

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

RIGOBERTO ALBIZAR MARTINEZ

A [REDACTED]
Petitioner,

Civil Action No: _____

v.

PAM BONDI

Attorney General,

KRISTI NOEM

Secretary of Department of
Homeland Security;

HOMER BRYSON

U.S. ICE Field Office Director For
The Middle District of Georgia
Field Office, and STREEVAL Warden
at Stewart Detention Center,

Respondent(s)

PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241, BY A PERSON
SUBJECT TO INDEFINITE IMMIGRATION
DETENTION.

AND

MOTION FOR APPOINTMENT OF COUNSEL
PURSUANT TO 18 U.S.C. § 3006A

NOW BEEN

Petitioner, RIGOBERTO ALBIZAR MARTINEZ, hereby petitions this Court for a Writ of Habeas Corpus to remedy Petitioner's unlawful detention by Respondents, and to enjoin Petitioner's continued unlawful detention by the Respondents. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

BACKGROUND

Petitioner is a Citizen of CUBA. Detained and in the Custody of DHS/ICE in the United States, but has been **ordered removed** to CUBA by an Immigration Judge on 11-10-2025. Petitioner's removal order is Final, but the Petitioner cannot be removed to CUBA, thus Petitioner remains detained in DHS/ICE custody, and has been confined for a period far longer than the law mandates AS HE HAS NOW BEEN DETAINED OVER 180-DAYS AFTER A FINAL ORDER OF REMOVAL.

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia where DHS/ICE has contracted the institution to house Immigration detainees such as Petitioner. Petitioner is in the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, 28 U.S.C. §2241 (c)(1), and to the Immigration and Nationality Act (“INA”), 8 U.S.C. §1101 et seq. This Court has subject matter Jurisdiction under 28 U.S.C. §2241, Art IS9, cl. 2 of the United States Constitution (“ Suspension Clause”); and 28 U.S.C. §1331, as Petitioner is Presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, Laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (We conclude that §2241 Habeas Corpus proceedings remain available as a form for statutory and constitutional challenges to post-removal-period detention”) *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“**at it's historical core, the writ of Habeas Corpus has served as a means of reviewing the legality of executive detention, and it is in that context that it's protections have been strongest.**”) *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that Zadvydas applies to aliens found inadmissible as well as removable.)

VENUE

3. Venue lies in the Middle District of Georgia as the Petitioner is currently detained in the territorial jurisdiction of this Court, at the Stewart Detention Center in Lumpkin, Georgia. 28 U.S.C. §1391.

EXHAUSTION OF REMEDIES

4. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. After the Supreme Court decision in Zadvydas, the Department of Justice issued regulations governing the custody of aliens removed. *See* 8 C.F.R. §241.4. Petitioner received a final order of removal on 11-10-2025, and was supposed to have a 90-day custody review after being detained on 2-9-2026 or a 180-day review on 5-8-2026. Instead DHS/ICE has decided to continue his detention with-out his presence or knowledge at any review. **“NO DECISION WAS EVER MADE TO PETITIONER”**. DHS/ICE has never informed the petitioner of anything or/why it decided to continue his detention.

Like Zavvar v. Scott, 2025 U.S. Dist LEXIS 175897 Respondents have not been able to obtain any travel documents or find a country to accept him, not to mention that he has never been given notice of which Country they have tried to get to accept him. He is entitled to **“Seek Fear based relief from that Country”**, which would require additional proceedings as well. **CF. Guzman Chavez**, 594 U.S. At 537. ICE's Headquarters Post-order Detention Unit (“HQPDU”) **has not** informed Petitioner that it would release or continue to keep him in custody even after Cuba has Denied to accept him back to Cuba.

The custody review regulations do not provide for appeal from a HQPDU custody review decision. See 8 C.F.R. §241.4(d). **Especially when it has never been made or given to the Petitioner.**

5. No statutory exhaustion requirements apply to Petitioner claim of unlawful detention. Petitioner remains detained without any indication from the United States Government or the Government of Cuba that the Petitioner's repatriation is reasonably foreseeable. A Habeas Corpus petition is proper in light of these facts.

