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5 UNITED STATES DISTRICT COURT
6 FOR THE DISTRICT OF ARIZONA

7 Carlos Ruben Basilio Mosso,
8 Petitioner,
9 v.

Case No.



10 Luis Rosa Jr, Warden, Florence Correctional Center;
11 Christopher McGregor, Field Office Director of
Phoenix Office of Detention and Removal, U.S.
12 Immigrations and Customs Enforcement; U.S.
Department of Homeland Security;
13 Todd M. Lyons, Acting Director, Immigration and
14 Customs Enforcement, U.S. Department of Homeland
Security;
15 Markwayne Mullin, in his Official Capacity, Acting
16 Secretary, U.S. Department of Homeland Security;
and
17 Todd Blanche, in his Official Capacity, Acting
18 Attorney General of the United States;
19 Respondents.

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

Challenge to Unlawful Detention
Under 28 U.S.C. § 2241

20
21
22 **INTRODUCTION**

23 1. Petitioner Carlos Ruben Basilio Mosso ("Mr. Basilio Mosso") remains
24 detained in ICE custody in Arizona despite having been granted deferral of removal under
25 the Convention Against Torture ("CAT") on August 15, 2018. An Immigration Judge
26 determined that Mr. Basilio Mosso would more likely than not be tortured if removed to
27

1 his home country of Mexico. Following that determination, ICE released Mr. Basilio
2 Mosso on an Order of Supervision (“OSUP”) on September 11, 2018. For nearly seven
3 years, Mr. Basilio Mosso complied fully with the conditions of his release and reported to
4 ICE as required without incident. Nevertheless, on July 1, 2025, ICE abruptly re-detained
5 Mr. Basilio Mosso without prior notice or explanation, in violation of the procedures
6 governing the revocation of an Order of Supervision under 8 C.F.R. § 241.4.
7

8 2. ICE now asserts that it is seeking to remove him to unspecified third
9 countries, despite knowing that he lacks citizenship in, or any meaningful connection to,
10 any country other than Mexico. Mr. Basilio Mosso’s continued detention is arbitrary and
11 unlawful, and he respectfully requests that this Court order his immediate release from ICE
12 custody.
13

14 3. Mr. Basilio Mosso is detained pursuant to 8 U.S.C. § 1231, which governs
15 the detention of noncitizens subject to a final order of removal, including those whose
16 removal has been withheld or deferred due to the likelihood of persecution or torture. 8
17 U.S.C. § 1231(a)(1)(B)(i). Mr. Basilio Mosso’s removal order, along with the Immigration
18 Judge’s grant of CAT deferral, became administratively final when neither party appealed
19 the decision. 8 C.F.R. § 1241.1. Although CAT deferral permits removal to a third country
20 under limited circumstances, *see* 8 C.F.R. § 1208.17(b), such removal must be grounded in
21 reality—not speculation.
22

23 4. Mr. Basilio Mosso initially came into immigration custody in 2014
24 following criminal convictions related to murder arising from an amended plea agreement
25 entered in connection with his 
26
27

1  Petitioner has fully served his criminal sentence. On August
2 15, 2018, the Tacoma Immigration Court ordered him removed but granted deferral of
3 removal under CAT after finding that he would more likely than not be tortured in Mexico.
4 ICE released him on an Order of Supervision on September 11, 2018.
5

6 5. From 2018 until his re-detention in 2025, Mr. Basilio Mosso complied fully
7 with all conditions of his supervision. He attended regular ICE check-ins, maintained
8 stability in his personal life, and incurred no new criminal issues. For nearly seven years,
9 ICE permitted him to live in the community under supervision without incident.
10

11 6. On July 1, 2025, ICE officers re-detained Mr. Basilio Mosso without prior
12 notice and without articulating any basis for the arrest. ICE did not claim that he had
13 violated the conditions of his supervision, nor did it assert that he posed a flight risk or
14 danger to the community. ICE likewise failed to identify any concrete plan to effectuate his
15 removal or any country that had agreed to accept him.
16

