UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JULIO CESAR DIAZ MURO,

Petitioner,

Civil Case No. 3:26-cv-01088

v.

MARKWAYNE MULLIN as Secretary for the Department of Homeland Security (DHS);

TODD LYONS as Acting Director Miami Field Office, Enforcement and Removal Operations (ERO), Department of Homeland Security; and,

ERIC HALL as Warden and Facility Administrator of Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida,

Respondents.

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VERIFIED
PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

COMES NOW the Petitioner, **JULIO CESAR DIAZ MURO**, by and through undersigned counsels, respectfully, and hereby brings this Verified Petition for Writ of Habeas Corpus under to 28 USC § 2241 and Complaint for Declaratory and Injunctive Relief. **IN SUPPORT OF THIS PETITION**, Petitioner alleges the following:

INTRODUCTION

1. Petitioner **JULIO CESAR DIAZ MURO** is a native and citizen of Cuba who lived in the United States as a lawful permanent resident until his green card was revoked following several criminal convictions in Florida.

2. He has a final order of removal but, for years, the Department of Homeland Security ("DHS") has been unable to remove him to Cuba because the Cuban government refuses to accept his return.

3. Consistent with this reality, DHS released Petitioner under an Order of Supervision (Form I-220B) and required him to report annually to ICE in Miramar, Florida.

4. Petitioner complied fully with all supervision conditions and has not reoffended for many years.

5. Nevertheless, at his most recent check-in on January 13, 2026, ICE abruptly detained him and transferred him to Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida. While detained, ICE officers attempted to have Petitioner sign documents agreeing to deport to Mexico and to present himself to Mexican officials, even though he is not a citizen or lawful resident of Mexico or any other third country. These efforts were made over Petitioner's objections and contrary to his stated wish to remain in the United States.

6. While detained officers attempted to coerce Petitioner to voluntarily deport to Mexico and 'turn himself in' to Mexican officials, effectively forcing

removal to a third country that is not his designated country of removal and of which he is not a citizen or national, and contrary to his will.

7. He remains detained today at Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida, months after his detention began, with no significant prospect of lawful removal to Cuba—his designated country of removal—and no lawful authority to remove him to Mexico or any other third country.

8. Under 8 U.S.C. § 1231 and the Supreme Court's decision in Zadvydas v. Davis, 533 U.S. 678 (2001), immigration detention after a final order of removal is constitutionally and statutorily limited to a period reasonably necessary to accomplish removal, presumptively six months.

9. Petitioner's removal order to Cuba became final on or about November 24, 2021. DHS attempted, but failed, to remove him to Cuba and, in light of Cuba's refusal to accept his return, released him on an Order of Supervision (Form I-220B) on or about February 21, 2022. As a result, Petitioner has been under the post-order custody regime of 8 U.S.C. § 1231 for more than four years and five months. During this entire period, the government has been unable to remove him to Cuba, well beyond the presumptively reasonable six-month period contemplated in *Zadvydas*. His recent re-detention in January 2026 occurred against this backdrop of prolonged and unsuccessful post-order removal efforts; it does not change the fact that DHS has never been able to carry out his removal.

10. Here, Cuba has long refused his return and continues to do so. DHS's effort to circumvent that reality by trying to force him to voluntarily deport himself to Mexico—without Mexico's prior acceptance and over Petitioner's objections—was unlawful and does not create a "significant likelihood" of removal in the reasonably foreseeable future.

11. Petitioner therefore seeks a writ of habeas corpus under 28 U.S.C. § 2241 ordering his immediate release under reasonable conditions of supervision, as well as declaratory and injunctive relief protecting him from further unlawful detention, coerced "self-removal" to third countries, and physical abuse. He also seeks an order requiring DHS to restore him to the prior conditions of his supervised release under Form I-220B or substantially equivalent terms.

JURISDICTION

12. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question). Petitioner challenges the legality and constitutionality of his ongoing civil immigration detention under 8 U.S.C. § 1231.

13. The REAL ID Act's jurisdiction-stripping provisions do not preclude habeas review of post-order detention claims under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny. Petitioner is not challenging the validity of his removal order itself, but rather his continued detention in violation of federal statute and the Due Process Clause.

14. This Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–2202 and the general equitable powers of the Court.

VENUE

15. Venue is proper in this Middle District of Florida under 28 U.S.C. § 1391(b), 28 U.S.C. § 1391(e)(l) (United States respondent resides in this district), 28 U.S.C. § 1391(e)(2) (cause of action arose in this district), and 28 U.S.C. § 1391(e)(4) (Petitioner resides in this district and no real property is at issue).