PARTIES

6. Petitioner is a Citizen of Cuba, detained and in the custody of DHS/ICE in the United States. But has been ordered removed to **Cuba** on **11-10-2025** by an Immigration Judge. It is known that Cuba will not accept Petitioner nor will it agree to repatriation in the reasonable foreseeable future.

7. Respondent Homer Bryson is the ICE field office director for the Middle District of Georgia for the Stewart Detention center in Lumpkin, Georgia field office of ICE and is Petitioner's immediate custodian, See Vasquez v. Reno, 233F.3d 688, 690 (1st Cir. 2000), cert. Denied, 122 S. Ct. 43 (2001).

8. Respondent Jason Streeval Warden at the Stewart Detention Center in Lumpkin, Ga where the Petitioner is currently detained under the authority of ICE, alternatively may be considered to be petitioner's immediate custodian.

STATEMENT OF FACTS

9. Petitioner was born in Cuba on  and fled the country to the United States and arrived in March of 2000 as a Political Refugee.

10. Petitioner agreed to the charges of Telephonic Threat to Damage or Destroy a building with an explosive device which ultimately caused an order of removal to be lodged against him.

11. Petitioner should be released on supervision with this Habeas Corpus petition and is recognized by various Court's decision's and the instant case dated **October 2, 2025** under Perez v. Noem, 2025 U.S. Dist. LEXIS 195132. **11TH CIRCUIT** As the Respondents have not and will not obtain travel documents for him to go to Cuba or another Country in the reasonable foreseeable future, and this now becomes cruel and unusual punishment just for the sake of detention!

12. Petitioner has been detained by DHS/ICE at Stewart Detention Center for over 180-days after a final order of removal has been issued.

13. As of today ICE has been unable to remove the petitioner to Cuba or any other Country.

14. Respondents attempted to send Petitioner to Mexico, but Mexico did not agree to accept the Petitioner, protect him or provide any status to him.

15. Petitioner knows for sure that Cuba will deny and has denied any and all request for travel

documents. (This has even been stated by his deportation officer, “That Cuba did not accept Petitioner”).

16. Petitioner has cooperated fully with all efforts of ICE to remove Petitioner from the United States, even though all parties acknowledge that Cuba did not accept him back to Cuba.

17. Petitioner's most recent 90-day custody review under the Cuban review plan, 8 C.F.R. §212.12 took place on 2-9-2026 and the 180 day review took place on 5-8-2026 with-out his presence or knowledge at which point the Petitioner still remains detained.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

18. In Zadvydas v. Davis, 533 U.S. 678(2001), the U.S. Supreme Court held that 8.U.S.C. §1231(a)(6), when “read in light of the Constitution's demands, limits an alien's post-order removal period detention to a period reasonably necessary to bring about the alien's removal from the United States.” 533 U.S. At 689. a “Habeas Court must[first] ask whether the detention in question exceeds a period reasonably necessary to secure removal.” Id. at 699 if the individual's removal “is not reasonably foreseeable, the Court should hold continued detention unreasonable and no longer authorized by the statute.” Id. at 699-700. In Clark v. Martinez, 543 U.S. 371(2005), the U.S. Supreme Court held that Zadvydas applies to aliens found inadmissible as well as removable.

19. In determining the length of a reasonable removal period, the Court adopted a “preemptively reasonable period of detention.” After 90 days, DHS has the discretion to release the detainee under reasonable conditions of supervision. The Government bears the Burden of disproving an alien's “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” See Zhou v. Farquharson, 2001 U.S. Dist. LEXIS 18239, 2-3 (D. Mass. Oct. 19, 2001) (quoting and summarizing Zadvydas). Moreover, “for detention to remain reasonable, as the period of prior post-order removal grows, what counts as the reasonably foreseeable future' conversely have to shrink.” Zadvydas, 533 U.S. At 701. ICE's administration regulations also recognize that the HQPDU has a maximum six-month period for determining whether there is a significant likelihood of a alien's removal in the reasonable foreseeable future. See 8 C.F.R. §241.4(k)(2)(ii).