17 7. Mr. Basilio Mosso previously filed a petition for writ of habeas corpus
18 challenging his detention, which this Court denied without prejudice on March 5, 2026.
19 *See Mosso v. Cantu*, No. 2:25-cv-04257-PHX-MTL (D. Ariz. March 5, 2026). The Court
20 concluded, based on the record at that time, that Mr. Basilio Mosso had not yet met his
21 burden under *Zadvydas v. Davis*, 533 U.S. 678 (2001), because ICE represented that it was
22 actively pursuing removal to third countries, including Spain, Colombia, and Guatemala,
23 and that those requests remained pending. The Court emphasized that the lack of response
24 from those countries and the passage of time alone were insufficient, at that stage, to
25 establish that removal was not reasonably foreseeable.
26
27

1 8. The Court's prior decision expressly declined to consider arguments raised
2 at oral argument that were not included in the petition, including challenges to the legality
3 of ICE's revocation of Mr. Basilio Mosso's Order of Supervision. This Petition remedies
4 that omission by squarely presenting those claims.
5

6 9. Circumstances have now materially changed since the Court's prior ruling.
7 Despite the passage of additional time, ICE has not secured acceptance from any third
8 country, nor has it identified any concrete pathway to removal. What was previously
9 described as "pending" diplomatic outreach has now become prolonged and unproductive,
10 confirming that removal is not practically attainable in the reasonably foreseeable future.
11

12 10. Mr. Basilio Mosso's continued detention therefore violates 8 U.S.C. §
13 1231(a)(6), as interpreted by *Zadvydas*, because his removal is not reasonably foreseeable.
14 He cannot be removed to Mexico due to the binding CAT determination that he would face
15 torture there. ICE's reliance on speculative third-country removal—without evidence of
16 acceptance, progress, or a defined timeline—fails to satisfy the government's burden once
17 a petitioner has made the requisite showing.
18

19 11. ICE's re-detention of Mr. Basilio Mosso independently violates the
20 regulatory framework governing post-order custody determinations. Under 8 C.F.R. §
21 241.4, ICE must conduct individualized custody determinations and may not arbitrarily
22 revoke an Order of Supervision absent a reasoned basis supported by changed
23 circumstances. Here, ICE provided no notice, no explanation, and no evidence of any
24 change in circumstances that would justify re-detention after nearly seven years of full
25 compliance. This procedural violation independently renders Petitioner's detention
26
27

1 unlawful, regardless of whether removal is reasonably foreseeable.

2
3 12. The arbitrary revocation of Mr. Basilio Mosso's supervised release—
4 without any procedural safeguards or substantive justification—violates the Due Process
5 Clause of the Fifth Amendment. Having been permitted to live in the community for years
6 without incident, Mr. Basilio Mosso had a substantial liberty interest in continued release
7 absent a legitimate governmental justification for detention.

8
9 13. Mr. Basilio Mosso's case also satisfies the burden-shifting framework
10 articulated in *Zadvydas*. He has demonstrated that removal is not reasonably foreseeable
11 by establishing (1) a legal bar to removal to his home country under CAT, (2) the absence
12 of any accepting third country despite the passage of time, and (3) the government's
13 inability to identify a concrete removal plan. At that point, the burden shifts to Respondents
14 to produce evidence sufficient to rebut that showing. *Zadvydas*, 533 U.S. at 701.
15 Generalized assertions of ongoing efforts or unfulfilled diplomatic inquiries are
16 insufficient.
17

18
19 14. Recent documentary evidence from ICE further confirms that the
20 government lacks any concrete or coordinated plan to effectuate Mr. Basilio Mosso's
21 removal. In March and April 2026, Mr. Basilio Mosso submitted written detainee requests
22 asking ICE officers to identify which countries were being contacted regarding his
23 removal. ICE's own internal responses reflect uncertainty and inconsistency. In response
24 to a March 2026 inquiry, ICE personnel listed "El Salvador" and "Guatemala" as potential
25 countries. In response to a subsequent April 2026 inquiry, ICE instead listed "Spain" and
26 "Colombia." These shifting and contradictory answers demonstrate that ICE itself does not
27

1 have a defined or coherent removal strategy.