CUSTODY

16. The Petitioner is in the Respondents' physical custody within this district at the Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida, an immigration detention center under the direct control of the Respondents and their agents.

PARTIES

17. Petitioner **JULIO CESAR DIAZ MURO** is a citizen and national of Cuba in the Respondents' physical custody. The Respondents have assigned him File No. A[redacted]

18. The Petitioner brings a suit against **MARKWAYNE MULLIN** in his official capacity as Secretary for the Department of Homeland Security (DHS). In this official capacity, he is a legal custodian of the Petitioner.

19. The Petitioner brings a suit against **TODD LYONS** in his official capacity as Acting Director Miami Field Office, Enforcement and Removal Operations

(ERO), Department of Homeland Security. In this official capacity, he is a legal custodian of the Petitioner.

20. The Petitioner brings a suit against **ERIC HALL** as Warden and Facility Administrator of Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida. In this official capacity, he is a legal custodian of the Petitioner.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

21. Exhaustion of administrative remedies is not required for this habeas petition because Petitioner challenges the legality of his ongoing detention under the Constitution and federal statute, and there is no adequate or effective administrative remedy for these claims.

22. To the extent any exhaustion requirement arguably applies, exhaustion should be excused as futile and inadequate. Petitioner has already been subject to post-order custody reviews and has been repeatedly told, explicitly or effectively, that he will not be released despite the lack of a significant likelihood of removal in the reasonably foreseeable future. The limited ICE post-order review process cannot provide the relief he seeks—judicially enforceable release under *Zadvydas* and constitutional protections against coercive removal and abuse.

FACTUAL ALLEGATIONS

A. Petitioner's Immigration History and Orders of Removal

23. Petitioner is a native and citizen of Cuba, born on [redacted] *See* **Exhibit 1**, Cuban Birth Certificate with English Translation.

24. Petitioner entered the United States on or about May 18, 1980.

25. He was granted lawful permanent resident status under the Cuban Adjustment Act.

26. He was assigned file number A# [redacted]

27. On or about July 3 1991, in Miami-Dade County, Petitioner was tried and found guilty of second degree murder with a firearm pursuant to Florida Stat. § 782.04 and Florida Stat. § 775.087, attempted robbery with a firearm pursuant to Florida Stat. § 812.13 and Florida Stat. § 777.04 and §775.087, and unlawful possession of a firearm while engaged in a criminal offense pursuant to Florida Stat. § 790.07. *See* **Exhibit 2**, Sentence for Case Number: F 90 024169. He sentenced to a twelve year prison term. *Id*. He served his criminal sentence and has long since completed all criminal penalties related to this case.

28. On or about April 11, 1997, the Department of Homeland Security (DHS) issued a Warrant for Arrest of Alien. *See* **Exhibit 3,** I-200 dated 04/11/1997.

29. On May 20, 1997, the Immigration Judge ordered Petitioner be released from immigration detention on a $25,000 bond. *See* **Exhibit 4,** Bond Order dated 05/20/1997.

30. On May 20, 1997, Immigration Judge R. Kevin Mchugh ordered Petitioner removed or deported to Cuba, denying his application for Criminal Waiver

under INA § 212(c) and denying his application for Adjustment of Status. *See* **Exhibit 5**, Order of Removal dated 05/20/1997.

31. On June 11, 1997, Petitioner appealed the Order of Removal dated 05/20/1997 to the Board of Immigration Appeals (BIA). *See* **Exhibit 6**, Alien Appeal.

32. On October 27, 1997, the BIA issued a decision on the appeal, remanding the case back to the Immigration Judge because the Immigration Court failed to provide a proper transcript of removal proceedings. *See* **Exhibit 7**, BIA Appeal Decision dated 10/27/1997.

33. On October 28, 2002, the Immigration Judge issued an oral order deporting Petitioner to Cuba *in absentia*. *See* **Exhibit 8**, Order of Removal dated 10/28/2002.

34. On November 24, 2003, the Petitioner filed an emergency motion to reopen and stay the removal order. *See* **Exhibit 9**, Emergency Motion to Reopen.

35. On December 31, 2003, the Immigration Judge denied the emergency motion to reopen. *See* **Exhibit 10**, Order Denying Motion to Reopen.

36. On April 09, 2004, DHS–unable to remove him to Cuba–released Petitioner from immigration detention with an I-220B, Order of Supervision. *See* **Exhibit 11**, 2004 Order of Supervision.