20. An alien who has been detained beyond the presumptive period should be released where the government is unable to present documented confirmation that the foreign government at issue will agree to accept the particular individual in question. See Agbada v. Hohn Ashcroft, 2002 U.S. Dist. LEXIS 15797(D. Mass. August 22, 2002) (court “will likely grant” after ICE is “unable to present document confirmation that the government has agreed to [petitioner's] repatriation.” ; Zhou,

2001 U.S. Dist. LEXIS 19050 at *7(W.D. Wash February 28, 2002) (government's failure to offer specific information regarding how or when it expected to obtain the necessary documentation or cooperation from the foreign government indicated that there is no significant likelihood of petitioner's removal in the reasonably foreseeable future).

CLAIMS FOR RELIEF

COUNT ONE

STATUTORY VIOLATION

21. Petitioner re alleges and incorporates by reference paragraphs 1 through 20 above.

22. Petitioner's continued detention is unlawful and contravenes 8 U.S.C. §1231(a)(6) as interpreted by the Supreme Court in Zadvydas. Petitioner's 90-day statutory period of detention for continued removal efforts have passed as this is now his 2nd time going through a 90-day custody review process after being ordered removed by an Immigration Court and Judge on 11-10-2025.

MAKING IT OVER 180-DAYS DETAINED AFTER A FINAL ORDER OF REMOVAL

Respondent's are unable to remove the Petitioner to Cuba, because there is no repatriation agreement between the United States and Cuba for Political Refugees from the era that Petitioner arrived in the United States. In the instance of Martinez, the Supreme Court held that the continued indefinite detention of someone like the petitioner under such circumstances is unreasonable and not authorized by U.S.C. §1231(a)(6).

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

24. Petitioner re-alleges and incorporates by reference paragraphs 1 through 23 above.

25. Petitioner's continued detention violates his right to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. See e.g., Tam v. INS, 14 F. Supp. 2d. 1184(E.D. Cal 1998)(**Alien's retain substantive due process rights**).

26. The due process clause of the Fifth Amendment require that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents would have an interest in detaining Petitioner's in order to effectuate removal, that interest does not justify the indefinite detention of petitioner, who is not significantly likely to be removed in the reasonably foreseeable future. The United States Supreme Court in Zadvydas thus interpreted 8 U.S.C. §1231(a) to allow continued detention only for a period reasonably necessary to secure the alien's removal, because any other reading would go beyond the government's articulated interests to effect the alien's removal. See Kay v. Reno, 94 F. Supp. 2d. 546, 551 (M.D. Pa. 2000) (granting writ of Habeas Corpus,

because petitioner's due process rights were violated, and noting that **"If deportation can never occur, the government's primary legitimate purpose in detention-executing removal-is nonsensical."**)

Because Petitioner is unlikely to be removed to Cuba, his continued indefinite detention violates substantive due process.

27. **"Detention is now not driven by legitimate interest of removal at all, but rather detention for the sake of detention, motivated by animus towards, or ill will against the individual, or even a desire to inflict suffering."** C.F. Riverside, 500 U.S. At 56

28. If the non-citizen satisfies the initial burden **"which he clearly has,"** then the Government **"must respond with evidence sufficient to rebut that showing."** Id. If the Government fails to meet its burden, then the non-citizen must be released from detention. See Jennings v. Rodriguez, 583 U.S. 281, 299 (2018)

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

29. Petitioner re-alleges and incorporates by reference paragraphs 1 through 28.

30. Under the Due process clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he/she should not be detained. Petitioner in this case has been denied that opportunity. **There is no administrative mechanism in place for the petitioner to obtain a decision from a neutral arbiter or appeal a custody decision and that violates Martinez.** See generally 8 C.F.R. §212.12 The custody review procedures for Cubans are Constitutionally insufficient both as written and as applied. A number of courts have identified a substantial bias within ICE towards the continued detention of aliens, raising the risk of erroneous deprivation to constitutionally high levels. See, e.g., Phan v. Reno, 56 F. Supp. 2d. 1149, 1157 (W.D. Wash. 1999).