2
3 15. This record stands in stark contrast to the government's prior
4 representations that it was actively pursuing removal to specific third countries. Rather than
5 demonstrating concrete progress, the evidence shows that ICE is merely cycling through
6 speculative possibilities without any indication that a particular country has been formally
7 contacted, is considering acceptance, or is likely to approve removal. The absence of
8 consistency in ICE's own records confirms that removal efforts are not meaningfully
9 underway.
10

11 16. To the extent Respondents rely on declarations asserting that removal efforts
12 are ongoing, such conclusory statements are insufficient under *Zadvydas*. The government
13 must present competent evidence demonstrating a significant likelihood of removal in the
14 reasonably foreseeable future—not generalized assertions of effort. *See Zadvydas*, 533
15 U.S. at 701. Where, as here, the agency's own contemporaneous records reveal uncertainty
16 about even which countries are being pursued, any unsupported declaration should be
17 afforded little weight.
18

19
20 17. Moreover, fundamental evidentiary principles require that Respondents
21 produce the underlying documentation supporting any claimed removal efforts. Under the
22 Federal Rules of Evidence, the "best evidence rule" requires production of original writings
23 where a party seeks to prove the content of those writings. Fed. R. Evid. 1002. If
24 Respondents contend that they have communicated with foreign governments or initiated
25 removal requests, they must produce the actual correspondence, diplomatic requests, or
26 official records reflecting those efforts. Absent such evidence, Respondents' reliance on
27

1 summary declarations or hearsay descriptions of alleged communications is insufficient to
2 meet their burden. *See also* Fed. R. Evid. 602 (requiring personal knowledge) and 802
3 (hearsay rule). Without competent, admissible evidence demonstrating actual progress
4 toward removal, continued detention cannot be justified.
5

6 18. Finally, Mr. Basilio Mosso's continued detention is particularly unjustified
7 in light of his demonstrated rehabilitation. Although he has prior criminal history, those
8 convictions predate his 2018 release and were fully known to ICE at the time it placed him
9 on supervision. Since then, he has lived as a devoted husband and father and has been an
10 exemplary member of his community. His conduct reflects precisely the goals of the
11 criminal justice system: rehabilitation and reintegration. There have been no violations, no
12 new criminal conduct, and no changed circumstances that would justify his re-detention.
13 Under these circumstances, continued detention is arbitrary, punitive, and unconstitutional.
14

15 JURISDICTION & VENUE

16 19. This Court has jurisdiction under 28 U.S.C. §§ 2241 et seq.; the Declaratory
17 Judgment Act, 28 U.S.C. §§ 2201 et seq.; the All Writs Act, 28 U.S.C. § 1651; and the Fifth
18 Amendment to the United States Constitution.
19

20 20. Federal district courts have jurisdiction to hear habeas claims by non-
21 citizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 677
22 (2001).
23

24 21. Federal courts also have federal question jurisdiction, through the APA, to
25 "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of
26 discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). APA claims are
27

1 cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under
2 the APA may proceed by “any applicable form of legal action, including actions for
3 declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”).
4 The APA affords a right of review to a person who is “adversely affected or aggrieved by
5 agency action.” 5 U.S.C. § 702.
6

7 22. Venue is proper in this district and division pursuant to 28 U.S.C. §
8 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this
9 district at the Florence Correctional Center. Furthermore, a substantial part of the events or
10 omissions giving rise to this action occurred and continue to occur at ICE’s Phoenix Field
11 Office in Phoenix, Arizona, within this division.
12

13 PARTIES

14 23. Petitioner Carlos Ruben Basilio Mosso is a native and citizen of Mexico
15 who was granted CAT deferral of removal on August 15, 2018. He is currently detained at
16 the Florence Correctional Center.
17

18 24. Respondent Luis Rosa Jr is the Warden of the Florence Correctional Center,
19 where Mr. Basilio Mosso is being detained. He is Mr. Basilio Mosso’s immediate legal
20 custodian and thus a proper respondent in this matter. *See Rumsfeld v. Padilla*, 542 U.S.
21 426, 435 (2004).
22

23 25. Respondent Christopher McGregor is the Field Office Director of the ICE
24 Enforcement and Removal Operations (ERO) Phoenix Field Office and is the federal agent
25 charged with overseeing all ICE detention centers in Arizona, including the Florence
26 Correctional Center. He is responsible for Mr. Basilio Mosso’s detention, and thus a legal
27

1 custodian of Mr. Basilio Mosso.

2
3 26. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and
4 Customs Enforcement (ICE) and is the federal agent charged with overseeing all ICE
5 operations. He is sued in his official capacity.

