved in enforcing federal immigration law”) (quotation marks omitted).

71. In the *Friends of the Everglades* case, Respondents conspicuously declined to identify any particular state officer who was purportedly deputized under Section 1357(g) to detain people at Alligator Alcatraz. *Friends of the Everglades, Inc. v. Noem*, 1:25-cv-22896 (S.D.Fla. July 2, 2025). They simply cited various agencies’ 287(g) agreements. *Id.* But the agreements themselves do not convey any authority to anyone. *See Santos v. Frederick County*, 725 F.3d 451, 457, 465 (4th Cir. 2013). They simply provide the framework for individual state officers to be deputized. Yet Defendants have stayed silent on which state officers at Alligator Alcatraz—if any—have actually been deputized. That underscores what Florida has since admitted: The people who are actually managing and conducting detention operations are FDEM officials and private

contractors who do not and cannot have any authority under Section 1357(g). This provides an independent reason to order Petitioners released from the facility.

72. Prior to Alligator Alcatraz, facilities operated by state government contractors did so pursuant to Intergovernmental Services Agreements (IGSAs). 8 U.S.C. § 1103(a)(10) (authorizing payments to IGSA facilities including “States and political subdivisions of States”). The IGSA framework provided for ICE’s operational control over the detention of aliens in non-federal facilities and is premised on compliance with federal standards.⁶

73. ICE may only house aliens in state or local government facilities if it has either entered into a valid IGSA under MOA guidance; or procured detention space from the LEA using ICE funding, oversight, and contractual authority. Specifically, ICE’s February 7, 2025 Memorandum of Agreement (MOA) further clarifies that detention by a local entity requires a formal IGSA:

“If ICE determines that it is necessary, the LEA shall, to the extent it operates a detention facility or facilities meeting the standards described herein, enter into an Inter-Governmental Service Agreement (IGSA) with ICE, pursuant to which the LEA shall provide, for a fee, detention of incarcerated aliens in LEA facilities, upon the completion of their sentences.”⁷

74. No IGSA exists between ICE and Florida authorizing the detention of Petitioners at Alligator Alcatraz. Respondents are detaining Petitioners at a facility over which ICE has no operational control and without any statutory, regulatory, or contractual authorization.

75. Instead, Petitioner is confined in a facility that is entirely operated by state officers and private contractors, and has no IGSA. Alligator Alcatraz has skirted the system devised by

⁶ ICE, *Intergovernmental Service Agreements Guidance* (Feb. 7, 2025). Last retrieved on Dec. 27, 2025. Available at: <https://www.ice.gov/doclib/foia/igsas.pdf>

⁷ See Memorandum of Agreement (Feb. 7, 2025). Last retrieved on Dec. 27, 2025. Available at: <https://www.ice.gov/doclib/foia/igsas.pdf>.

Congress and is being run outside federal control without an IGSA, illegally circumventing federal acquisition regulations governing procurement, competitive bidding, and federal compliance and monitoring of the contractor's obligations and deliverables. *See generally* 48 CFR §1.101 (Federal Acquisition Regulation.) Because it lacks an IGSA, unlike every other state or county-operated facility, Alligator Alcatraz has no contractual obligation to follow a particular set of ICE Detention Standards, and it lacks the contractual oversight mechanisms that come with an IGSA arrangement. As a result, Petitioners and other detainees have faced a range of anomalous and alarming conditions at the facility.

76. Without a valid IGSA or other statutory or contractual authority, DHS lacks the legal power to detain Petitioners in facilities operated by an agency of the State of Florida. Detention under these circumstances is ultra vires, arbitrary, and violates Petitioner's constitutional and statutory rights. *See Accardi*, 347 U.S. at 268; *Zadvydas*, 533 U.S. at 699-700; *Youngberg*, 457 U.S. at 316-17.

77. As a result of this illegally-constituted detention center, Petitioner faces numerous forms of irreparable harm from being illegally detained at Alligator Alcatraz. Unlawful detention is a paradigmatic form of irreparable harm. *See United States v. Bogle*, 855 F.2d 707, 710-11 (11th Cir. 1988) (holding that "unnecessary deprivation of liberty clearly constitutes irreparable harm"). Their irreparable injury is "neither remote nor speculative, but actual and imminent." *Siegel v. LePore*, 234 F.3d 1163, 1176-77 (11th Cir. 2000).

CLAIMS FOR RELIEF
COUNT I
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Substantive Due Process

78. The Supreme Court has found that the “Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 682.

79. Petitioner was arbitrarily detained after having committed no violation of his supervision conditions and despite having been fully compliant with reporting requirements. ICE provided no notice, no allegation of misconduct, and no explanation for the sudden revocation of OSUP status. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings, removal to Cuba, or protecting public safety.

80. Immigration detention must “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527. Arbitrarily cancelling Petitioner’s supervision and detaining him for months, without identifying any statutory or regulatory purpose for doing so, bears no reasonable relation to public safety, to ensuring attendance at proceedings, or effectuating removal. Such unexplained and sudden re-detention transforms a civil regulatory scheme into punitive confinement, which the Fifth Amendment forbids. *Zadvydas*, 533 U.S. at 690. His statutory removal period has already run, he is not deportable to Cuba, and there is no significant likelihood of removal in the reasonably foreseeable future.

81. By categorically denying Petitioner the opportunity for individualized review, Respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690.