("INS does not meaningfully and impartially review the petitioner's status."); St. John v. McElroy, 917 F. Supp. 243, 251(S.D.N.Y. 1996) ("Due to community and political pressure, INS, an executive agency, has though they have served their sentences, on the suspicion that they may continue to pose a danger to the community."); See also Rivera v. Demore, No. C99-3042 THE, 199WL521177, (N.D. Cal. Jul. 13, 1999)(Procedural due process requires that aliens release determination be made by impartial adjudicator due to policy bias.)

COUNT FOUR

PROCEDURAL DUE PROCESS VIOLATION

31. Petitioner re-alleges and incorporates by reference paragraphs 1 through 30.

32. Petitioner in no way, shape, or form has refused or not cooperated with an order of removal, on the contrary the Petitioner has agreed to be removed to his native country of Cuba, and it was ordered in court that he would be removed to Cuba not any other country especially one in which he is not a Citizen, nor does he have any ties to such a country.

In **Ibarra-Perez v. United States**, the Ninth Circuit squarely held that § 1252(g) does not prohibit immigrants from asserting a "right to meaningful notice and an opportunity to present a fear-based claim before [they] [are] removed," *id.* at *7 the same claim that Mr. RIGOBERTO ALBIZAR MARTINEZ raises with respect to third-country removals. The court reasoned that § 1252(g) does not prohibit challenges to unlawful practices merely because they are in some fashion connected to removal orders." *Id.* Instead, § 1252(g) is "limited to actions challenging the Attorney General's discretionary decision's to initiate proceedings, adjudicate cases, and execute removal orders." **Arce v. United States**, 899 F. 3d 796, 800 (9th Cir. 2018). It does not apply to arguments that the government "entirely lacked the authority, and therefore the discretion," to carry out a particular action. *Id.* at 800. Thus, §1252(g) applies to discretionary decisions that [the Secretary] actually has the power to make, as compared to the violation of his mandatory duties." **Ibarra-Perez**, 2025 WL 2461663, at *9.

33. The same logic applies to all of Petitioner's claims, because he challenges only violations of ICE's mandatory duties under statutes, regulations, and the Constitution. Accordingly, "[t]hough 8 U.S.C. §1252(g), precludes this Court from exercising jurisdiction over the executive's decision to commence proceedings, adjudicate cases, or execute removal orders against any alien,' this Court has Habeas jurisdiction over the issues raised here, namely the lawfulness of [Mr. RIGOBERTO ALBIZAR MARTINEZ's] continued detention, the process required in relation to third-country removals, and DHS/ICE own rules, regulations and procedures since detaining the petitioner **Y.T.D. v. Andrews**, No. 1:25-cv-01100-JLT-SKO, 2025 WL 2675760, at *5 (E.D. Cal. Sep. 18, 2025). Other courts have agreed. See, e.g., **Kong v. United States**, 62 F. 4th 608 (1st Cir. 2023) at 617 ("§1252(g) does not Bar judicial review of Kong's challenge to the lawfulness of his detention," including ICE's fail[ure] to abide by its own regulations"); **Cardoso v. Reno**, 216 F. 3d 512, 516 (5th Cir. 2000) ("[Section 1252(g) does not bar Courts from reviewing an aliens detention order[.]"), **Parra v. Perryman**, 172 F. 3d 954, 957 (7th Cir. 1999) (1252(g) did not apply to a "claim concern[ing] detention"); **J.R. v. Bostock**, No. 2:25-cv-01161-JNW, 2025 WL 1810210, at *3 (W.D. Wash. June 30, 2025) (1252(g) did not apply to claims that ICE was "failing to carry out non-discretionary statutory duties and provide due process"); **D.V.D. v. U.S. Dep't of Homeland Sec.**, 778 F. Supp. 3d 355, 377-78 (D. Mass. 2025) (§ 1252(g) did not bar review of "the purely legal question of whether the Constitution and relevant statutes require notice and

a opportunity to be heard prior to removal of an alien to a third-country"). **Judge Brian E. Murphy in Boston ruled on Feb. 25, 2026 that the Trump administration's policy of deporting immigrants to third-countries (not their home countries) is unconstitutional. He found the policy violated due process by not allowing migrants to contest it.**

NOT GRANTING A PRELIMINARY INJUNCTION CAUSES IRREPARABLE HARM.