6
7 27. Respondents Todd Blanche and Markwayne Mullin are, respectively, the
8 Acting Attorney General of the United States and the Secretary of Homeland Security. As
9 such, they are responsible for maintaining the immigration detention system. They are thus
10 the ultimate legal custodians of Mr. Basilio Mosso.

11 **STATEMENT OF FACTS**

12 28. Petitioner Carlos Ruben Basilio Mosso ("Mr. Basilio Mosso") is a native
13 and citizen of Mexico.

14
15 29. Mr. Basilio Mosso initially came into immigration custody in 2014
16 following criminal convictions, including a conviction for murder. That conviction was the
17 subject of an amended plea agreement entered into in exchange for Mr. Basilio Mosso

18 [REDACTED]
19 [REDACTED]. He fully
20 served his criminal sentence.
21

22 30. On August 15, 2018, the Tacoma Immigration Court ordered Mr. Basilio
23 Mosso removed but granted deferral of removal under the Convention Against Torture
24 ("CAT"). Exhibit A. The Immigration Judge found that it is more likely than not that Mr.
25 Basilio Mosso would be tortured if returned to Mexico. His removal was therefore deferred
26 pursuant to 8 C.F.R. §§ 1208.16(c)(2) and 1208.17(a). *See Exhibit A.*
27

1 31. Pursuant to 8 C.F.R. § 1208.17(b), Mr. Basilio Mosso's removal was
2 deferred only as to Mexico, and he may be removed to a third country where he is not likely
3 to be tortured. However, he does not hold citizenship in, nor does he have any meaningful
4 ties to, any country other than Mexico.
5

6 32. Following the grant of CAT protection, ICE released Mr. Basilio Mosso on
7 September 11, 2018, under an Order of Supervision. From that date until 2025, Mr. Basilio
8 Mosso complied fully with all conditions of his release. He consistently reported to ICE as
9 required and maintained complete compliance without incident.
10

11 33. On July 1, 2025, ICE abruptly re-detained Mr. Basilio Mosso without prior
12 notice, despite his full compliance with supervision and without any change in his criminal
13 history or immigration status.
14

15 34. ICE did not provide Mr. Basilio Mosso with the procedural protections
16 required for post-order custody review and OSUP revocation under 8 C.F.R. § 241.4 before
17 re-detaining him.
18

19 35. At the time of arrest, ICE officers did not articulate any reason for Mr.
20 Basilio Mosso's re-detention. They did not claim that he had violated the terms of his
21 supervision, nor did they assert that he posed a flight risk or a danger to the community.
22 ICE likewise failed to identify any concrete plan to effectuate his removal or to indicate
23 that any third country had agreed to accept him.
24

25 36. Indeed, there have been no material changes in Mr. Basilio Mosso's
26 circumstances since his release in 2018. For nearly seven years, he lived in the community
27

1 as a devoted husband and father and as a stable, law-abiding individual. His post-release
2 conduct reflects sustained rehabilitation and full compliance with all legal obligations,
3 demonstrating that he does not pose a danger to the community or a risk of flight.
4

5 37. Mr. Basilio Mosso previously filed a petition for writ of habeas corpus in
6 this Court challenging his prolonged detention following his July 1, 2025 re-detention. In
7 that proceeding, Respondents asserted that they were actively pursuing removal to third
8 countries, specifically identifying Spain, Colombia, and Guatemala as potential
9 destinations.
10

11 38. On March 5, 2026, this Court denied the petition without prejudice, finding
12 that, at that time, Mr. Basilio Mosso had not yet met his burden under *Zadvydas v. Davis*,
13 533 U.S. 678 (2001), because ICE represented that its removal efforts to those countries
14 were ongoing and that requests remained pending. The Court relied on those
15 representations in concluding that removal had not yet been shown to be unlikely in the
16 reasonably foreseeable future.
17

18 39. Since that ruling, ICE has not produced any evidence that a third country
19 has agreed to accept Mr. Basilio Mosso, nor has it identified any concrete progress toward
20 effectuating removal. Instead, ICE's own contemporaneous records demonstrate confusion
21 and inconsistency regarding which countries are even being considered.
22