COUNT II VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Procedural Due Process

82. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights. The Due Process Clause requires, at a minimum, notice and a meaningful opportunity to be heard before an individual may be deprived of liberty.

83. Petitioner received neither. ICE revoked his OSUP and detained him at his home without prior notice, without alleging any violation, without providing a written explanation, and without affording Petitioner an opportunity to contest the revocation. This constitutes a denial of the most basic procedural protections required by the Fifth Amendment. To determine whether the Government's procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). See *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

84. Petitioner's liberty interest is unquestionably substantial. Freedom from physical restraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for months without the basic due process protections embodied in federal regulations.

85. The risk of erroneous deprivation is extreme. Courts have consistently held that procedures which categorically foreclose individualized review of detention violate due process. See *Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing

DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

86. ICE's interest in enforcement is adequately protected by the order of supervision formerly in effect, with which Petitioner has complied. Respondents have not specified the grounds for revocation set forth in 8 C.F.R. §241.13 or 8 C.F.R. §241.4 by failing to provide notice of revocation, an informal interview, and by not providing a duly executed notice signed by the proper official. None of the revocation grounds applied to Petitioner, who was fully compliant with all terms of supervision. If none of these circumstances exist, ICE has no legal authority under the regulation to revoke parole or supervision. The agency's disregard of these mandatory prerequisites further underscores the absence of any lawful basis for re-detention and heightens the procedural due process violation.

87. Respondents deprived Petitioners of the protections applicable to custody and continued detention under the OSUP revocation procedures, 8 C.F.R. §§241.4, 241.13, that ICE must follow before re-initiating detention after release on an order of supervision.

COUNT III
VIOLATION OF THE ACCARDI DOCTRINE AND 8 C.F.R. §§241.4, 241.13
No Regulatory Authority to Detain

88. Under the *Accardi* doctrine, agencies must follow their own binding regulations, particularly when those regulations protect individual liberty interests. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

89. Respondents have also violated the notice, interview, and opportunity to respond requirements of 8 C.F.R. §241.4(l).

90. Respondents disregarded the requirements of both §§241.4 and 241.13. They provided Petitioner no written explanation, no finding of violation, and no procedural steps

whatsoever before cancelling his supervision and taking him into custody. Under the *Accardi* doctrine, this failure to follow binding regulations renders the agency action unlawful. ICE failed to comply with the mandatory grounds for revocation set forth in 8 C.F.R. § 212.12(h). If none of these circumstances exist, ICE has no legal authority under the regulation to revoke parole or supervision. The agency's disregard of these mandatory prerequisites further underscores the absence of any lawful basis for re-detention and heightens the procedural due process violation.

91. Respondents deprived Petitioner of baseline protections in OSUP revocation procedures, *see* 8 C.F.R. §241.4(l) and 241.13, that ICE must follow before re-initiating detention.

92. Because Respondents lacked the regulatory authority to revoke Petitioner's supervision or detain him, their custody of Petitioners is ultra vires and must be vacated.

COUNT IV
VIOLATION OF SECTION 1357(g)
No Authority to Detain

93. Respondents may only detain individuals pursuant to a valid statutory and contractual basis. Detaining individuals without such authority is ultra vires and violates Petitioner's constitutional and statutory rights.

94. As explained above, there is no authority under federal law for state officers to independently detain Petitioner at Alligator Alcatraz.

95. First, Section 1357(g) provides no authority for state officers to independently detain immigrants during removal proceedings.

96. And even if it did, the facility is managed and staffed by state officials and private contractors who are not and cannot be deputized under Section 1357(g), and who have not completed any of the statute's training, certification, or supervision requirements.

97. Petitioners' detention at this facility therefore violates federal law for at least two independent reasons.

COUNT IV
VIOLATION OF SECTION 1103(a)(11)(A)
No Authority to Detain

98. Petitioner's detention represents an illegal and unaccountable delegation of detention authority outside the constraints of 8 U.S.C. § 1103(a)(11)(A), which provides for formal contracts allowing the federal government to contract with state or local governments to provide for the care and housing of detained immigrants pending removal proceedings or removal efforts. These contracts are known as Inter-Governmental Services Agreements (IGSAs.)

99. Other than IGSAs, Congress has not enacted any alternate framework for the federal government to coordinate with States to provide for the detention of immigrants pending their removal proceedings or pending efforts to execute removal orders.

100. Since no IGSA exists governing Alligator Alcatraz, Petitioners' months-long detention at this facility is *ultra vires* and unlawful.

101. Respondents have skirted the statutory process in 1102(a)(11) by delegating operational control to an agency of the State of Florida without an IGSA, illegally circumventing federal regulations governing procurement, competitive bidding for government contracts, and federal oversight and compliance. *See generally* 48 CFR §1.101 (Federal Acquisition Regulation.)

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- a. Order that the Petitioner be released from custody immediately;

- b. In the alternative, order the government to provide Petitioner with notice and a hearing where he can confront and oppose removal to any alternative third country that agrees to accept them, if one is identified;
- c. Enjoin the Respondents from re-arresting or detaining Petitioner absent full and strict compliance with federal law;
- d. Grant an award of attorneys' fees and costs;
- e. Grant such other relief as this Court deems just and appropriate.

Respectfully submitted,

Dated: March 21, 2026

/s/ Felix A. Montanez

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

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner and his immigration attorney the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: March 21, 2026

/s/ Felix A. Montanez

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