"Freedom from imprisonment from government custody, detention, or other forms of physical restraint- lies at the heart of liberty" that the Fifth Amendment protects. *Zadvydas*, 533 U.S. at 690. Furthermore, "[i]t is beyond dispute that Petitioner would face irreparable harm from removal to a third country." *Nguyen v. Scott*, No. 2:25-cv-01398, 2025 WL 2419288, at *26. In fact, "to dismiss Petitioner's claim for preliminary injunctive relief at this time would effectively preclude [him] from the relief [he] seeks entirely and potentially foreclose any relief that [he] could be entitled to as part of the D.V.D. Class if [he] is removed before the class-wide claims are resolved." *Sagastizado v. Noem*, __ F. Supp. 3d __, 2025 WL 2957002, *8 (S.D. Tex. Oct. 2, 2025). While Petitioner recognizes this Circuit's precedent with denial of requests of stays of removal proceedings, Petitioner is subject to further due process violations of being removed to a third party country that he has no ties and the fear of what could happen to him. Mr. RIGOBERTO ALBIZAR MARTINEZ is not challenging his final removal order or asking the Court to stay his removal indefinitely, but requesting that ICE/ERO follow proper procedures as outlined by *D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May. 21, 2025).

Removal to a Third-Party Country, Like Mexico, Violates Due Process Without Following The Mandatory Consecutive Procedures of 8 U.S.C. §1231(B)(2), Adequate Notice and An Opportunity To Be Heard. "Judge Brian Murphy ruled it Unconstitutional Feb. 25, 2026."

The government may not pursue its plan to remove Mr. RIGOBERTO ALBIZAR MARTINEZ to Mexico again as it failed to do so when it took him to Texas ~~and~~ for removal with out success, because 8 U.S.C. §1231(b)(2) requires that ICE first seek removal to Cuba and this mandatory procedure has already been violated with-out due process! **Mexico did not agree to accept, protect, or give any legal status to the Petitioner.**

1 Mr. Ibarra-Perez raised this claim in a post-removal Federal Tort Claims Act ("FTCA") case, *id.* at *2, while this is a pre-removal Habeas Petition. But the analysis under §1252(g) remains the same, because both Mr. Ibarra-Perez and Mr. RIGOBERTO ALBIZAR MARTINEZ are challenging the same kind of agency violations and actions. See *Kong*, 62 F. 4th at 616-17 (explaining that a decision about §1252(g) in a FTCA case would also affect Habeas jurisdiction.

"Th[at] statute provides four consecutive removal commands." Jama v. Immigr. & Customs Enft, 543 U.S. 335, 341 (2005). First, "the Attorney General shall remove the alien to the Country the alien so designates." 8 U.S.C. § 1231(b)(2)(A)(ii).

The Attorney General may "disregard [that] designation if" one of four criteria are met, but none are here. Mr. RIGOBERTO ALBIZAR MARTINEZ "did not fail to designate a country promptly." 8 U.S.C. § 1231(b)(2)(C)(i). ICE has not presented any evidence that Cuba has failed to respond to a request to remove Mr. RIGOBERTO ALBIZAR MARTINEZ to that country. § 1231(b)(2); see also Jama v. Immigr. & Customs Enft, 543 U.S. at 338 (reviewing a §1231(b)(2) argument set forth in a Habeas petition). Numerous Courts across the country have held that ICE's third country removal policy violates due process. See, e.g., Nguyen v. Scott, No. 2:25-CV-01398, 2025 WL 2419288, at *19 (W.D. Wash. Aug. 21, 2025) (holding that July 9, 2025 ICE memorandum "contravenes Ninth Circuit law" requiring notice of third country removals and an opportunity to apply for fear-based protections); Baltodano v. Bondi, No. CV-25-1958-RSI, 2025 WL 2987766, at *2 (W.D. Wash. Oct. 23, 2025) (same); Phetsadakone v. Scott, No. 2:25-CV-01678-JNW, 2025 WL 2579569, at *4-5 (W.D. Wash. Sep. 5, 2025); Sagastizado v. Noem, No. 5:25-cv-00104, 2025 WL 2957002, at *9-13 (S.D. Tex. Oct. 2, 2025) finding petitioner likely to succeed on "claim that he cannot be removed to a third country without sufficient notice and meaningful opportunity to raise a claim[.]" ; Y.T.D. v. Andrews, No. 1:25-cv-01100 JTL SKO, 2025 WL 2675760, at *6 (E.D. Cal. Sep. 18, 2025) ("In this Circuit, due process requires that Petitioner be afforded reasonable notice and an opportunity to pursue relief in relation to third-country removal.") **Due process has been denied here!**