23 40. Specifically, in response to written detainee inquiries submitted by Mr.
24 Basilio Mosso in March and April 2026, ICE personnel provided conflicting information
25 regarding potential countries of removal. In March 2026, ICE identified "El Salvador" and
26 "Guatemala" as possible destinations. In April 2026, ICE instead identified "Spain" and
27

1 “Colombia.” These inconsistent responses reflect that ICE does not have a defined or
2 coordinated removal plan. *See Exhibit C.*

3
4 41. At no point has ICE informed Mr. Basilio Mosso that any country has
5 affirmatively agreed to accept him, nor has it provided documentation of any formal
6 removal request, diplomatic communication, or travel document issuance. ICE’s shifting
7 and contradictory representations confirm that removal efforts remain speculative and that
8 no actual progress has been made since the Court’s prior ruling.

9
10 42. Mr. Basilio Mosso remains detained pursuant to 8 U.S.C. § 1231, which
11 governs detention following a final order of removal. Although 8 U.S.C. § 1231(a)(6) may
12 permit continued detention beyond the ninety-day removal period for certain noncitizens,
13 including some with criminal convictions, such detention is not indefinite and remains
14 subject to both the statute, the governing regulations, and constitutional limits.

15
16 43. ICE has now had nearly eight years to effectuate Mr. Basilio Mosso’s
17 removal to a third country but has failed to do so. Despite this history, ICE re-detained him
18 in 2025 without notice and without any concrete showing that removal is now significantly
19 likely in the reasonably foreseeable future.

20
21 44. As a result, Mr. Basilio Mosso remains detained indefinitely even though
22 he has already completed the statutory ninety-day removal period, has complied with
23 supervision for nearly seven years, and has been re-detained without proper notice and
24 without any realistic prospect of removal in the reasonably foreseeable future.

25
26 **ARGUMENT AND GROUNDS FOR RELIEF**
27

1 **I. GROUND ONE: DHS VIOLATED 8 C.F.R. § 241.4 WHEN IT RE-DETAINED**
2 **PETITIONER WITHOUT NOTICE, REASON, OR REQUIRED CUSTODY**
3 **REVIEWS.**

4 45. Section 241.4 imposes mandatory procedures for revoking release, and the
5 DHS has failed to follow any of them.

6 46. Under 8 C.F.R. § 241.4(l) (Revocation of Release), DHS may revoke an
7 OSUP only after: (1) providing the individual written notice of the reasons for revocation,
8 2) having an immigration officer document those reasons, (3) giving the individual a
9 meaningful opportunity to respond, and (4) conducting prompt custody reviews under §
10 241.4(h)–(k).
11

12 47. These are mandatory, binding regulations, not aspirational guidelines.
13 Courts consistently hold that DHS's failure to follow these procedures invalidates post-
14 order detention, because § 241.4 defines the scope of the agency's authority to detain under
15 8 U.S.C. § 1231(a).
16

17 48. DHS has violated every requirement. Petitioner received no written notice,
18 no statement of reasons, no chance to contest the revocation, and no contemporaneous or
19 subsequent custody interview.
20

21 49. The DHS's noncompliance with § 241.4 also violates the Fifth
22 Amendment's due process clause.
23

24 50. Even aside from § 241.4, DHS's conduct violates the Fifth Amendment. A
25 person released under an OSUP retains a constitutionally protected liberty interest in
26 remaining in the community. Revocation of release and re-detention constitute a significant
27

1 deprivation of liberty requiring notice, a statement of reasons, an opportunity to respond,
2 and a neutral decisionmaker.

3
4 51. DHS provided none of these. Instead, ICE re-detained Petitioner summarily,
5 without cause, and without any procedural safeguard. This type of unexplained, arbitrary
6 re-detention is antithetical to due process and constitutes an independent constitutional
7 violation, irrespective of the length of detention or *Zadvydas*.

8
9 52. DHS's failure to follow its own mandatory regulations is arbitrary and
10 capricious under the APA.

11
12 53. The Administrative Procedure Act requires courts to set aside agency action
13 that is: arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
14 law (5 U.S.C. § 706(2)(A)), or without observance of procedure required by law (5 U.S.C.
15 § 706(2)(D)).

16
17 54. DHS's conduct meets both defects: It ignored mandatory procedures
18 governing revocation of release; it offered no explanation for its action; it failed to conduct
19 any custody review interviews; and it provided no evidence of efforts to effectuate removal.