37. At some point after his release under the 2004 Order of Supervision, Petitioner departed the United States on his own and relocated to the Dominican Republic. The precise date of that departure is not clear, but it

occurred while he remained subject to the 2004 Order of Supervision and his unexecuted order of removal to Cuba. Petitioner never obtained any form of lawful immigration status or permanent residence in the Dominican Republic; he lived there without legal status.

38. On or about February 28, 2008, Petitioner was taken into custody by Dominican authorities and extradited to the United States through Miami International Airport. Upon his arrival, he was detained and paroled into the United States under 8 U.S.C. § 1182(d)(5) for the limited purpose of facing federal charges of conspiracy to import five or more kilograms of cocaine in violation of 21 U.S.C. § 963. *See* **Exhibit 12**, Immigration Detainer; *See also* **Exhibit 13**, Parole documentation.

39. Petitioner did not seek to return to the United States; rather, United States authorities initiated and secured his extradition from the Dominican Republic and then paroled him into the country solely to face federal criminal charges.

40. Petitioner's extradition from the Dominican Republic was for criminal prosecution only; it did not reflect, and has never resulted in, any agreement by Cuba to accept his return or any change in the longstanding reality that Cuba will not issue travel documents for him.

41. On August 15, 2008, Petitioner was adjudicated guilty of Conspiracy to import five or more kilograms of cocaine in violation of 21 U.S.C. § 96. *See* **Exhibit 14**, Judgement dated 08/15/2008. He was sentenced to a 240 month prison term. *Id.*

42. On July 17, 2015, the United States District Judge granted Petitioner's Motion for Sentence Reduction pursuant to 18 U.S.C. § 3582(c)(2). Petitioner's sentence was reduced from 240 months to 193 months. *See* **Exhibit 15**, Order to Reduce Sentence.

43. On November 5, 2021, Petitioner was released from the Federal Bureau of Prisons (FBOP) with a supervision term of 5 years. *See* **Exhibit 16,** FBI Release of Detainee with Supervision

44. On November 15, 2021, upon being released from FBOP, Petitioner was transferred to ICE custody and transferred to the Eden Detention Center. *See* **Exhibit 17**, I-830E, Notice of Alien Address dated 11/05/2021.

45. On September 30, 2021, DHS again initiated removal proceedings against Petitioner, charging him with deportability under INA § 212(a)(2)(A)(i)(II) as an alien who has been convicted of any law relating to a controlled substance. *See* **Exhibit 18**, NTA dated 09/30/2021.

46. On November 24, 2021, Immigration Judge Jason Ferguson found Petitioner removable and inadmissible under INA § 212(a)(2)(A)(i)(II), and ordered Petitioner removed to Cuba. *See* **Exhibit 19,** Order of Removal dated 11/24/2021. Petitioner waived appeal and his removal order became final immediately.

B. Petitioner's Long-Term Release on Order of Supervision (I-220B)

47. On February 13, 2022, DHS attempted to remove Petitioner to Cuba. *See* **Exhibit 20**, I296 Notice to Alien ordered removed/Departure Verification.

However, the Cuban government refused to issue travel documents or otherwise accept his return.

48. DHS has never succeeded in removing Petitioner to Cuba, and Cuba has consistently failed and refused to accept him.

49. On or about February 21, 2022, DHS again released Petitioner from immigration detention with an I-220B, Order of Supervision because Cuba would not accept Petitioner–consistent with longstanding practice for similarly situated Cuban nationals. *See* **Exhibit 21,** 2022 Order of Supervision.

50. Under the 2022 Order of Supervision, Petitioner was required to comply with conditions of release, including regular reporting to ICE at the Miramar, Florida, field office, maintaining a consistent address, and refraining from criminal conduct. See *Id.* showing compliance with yearly supervision requirements from August 2022 to November 2026.

51. These failed removal efforts, followed by DHS's decision to release him on an Order of Supervision in February 2022, demonstrate that as early as 2022, and certainly by six months after the November 24, 2021 final order, there was already no significant likelihood of removal in the reasonably foreseeable future within the meaning of *Zadvydas*.

52. Due to his compliance with the conditions of release and his 2022 Order of Supervision, DHS has been issuing him Employment Authorization

Documents on a yearly basis. *See e.g.* **Exhibit 22,** EAD C18 valid from 05/06/2025-05/05/2026.

53. During this entire period, DHS remained unable to secure his removal to Cuba. There have been no material changes in Cuba's willingness to accept him; the impediment to his removal has persisted for years.