Second, Mexico will only accept third-country deportees **"only if [they] would willingly go to Mexico."** (See exhibit B, the Declaration of officer Martin Parsons), in Rios v. Noem, No. 25-cv-2866-JES(S.D. Cal.)) Despite ICE's attempts to remove Mr. RIGOBERTO ALBIZAR MARTINEZ to a country he has no ties to, and a fear of what would happen to him, Mexico did not and will not accept him. As evident from stories across the Country, the Miami Herald confirms upon the stories of 12 Cuban men deported to Mexico:

Some Cubans said that officials told them that they could either get off the bus in Mexico or be sent to an unspecified location in Africa. Others said they were not told where they were heading, and others said Mexican authorities left them near the Guatemalan border and told [them] to head south' out of Mexico!

Claire Healy & Syria Ortiz-Blanes, Cubans with criminal records in the U.S. are being quietly deported to Mexico, Miami Herald (Oct. 21, 2025).

Cuban Nationals deported to Mexico "face an uncertain fate." Carla Gloria Colome, Cubans

deported by Trump to Mexico face an uncertain fate with no guarantees, El Pais (Nov. 2, 2025). Many are deported "without money, a phone, or identification documents," and must apply for refugee status with the Mexican Commission for Refugee Assistance." Id. Mr. RIGOBERTO ALBIZAR MARTINEZ was threatened with imprisonment of up to 4 years if he didn't go to Mexico and being left to fend for himself in a Country with no ties, identification, no money, or even a person of interest, Mr. RIGOBERTO ALBIZAR MARTINEZ knows for certain that he is vulnerable to being extorted, kidnapped, harmed, killed or left for Dead which is unacceptable!

MR. RIGOBERTO ALBIZAR MARTINEZ'S CONTINUED DETENTION VIOLATES ZADVYDAS AND 8. U.S.C. § 1231

Petitioner must also be released under Zadvydas because having proved DIIS/ICE was unable to remove him to Mexico in the past the government cannot show that there is a "significant likelihood of removal in the reasonably foreseeable future." as the government has conceded, the statutory period of 90-days has lapsed, just as the 180-day removal period has also long passed. The government cannot actually pretend that he will be removed to Cuba or Mexico in the reasonably foreseeable future because it failed to do so already when it took him to Texas for that purpose and was unsuccessful because Mexico did not and will not accept him unless he voluntarily wishes to go! "While there is always a possibility of an eventual removal it is not the same as a significant likelihood that removal will occur in the reasonably foreseeable future." Sanchez v. Noem, No. 5:25-cv-00104, 2025 U.S. Dist. LEXIS 269065, 2025 WL 3760317 at *10 (S.D. Tex. Nov. 14, 2025) see also Escalante v. Noem, No. 9:25-cv-00182-MJT, 2025 U.S. Dist. LEXIS 148899, 2025 WL 2206113 at *4 (E.D. Tex. Aug 2, 2025) A remote possibility or eventual removal is not analogous to a "**significant likelihood that removal will occur in the reasonably foreseeable future.**" (citations omitted), Kane v. Mukasey, No. CV-08-037, 2008 U.S. Dist. LEXIS 141911, 2008 WL 11393137, at *5 (S.D. Tex. Aug. 21, 2008, superseded, No. CVB-08-037, 2008 U.S. Dist. LEXIS 138999, 2008 WL 11393094 (S.D. Tex. Sept. 12, 2008), report and recommendation adopted No.-CV-B-08-037, 2008 U.S. Dist. LEXIS 139225 2008 WL 11393148 (S.D. Tex. Oct. 7, 2008.) "[A] theoretical possibility of eventually being removed does not satisfy the governments burden once the removal period has expired and Petitioner provides good reason to believe that removal is not significantly likely in the reasonable foreseeable future" (Citations omitted), alteration [*10]added)). Further, evidence of general steps being taken nationwide to remove