20
21 55. When an agency fails to follow its own binding regulations, courts
22 consistently deem the action per se arbitrary and capricious. Thus, even apart from
23 constitutional concerns or *Zadvydas*, DHS's actions violate the APA.

24 **II. GROUND TWO: MR. BASILIO MOSSO'S CONTINUED DETENTION IN**
25 **IMMIGRATION CUSTODY VIOLATES THE DUE PROCESS CLAUSE OF**
26 **THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION BECAUSE**
27 **THERE IS NO SIGNIFICANT LIKELIHOOD THAT HE WILL BE**
REMOVED IN THE REASONABLY FORESEEABLE FUTURE.

1 56. Mr. Basilio Mosso is subject to a final order of removal; however, his
2 removal to his home country of Mexico has been expressly deferred under the Convention
3 Against Torture (“CAT”). There is no significant likelihood that his removal will occur in
4 the reasonably foreseeable future. Since the entry of his removal order in 2018, ICE has
5 been unable to effectuate his removal and instead released him on an Order of Supervision.
6 ICE’s own inability to remove Mr. Basilio Mosso over a period of years is powerful
7 evidence that removal remains unlikely.
8

9 57. Removal to Mexico is legally barred. The Immigration Judge determined
10 that Mr. Basilio Mosso would more likely than not be tortured if returned to Mexico, and
11 his removal was therefore deferred pursuant to 8 C.F.R. §§ 1208.16(c)(2) and 1208.17(a).
12 That determination remains binding. As a result, ICE cannot lawfully remove Mr. Basilio
13 Mosso to Mexico under any circumstances consistent with that order.
14

15 58. Although regulations permit removal to a third country, such removal
16 requires that another country affirmatively agree to accept the individual and issue the
17 necessary travel documentation. 8 C.F.R. § 1208.17(b). Where no country agrees to accept
18 the individual, removal cannot be effectuated.
19

20 59. The same circumstances that have prevented Mr. Basilio Mosso’s removal
21 since 2018 remain unchanged today. ICE has presented no evidence that any country has
22 agreed to accept him or that removal is otherwise imminent. To the contrary, ICE’s own
23 records reflect uncertainty as to which countries are even being pursued.
24

25 60. Mr. Basilio Mosso’s present detention is purportedly authorized under 8
26 U.S.C. § 1231.
27

1 61. Under § 1231(a)(1)(A), the government is required to remove a noncitizen
2 within the 90-day “removal period” following a final order of removal. During that period,
3 detention is mandatory. 8 U.S.C. § 1231(a)(2).
4

5 62. Once the 90-day removal period expires, continued detention is authorized
6 only under § 1231(a)(6) and is discretionary rather than mandatory.
7

8 63. The Supreme Court has held that § 1231(a)(6) does not authorize indefinite
9 detention. Instead, detention is limited to the period reasonably necessary to effect removal.
10 *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Court established six months as the
11 presumptively reasonable period of post-removal detention.
12

13 64. Even prior to the expiration of that six-month period, a detained individual
14 may obtain relief by providing “good reason to believe that there is no significant
15 likelihood of removal in the reasonably foreseeable future.” If that showing is made, the
16 government must rebut it with evidence demonstrating that removal remains reasonably
17 foreseeable. *Id.* at 701.
18

19 65. Mr. Basilio Mosso satisfies this burden. He is legally barred from removal
20 to his home country, and ICE has failed to identify any third country willing to accept him.
21 Despite years of opportunity, the government has not secured travel documents, diplomatic
22 assurances, or acceptance from any nation.
23

24 66. Recent evidence confirms the speculative nature of ICE’s removal efforts.
25 ICE has provided inconsistent information regarding potential countries of removal, at
26 various times identifying Spain, Colombia, Guatemala, and El Salvador as possible
27

1 destinations, without any indication that those countries have agreed to accept Mr. Basilio
2 Mosso.