C. 2026 Detention at Miramar ICE Check In and Transfer to ICE Custody

54. From the time of his release under the 2022 Order of Supervision until his re-detention in January 2026, Petitioner complied fully with all supervision conditions. He has consistently reported to ICE Miramar as directed, including annual check-ins. He has maintained a stable residence. He did not commit any new criminal offenses, and he was not arrested, accused or charged with any crime.

55. On or about January 13, 2026, during a scheduled ICE Check In–without prior notice and without any new criminal conduct, violation of supervision conditions, or change in circumstances justifying re-detention–ICE officers detained Petitioner and placed him in immigration custody. *See* **Exhibit 23**, I-213 dated 01/13/2026. Note this document is heavily redacted and is provided as obtained from USCIS FOIA Records Requests. The government Respondents are custodians of this original document and can produce the entire document for the Court.

56. Petitioner was transferred to Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida where he remains detained today. *See* **Exhibit 24**, ICE detainee Locator.

57. Since his detention in January 2026, ICE officers have repeatedly presented Petitioner with documents and forms requesting he self-deport to Mexico. Petitioner has consistently refused to sign these documents because he is a citizen and national of Cuba, and he has no citizenship or lawful immigration status in Mexico or any other third country, and he does not wish to depart to Mexico or any other third country.

D. Lack of Significant Likelihood of Removal to Cuba

58. Petitioner is currently detained pursuant to a final order of removal that became final in November 24, 2021. For more than four years and five months since that date, DHS has remained unable to remove him to Cuba, and Cuba has consistently refused to accept his return.

59. Although ICE re-detained Petitioner on January 13, 2026, that re-detention occurred after years of unsuccessful post-order removal efforts and after a prolonged period of detention and supervised release.

60. As of the filing of this petition, Petitioner has been under post-order custody (detained and supervised) for more than four years and five months, including the current detention beginning January 13, 2026.

61. Throughout this time, Cuba has not changed its prior refusal to accept his return. DHS has provided no evidence to Petitioner that Cuba is now willing to issue travel documents or admit him.

62. DHS's attempt to compel Petitioner to voluntarily deport to Mexico does not create a legally cognizable, "significant likelihood" of removal within the meaning of *Zadvydas v. Davis*, 533 U.S. 678 (2001). The statute contemplates removal to a country that has agreed to accept the noncitizen through lawful government-to-government channels—not coerced, extralegal abandonment at a land border.

63. Petitioner's long history of release under supervision without incident, Cuba's consistent refusal to accept him, and ICE's resort to unlawful coercion to force him into a third country all demonstrate that there is no significant likelihood of lawful removal in the reasonably foreseeable future.

64. Petitioner remains in ICE custody in Florida solely by virtue of a final order of removal that the government has been unable to execute for years and has no realistic prospect of executing in the foreseeable future.

LEGAL FRAMEWORK

65. Under 8 U.S.C. § 1231(a)(2), the government must detain a noncitizen during the initial 90-day "removal period" following a final order of removal.

66. After the 90-day removal period, detention is governed by 8 U.S.C. § 1231(a)(6), which provides that certain categories of noncitizens "may be detained beyond the removal period" if they are inadmissible, removable on

certain criminal grounds, or determined to be a risk to the community or unlikely to comply with the order of removal.

67. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court construed § 1231(a)(6) to avoid serious constitutional problems by reading it to authorize detention only for a period reasonably necessary to bring about the noncitizen's removal. The Court held that once removal is no longer reasonably foreseeable, continued detention is no longer authorized. "Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause." *Id.* at 690.

68. The Eleventh Circuit has applied *Zadvydas* to detention under § 1231(a)(6), holding that post-order detention is presumptively reasonable for six months, after which a noncitizen who shows 'good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future' is entitled to a shift in the burden to the government. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051–52 (11th Cir. 2002) (per curiam) (quoting *Zadvydas*, 533 U.S. at 701).

69. The Supreme Court further held in *Clark v. Martinez*, 543 U.S. 371 (2005), that the *Zadvydas* construction of § 1231(a)(6) applies equally to inadmissible noncitizens, making clear that the statute does not permit indefinite or potentially permanent detention for any class of noncitizens.

70. Further, immigration detention must "bear a reasonable relation to the purpose for which the individual was committed." *See Demore v. Kim,* 538 U.S. 510, 527 (2003).

71. The Due Process Clause of the Fifth Amendment independently prohibits arbitrary, indefinite civil detention and requires that immigration detention be reasonably related to its purpose: securing the person's presence for actual, feasible removal.

72. Moreover, under the Fifth Amendment of the United States Constitution, DHS and the EOIR may not deprive a noncitizen of notice and an opportunity to be heard. *See Mathews v. Elridge*, 424 U.S. 319 (1976).