3
4 67. Independent analysis further confirms that removal in cases like Mr. Basilio
5 Mosso's is exceedingly unlikely. As explained in a recent policy brief by the Amica Center
6 for Immigrant Rights, ICE "rarely, if ever, successfully" removes noncitizens who have
7 been granted CAT or withholding relief to third countries, and in practice succeeds in doing
8 so in only a tiny fraction of cases—estimated at between approximately 1.6% and 3.3%.
9 See **Exhibit B**. The same analysis explains that ICE often contacts a rotating list of
10 countries to which the individual has no connection, with those countries routinely
11 declining or failing to respond. This broader pattern mirrors precisely what has occurred in
12 Mr. Basilio Mosso's case and further demonstrates that his removal is not reasonably
13 foreseeable. *Id.*

14
15
16 68. Such shifting and contradictory representations demonstrate that ICE lacks
17 a concrete or coordinated removal plan. The mere possibility that some unidentified
18 country might accept Mr. Basilio Mosso at some point in the future is insufficient under
19 *Zadvydas*.

20
21 69. Courts have consistently held that speculative third-country removal does
22 not satisfy the government's burden. Detention becomes unlawful where removal is not
23 "practically attainable" and the government cannot point to a realistic pathway to removal.
24 See *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008); *Nadarajah v. Gonzales*,
25 443 F.3d 1069 (9th Cir. 2006).

26
27 70. Moreover, this Court's prior denial of habeas relief rested on the

1 government's representation that removal efforts to third countries were actively underway
2 and pending. The continued absence of any progress since that time confirms that those
3 efforts have not produced, and are not likely to produce, a viable removal pathway.
4

5 71. The government cannot meet its burden to rebut Mr. Basilio Mosso's
6 showing. ICE has identified no travel documents, no formal acceptance by any country,
7 and no concrete timeline for removal. Absent such evidence, continued detention is not
8 authorized under § 1231.
9

10 72. As the Supreme Court explained in *Zadvydas*, once removal is no longer
11 reasonably foreseeable, continued detention becomes unconstitutional. 533 U.S. at 699–
12 700.
13

14 73. Mr. Basilio Mosso has therefore demonstrated that his continued detention
15 violates the Due Process Clause of the Fifth Amendment. Because removal is not
16 reasonably foreseeable, *Zadvydas* requires that he be released, subject to appropriate
17 conditions of supervision if necessary. *Id.* at 700–01.
18

19 CLAIMS FOR RELIEF

20 COUNT I

21 **ARBITRARY AND CAPRICIOUS REVOCATION OF ORDER OF SUPERVISION** 22 **Violation of the Administrative Procedure Act and the Due Process Clause**

23 74. Petitioner realleges and incorporates by reference the paragraphs above.
24

25 75. For nearly seven years, ICE determined that Petitioner could not be
26 removed from the United States and therefore released him under an Order of Supervision
27 pursuant to 8 U.S.C. § 1231(a)(3) and the regulations governing post-order supervision.

1 76. During that period, Petitioner complied fully with the terms of supervision.
2 He reported to ICE as directed on numerous occasions and lived openly in the community
3 without incident.
4

5 77. Despite this lengthy history of compliance, ICE abruptly revoked
6 Petitioner's supervision and re-detained him in July 2025 without prior notice, without
7 identifying any change in circumstances, and without demonstrating that removal had
8 suddenly become feasible.
9

10 78. The Administrative Procedure Act requires courts to "hold unlawful and set
11 aside agency action" that is arbitrary, capricious, an abuse of discretion, or otherwise not
12 in accordance with law. 5 U.S.C. § 706(2)(A).
13

14 79. ICE's decision to revoke Petitioner's Order of Supervision and detain him
15 indefinitely—after nearly eight years of successful supervision—without identifying any
16 material change in circumstances or any realistic prospect of removal constitutes arbitrary
17 and capricious agency action.
18

19 80. The agency's conduct is particularly unreasonable because ICE previously
20 determined that Petitioner's removal was not reasonably foreseeable when it released him
21 under supervision. The government has identified no new diplomatic development, travel
22 documentation, or other factual change that would suddenly make removal possible today.
23

24 81. By re-detaining Petitioner without demonstrating that removal is now
25 realistically achievable, Respondents have exercised their detention authority in a manner
26 that is arbitrary, capricious, and contrary to law.
27

1 82. Such conduct also violates the Fifth Amendment's guarantee of due process,
2 which prohibits the government from imposing indefinite civil detention without a
3 legitimate and reasonable justification.