73. DHS regulations recognize that noncitizens with final orders must generally be released under supervision where there is no significant likelihood of removal. *See, e.g.*, 8 C.F.R. § 241.4, § 241.13 (post-order custody reviews; special review procedures for aliens who may not be removed).

74. In applying § 1231(a)(6), courts consider the entirety of the post-order period during which the government has been unable to remove a noncitizen, regardless of whether that time is spent in physical detention or on supervised release. DHS does not obtain a new, presumptively reasonable six-month period simply by re-detaining a person years into an already-prolonged and unsuccessful effort to remove him.

75. In evaluating the reasonableness of post-order detention under § 1231(a)(6), courts consider the entire duration of custody following a final

order of removal and the government's persistent inability to effectuate removal, rather than artificially restarting the clock with each change in the form of custody. See *Zadvydas*, 533 U.S. at 684–86 (assessing periods of detention spanning years after final orders became final); *Ly*, 351 F.3d at 271–73 (emphasizing that length and progress toward removal determine reasonableness); *Nadarajah*, 443 F.3d at 1077–80 (holding that five years of immigration detention exceeded statutory authority). DHS may not evade the limits recognized in *Zadvydas* and *Clark* simply by cycling a noncitizen between detention and supervised release while removal remains unachievable.

76. The Eleventh Circuit has applied this framework to detention under § 1231(a)(6), recognizing that the presumptively reasonable period of post-order detention is six months, after which the noncitizen bears a light burden to show there is no significant likelihood of removal in the reasonably foreseeable future, and the burden then shifts to the government. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051–52 (11th Cir. 2002) (per curiam) (citing *Zadvydas*, 533 U.S. at 701).

77. Courts across the country have applied *Zadvydas* to require release under supervision where post-order detention extends beyond six months and removal is not reasonably foreseeable, even for noncitizens with criminal histories. See, e.g., *Ly v. Hansen*, 351 F.3d 263, 271–73 (6th Cir. 2003) (holding that the government may not use indefinite detention as a substitute

for removal and that criminal history does not authorize detention once removal is not reasonably foreseeable); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1080–82 (9th Cir. 2006) (ordering release after five years of civil immigration detention because the statute does not permit indefinite detention); *Rajigah v. Conway*, 268 F. Supp. 2d 159, 167–68 (E.D.N.Y. 2003) (granting habeas relief despite criminal record, concluding that dangerousness alone cannot justify indefinite detention when there is no significant likelihood of removal).

CAUSES OF ACTION

COUNT I
Unlawful Indefinite Detention Under 8 U.S.C. § 1231(a)(6) and *Zadvydas v. Davis*

78. Petitioner re-alleges and incorporates by reference paragraphs 1–77 as though fully set forth herein.

79. Petitioner has been subject to post-order custody under 8 U.S.C. § 1231 since his removal order became final on or about November 24, 2021. By the time DHS released him on an Order of Supervision in February 2022, and certainly by six months after the final order, the presumptively reasonable *Zadvydas* period had already elapsed without successful removal to Cuba. His subsequent re-detention in January 2026, after years of failed removal efforts and supervised release, does not restart the six-month clock. In total, Petitioner has now spent more than four years and

five months under § 1231 custody, whether in physical detention or on supervised release, with no significant likelihood of removal in the reasonably foreseeable future.

80. Petitioner has provided good reason to believe there is no significant likelihood that he will be removed in the reasonably foreseeable future. Cuba's long-standing refusal to accept repatriation of Petitioner, the years of unsuccessful efforts by DHS to remove him, and the government's resort to coercive and unlawful attempts to expel him to Mexico collectively establish that removal is not reasonably foreseeable.

81. This case presents precisely the situation contemplated in *Zadvydas*, *Clark*, and *Akinwale*: Petitioner has now been detained or under supervision under § 1231(a)(6) for years after a final order of removal, well beyond the six-month presumptively reasonable period, and the government cannot show a significant likelihood that Cuba will accept him in the reasonably foreseeable future. See *Zadvydas*, 533 U.S. at 701; *Clark*, 543 U.S. at 378–79; *Akinwale*, 287 F.3d at 1051–52.

82. DHS has not produced, and cannot produce, concrete evidence that Cuba—or any other country—is willing to accept Petitioner within a reasonably foreseeable time frame.