4
5 83. Respondents' actions further violate the Due Process Clause under the
6 balancing framework established in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Petitioner's
7 liberty interest in freedom from physical restraint is substantial. The risk of erroneous
8 deprivation is extraordinarily high where, as here, ICE revoked an Order of Supervision
9 after years of compliance without notice, explanation, or any showing that removal has
10 become likely to occur in the reasonably foreseeable future. Requiring the government to
11 demonstrate a realistic prospect of removal before re-detaining a person previously
12 released on supervision would impose minimal administrative burden while significantly
13 reducing the risk of erroneous detention. Under *Mathews*, the procedures employed here
14 fall far short of constitutional requirements.

15
16
17 84. For these reasons, ICE's revocation of Petitioner's supervision and
18 continued detention must be set aside.

19 **COUNT II**

20 **UNLAWFUL POST-REMOVAL DETENTION**
21 **Violation of 8 U.S.C. § 1231(a)(6) and the Fifth Amendment**

22 85. Petitioner realleges and incorporates by reference the paragraphs above.

23
24 86. Under 8 U.S.C. § 1231(a)(1), the government is required to remove a
25 noncitizen within the ninety-day removal period following a final order of removal.

26 87. Once that removal period expires, continued detention is authorized only
27 under 8 U.S.C. § 1231(a)(6).

1 88. The Supreme Court has held that § 1231(a)(6) does not authorize indefinite
2 detention. Instead, detention is limited to the period reasonably necessary to effectuate
3 removal. *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001).
4

5 89. Although six months of detention is considered presumptively reasonable,
6 the Supreme Court explained that once a detainee provides good reason to believe that
7 removal is not reasonably foreseeable, the government must produce evidence
8 demonstrating that removal will occur in the reasonably foreseeable future. *Id.* at 701.
9

10 90. Petitioner has provided ample reason to believe that his removal is not
11 reasonably foreseeable. ICE is legally barred from removing him to his country of
12 citizenship and nationality due to his grant of deferral under CAT. Further, removal to a
13 third country is speculative at best. His removal order has existed since 2018, yet ICE was
14 unable to effectuate his removal during the nearly eight years that followed.
15

16 91. During that time, ICE released Petitioner on supervision and permitted him
17 to remain in the United States because removal could not be accomplished.
18

19 92. The same circumstances that prevented Petitioner's removal for the past
20 eight years remain unchanged today. Respondents have identified no travel documents, no
21 diplomatic assurances from a third country, and no timeline suggesting that removal will
22 occur in the reasonably foreseeable future.
23

24 93. Because there is no significant likelihood that Petitioner will be removed in
25 the reasonably foreseeable future, his continued detention exceeds the statutory limits
26 recognized in *Zadvydas* and violates the Due Process Clause of the Fifth Amendment.
27

94. Petitioner's continued detention is therefore unlawful and must cease.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request that this Court:

- a. Assume jurisdiction over this matter;
- b. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), and the Due Process Clause of the Fifth Amendment;
- c. Order Respondents to immediately release Petitioner from ICE custody under the same conditions of supervision that existed prior to his unlawful re-detention;
- d. Alternatively, and at a minimum, order Respondents to (i) identify with specificity any third country to which they contend Petitioner may be removed; (ii) produce all documentation reflecting communications, requests, or acceptance by that country; and (iii) provide Petitioner a meaningful opportunity to seek protection from removal to that country, including the opportunity to assert a fear of persecution or torture and to obtain a Reasonable Fear Interview ("RFI") and all related procedural safeguards required by law;
- e. Enjoin Respondents from re-detaining Petitioner in the future absent (i) written notice, (ii) compliance with the procedures governing revocation of an Order of Supervision, and (iii) a concrete, documented plan demonstrating that Petitioner's removal to a specifically identified country is significantly likely to occur in the reasonably foreseeable future;
- f. Grant any other and further relief this Court deems just and proper.

Dated: April 22, 2026

Respectfully submitted,

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. 2242

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

Executed on this April 22, 2026. in Phoenix, AZ.

/s/ Spencer C. Lee

Spencer C. Lee

Attorney for Petitioner

CERTIFICATE OF SERVICE

This is to certify that on April 22, 2026, the foregoing PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF was served by certified mail, on:

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Warden, Florence Correctional Center,
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