83. For significant periods of time, Petitioner was already released under an Order of Supervision precisely because DHS could not remove him. Nothing material has changed to justify his re-detention; to the contrary, the passage

of time and unsuccessful removal efforts further demonstrate the absence of a realistic prospect of removal. This extended period of post-order supervision is part of the same continuous *Zadvydas* analysis, demonstrating that DHS has long lacked a realistic prospect of effecting his removal to Cuba.

84. Although Petitioner's removal order rests on prior criminal convictions, his present detention is governed by 8 U.S.C. § 1231(a)(6), not by the pre-removal 'mandatory detention' provisions of 8 U.S.C. § 1226(c). The Supreme Court has made clear that § 1231(a)(6) does not authorize indefinite detention of any noncitizen, including those with criminal histories; once removal is not reasonably foreseeable, continued detention exceeds the statute and violates due process. See *Zadvydas*, 533 U.S. at 690–91; *Clark*, 543 U.S. at 378–79. Courts have repeatedly held that a noncitizen's criminal record does not permit the government to detain him indefinitely when there is no significant likelihood of removal in the reasonably foreseeable future. See *Ly*, 351 F.3d at 271–73; *Rajigah*, 268 F. Supp. 2d at 167–68.

85. Petitioner's history underscores this point. After his 2004 release on an Order of Supervision, he voluntarily departed the United States on his own (effectuating his own removal) and he relocated in the Dominican Republic without lawful status until United States authorities chose to extradite him back solely for additional criminal prosecution. More recently, since his most

recent final removal order of November 2021 and his release under supervision of February 2022, Petitioner has not reoffended, has not been arrested, accused or charged with any new crime, and has complied fully with all conditions of supervision. These facts confirm that continued detention under § 1231(a)(6) is not reasonably necessary to protect the community or ensure his appearance; the only barrier to his release is DHS's inability to secure lawful removal to Cuba.

86. Under *Zadvydas*, continued detention under these circumstances exceeds the authority conferred by 8 U.S.C. § 1231(a)(6) and is unlawful.

87. Petitioner is therefore entitled to a writ of habeas corpus directing his immediate release under reasonable supervision conditions, such as those previously imposed via Form I-220B.

COUNT II
Violation of the Fifth Amendment: Substantive and Procedural Due Process

88. Petitioner re-alleges and incorporates by reference paragraphs 1–87 as though fully set forth herein.

89. The Due Process Clause of the Fifth Amendment protects noncitizens from arbitrary and indefinite civil detention that is not reasonably related to a legitimate governmental objective.

90. The government's interest in immigration detention is limited to ensuring appearance for removal and protecting the community from demonstrable

danger. Once removal is no longer reasonably foreseeable, detention ceases to serve that purpose and violates due process.

91. As the Supreme Court and the Eleventh Circuit have recognized, civil immigration detention must bear a 'reasonable relation' to its purpose—securing a noncitizen's presence for actual, feasible removal. See *Zadvydas*, 533 U.S. at 690–91; *Akinwale*, 287 F.3d at 1051–52."

92. In analogous *Zadvydas* habeas cases, district courts within the Eleventh Circuit, including the Middle District of Florida, have granted relief where the government detained noncitizens well beyond six months after a final order of removal without evidence that removal was reasonably foreseeable. See, e.g.,J *ose Antonio Martinez-Marino v. Sheriff of Baker County Sheriff's Office, et al.,* No. 3:25-cv-854-JEP-MCR, ECF No. 14, at (M.D. Fla. March 11, 2026) (applying *Zadvydas* and granting habeas despite federal drug conviction in Florida, where the government could not show a significant likelihood of removal to Cuba or a third country in the foreseeable future despite prolonged post-order detention). See also *Ly v. Hansen*, 351 F.3d 263, 271–73 (6th Cir. 2003) (applying *Zadvydas*; explaining that even for criminal aliens, "the government may not detain indefinitely;" detention must be reasonably related to the purpose of removal); *Tijani v. Willis*, 430 F.3d 1241, 1242–43 (9th Cir. 2005) (holding that prolonged immigration detention—two years and eight months—pending removal proceedings was not constitutionally permissible under the guise of mandatory detention;

while this is a § 1226(c) case, it emphasizes that length and lack of progress toward removal render detention unreasonable); *Nadarajah v. Gonzales*, 443 F.3d 1069, 1080–82 (9th Cir. 2006) (holding that indefinite detention exceeded the authority conferred by the immigration statute; ordering release after five years of civil detention where government could not effectuate removal); *Rajigah v. Conway*, 268 F. Supp. 2d 159, 167–68 (E.D.N.Y. 2003) (granting *Zadvydas* habeas despite serious criminal history; emphasizing that "dangerousness alone cannot justify indefinite detention when removal is not reasonably foreseeable").

93. Petitioner's continued detention, where there is no significant likelihood of removal in the reasonably foreseeable future, is arbitrary, excessive, and not narrowly tailored to any legitimate governmental interest, in violation of substantive due process.

94. Additionally, Petitioner has been re-detained after years of compliant supervision without any meaningful notice, hearing, or opportunity to contest the necessity of detention. He has not been provided a neutral decisionmaker's assessment of his risk of flight or danger to the community or the likelihood of removal, violating procedural due process.

95. Civil immigration detention that has lost its reasonable relation to the purpose of effectuating removal violates due process. See *Zadvydas*, 533 U.S. at 690–91; *Ly,* 351 F.3d at 271–73 (holding that even detention of

criminal aliens must be reasonably related in duration and nature to the purpose of removal).

96. For these reasons, Petitioner's continued detention violates the Fifth Amendment, and he is entitled to immediate release and injunctive relief preventing continued arbitrary detention and coercive removal efforts.

<u>COUNT III</u>
Unlawful Attempted Removal to a Third Country Without Lawful Authority

97. Petitioner re-alleges and incorporates by reference paragraphs 1–96 as though fully set forth herein.

98. Under 8 U.S.C. § 1231(b)(2), DHS must designate a country of removal and, where the designated country will not accept the noncitizen, must follow a specific statutory hierarchy for alternate countries of removal.

99. Petitioner's order of removal is to Cuba. Cuba has consistently refused to accept him. DHS has not lawfully redesignated Mexico as a country of removal, nor has Mexico formally agreed to accept him as a deportee.

100. Section 1231(b)(2) carefully prescribes the sequence of countries to which a noncitizen may be removed and contemplates removal through lawful government-to-government arrangements with a receiving country. See *Jama v. Immigration & Customs Enf't*, 543 U.S. 335, 341–46 (2005) (interpreting § 1231(b)(2)'s hierarchy and acceptance requirements).

101. Respondents may point to Petitioner's decades-old criminal convictions to argue that he is dangerous. But under *Zadvydas* and its progeny, criminal

history cannot justify indefinite civil immigration detention when removal is not reasonably foreseeable. The Supreme Court has limited § 1231(a)(6) for all classes of noncitizens, including those removable on criminal grounds. *Clark*, 543 U.S. at 378–79. Courts applying *Zadvydas* have repeatedly granted habeas relief to noncitizens with serious criminal records where the government could not demonstrate a significant likelihood of removal in the reasonably foreseeable future. See *Ly*, 351 F.3d at 271–73; *Rajigah*, 268 F. Supp. 2d at 167–68. Petitioner has served his criminal sentences, lived peacefully under supervision for years, and, most importantly, cannot be removed because Cuba will not accept him.

102. DHS's efforts to compel Petitioner to 'self-remove' to Mexico by signing papers and presenting himself to Mexican officials, without any formal designation of Mexico as his country of removal and without Mexico's acceptance through lawful channels, fall outside the statutory scheme and cannot justify continued detention.

103. Instead of complying with the statutory scheme, ICE officers have attempted to induce Petitioner to sign documents agreeing to depart to Mexico and to surrender himself to Mexican authorities, even though he has no citizenship or legal status there and there is no lawful designation of Mexico as his country of removal.

104. DHS's attempt to effectuate removal without compliance with § 1231(b)(2)'s procedures, and without the receiving a third country's explicit acceptance,

underscores the absence of any genuine, lawful, and foreseeable prospect of removal to Cuba and any third country.

105. Accordingly, Petitioner's ongoing detention cannot be justified on the basis of any lawful plan to remove him to Mexico or any other third country, reinforcing that his detention is unauthorized and must end.

IRREPARABLE HARM AND BALANCE OF EQUITIES

106. Petitioner suffers irreparable harm every day he remains unlawfully detained. He is deprived of his liberty, separated from family and community, and subjected to the risk of further physical abuse and retaliation in ICE custody.

107. The balance of equities strongly favors Petitioner. He has lived for years under supervision without incident, has completed his criminal sentences, and poses no demonstrated danger or flight risk. The government's interest in continued detention is minimal where removal is not reasonably foreseeable.

108. The public interest is served by ensuring government compliance with statutory and constitutional limits on immigration detention and preventing abusive, coercive removal practices.

REQUEST FOR EXPEDITED ORDER TO SHOW CAUSE (RESPONSE WITHIN TEN DAYS)

109. Petitioner respectfully requests that the Court issue an expedited Order to Show Cause directing Respondents to file a return to the Petition within ten

(10) days of service, and to address specifically, with evidentiary support, the likelihood of Petitioner's removal to Cuba in the reasonably foreseeable future.

110. This is a habeas corpus action brought pursuant to 28 U.S.C. § 2241. By statute and longstanding practice, habeas proceedings are intended to provide a swift and effective remedy where unlawful restraint of liberty is alleged. See, e.g., 28 U.S.C. § 2243 (directing that the court "shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted," and that the writ "shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed").

111. Since Petitioner's final removal order became administratively final on November 24, 2021, DHS has had nearly four years and five months to remove him, including prior post-order detention and years of supervision, far exceeding the six-month presumptively reasonable period recognized by *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), for assessing whether removal is reasonably foreseeable. As set forth in detail elsewhere in this Petition, there has been no significant likelihood of removal to Cuba in the reasonably foreseeable future at any point since November 24, 2021, and that remains true today. Each additional day of confinement, on top of the years DHS has already had to attempt and fail to remove him, inflicts ongoing constitutional injury.

112. An expedited order to show cause with a ten-day return deadline is fully consistent with the text and purpose of 28 U.S.C. § 2243. Although the statute sets a three-day return as the baseline, it expressly authorizes the Court to allow additional time "not exceeding twenty days" for good cause. Here, given the governmental respondents and the need to assemble records, a ten-day deadline balances the government's logistical interests with the statutory command that habeas review proceed "forthwith" and that any extension beyond three days be narrowly tailored.

113. The issues the Court must resolve at the outset are discrete and largely documentary: whether there is any concrete likelihood of Petitioner's removal to Cuba in the reasonably foreseeable future, supported by sworn declarations or records of communications with Cuban authorities.

114. The balance of harms strongly favors expedited treatment. Petitioner faces ongoing unconstitutional detention and progressive physical harm with each passing day, while Respondents face only the modest administrative burden of responding within a shortened but statutorily contemplated timeframe. The public interest is served by prompt judicial review of potentially unlawful detention and alleged constitutional violations, especially where the petitioner has significant, documented health vulnerabilities.

115. Prompt issuance of an expedited Order to Show Cause will not prejudge the merits, but will ensure that the Court can consider the Petition on a complete

and current factual record while there is still time to prevent further irreparable injury to Petitioner's health and liberty interests.

For all of these reasons, Petitioner respectfully requests that the Court:

A. Issue an Order to Show Cause forthwith, directing Respondents to file a return to the Petition and to show cause why the writ should not be granted within ten (10) days of service of the Order; and

B. Require that Respondents' return specifically address the current status of efforts to remove Petitioner to Cuba and any basis for asserting a significant likelihood of removal in the reasonably foreseeable future; and,

C. Grant such other and further expedited relief as the Court deems just and proper.

REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

D. Assume jurisdiction over this matter;

E. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Petitioner's immediate release from immigration detention under reasonable conditions of supervision, including, but not limited to, restoration of his prior Order of Supervision (Form I-220B) or equivalent conditions;

F. Declare that Petitioner's continued detention beyond the presumptively reasonable six-month period is unlawful under 8 U.S.C. § 1231(a)(6) as construed by *Zadvydas v. Davis*, 533 U.S. 678 (2001), and violates the Due Process Clause of the Fifth Amendment;

G. Enjoin Respondents from re-detaining Petitioner under § 1231(a)(6) absent a material change in circumstances demonstrating a significant likelihood of removal in the reasonably foreseeable future and from attempting to coerce Petitioner into "self-removing" to Mexico or any other third country without lawful authority and formal acceptance by that country;

H. Order Respondents to provide Petitioner's counsel with all records and information pertaining to efforts to remove Petitioner to Cuba or any other country, post-order custody reviews, and any communications with foreign governments concerning his repatriation; and,

I. Grant such other and further relief, including costs and reasonable attorneys' fees if available under the Equal Access to Justice Act or other authority, as this Court deems just and proper.

Respectfully submitted this 1st day of May, 2026.

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Counsel for Petitioner

VERIFICATION

Pursuant to 28 U.S.C. § 2242 and 28 U.S.C. § 1746, the undersigned counsel certify under penalty of perjury that we represent the Petitioner and make this verification on his behalf; that we have discussed the facts and allegations within this Petition with the Petitioner; and that based upon these discussions and a review of the underlying records, the facts set forth in the foregoing Petition are true and accurate to the best of our knowledge, information, and belief, and the attachments thereto are true and correct copies of the originals.

Respectfully submitted this 1st day of May, 2026.

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