2 <https://www.miamiherald.com/news/local/immigration/article312432237.html>.

similarly situated individuals cannot satisfy the standard. See Phongsavanh v. Williams, No. 4:25-CV-00426-SMR-SBJ, 2025 U.S. Dist. LEXIS 221725 2025 WL 3124032,, at *5 (S.D. Iowa Nov. 7, 2025)

3 <https://english.elpais.com/international/2025-11-02/cubans-deported-by-trump-to-mexico-face-an-uncertain-fate-with-no-guarantees.html>

Respondent's failure to provide him with notice and an opportunity to be heard to contest his removal to a nation that is not his country of origin violates the Due process Clause, the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 551-559, 701-706, and the INA and its implementing regulations.

Like Zavvar v. Scott, 2025 U.S. Dist. LEXIS 175897 the petitioner in this case seeks an order directing Respondents to provide him with notice and an opportunity to contest removal to a third country on the basis of fear or likelihood of persecution in such a third country. Petitioner fled from a Communist country given asylum and C.A.T. comparable to that sought in D.V.D. See D.V.D., 2025 WL 1142968, at *24 (enjoining the Government from removing non-citizens to third-party countries without providing various procedural safeguards, including a "meaningful opportunity for the alien to raise a fear of return for eligibility for [Convention Against Torture ("CAT")] protections"). If granted the Habeas relief petitioner asks that it be ordered just as the case of Alic v. Dept of Homeland Security, 2025 U.S. Dist. LEXIS 193793 that Respondents and all their officers, agents, employees, attorneys, and persons acting on their behalf or in concert with them be prohibited from removing Petitioner to a third country without a meaningful opportunity to be heard in reopened removal proceedings with hearing before an immigration Judge.

The question as to whether Petitioner's detention is in violation of the Laws of the United States is one for a Federal Habeas Court to hear. 28 U.S.C. §2241. Accordingly, Petitioner files the accompanying petition for appointment of Counsel and request that this Court order his immediate release from detention/confinement at Stewart Detention Center located at 146 CCA Rd. Lumpkin, GA 31815.

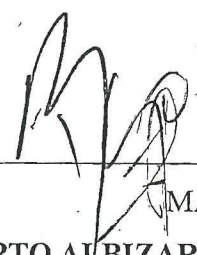
Therefore, Petitioner request that this Court appoint Counsel to represent Petitioner in this Habeas action if he is not immediately released.

PRAYER FOR RELIEF

THEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over the matter;
2. Grant the Petitioner a Habeas Corpus directing the respondent to immediately release petitioner from custody, under reasonable conditions of supervision,
3. Order respondent to refrain from transferring the petitioner out of the jurisdiction of ICE Director's Jurisdiction for the Middle District of Georgia while the petitioner remains in the Respondent's custody; and
4. Order Respondents and all their officers, agents, employees, attorneys, and persons acting on their behalf or in concert with them be prohibited from removing Petitioner to a third country without a meaningful opportunity to be heard in reopened removal proceedings with hearing before an immigration Judge especially once released on supervision.
5. Award Petitioner's Attorney fees and cost under the Equal Access to Justice Act("EAJA"), as amended, 5 U.S.C. §2412, and on other basis justified under law; and
6. Grant any other form of relief this court deems proper.

X



MAY-18-2026

RIGOBERTO ALBIZAR MARTINEZ

DETAINED AT



Stewart Detention Center

146 CCA Rd.

Lumpkin, GA 31815

CERTIFICATE OF SERVICE

I Swear, that a true and correct copy of the following Motion has been placed in the hands of an institution official to be furnished and forwarded by first class mail to the following parties listed below on May 8, 2026

1. U.S. DISTRICT COURT

For the Middle District of Georgia

Columbus Division

P.O. BOX 124

Columbus, GA 31902

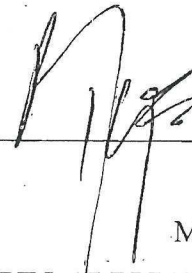
2. Office Of Chief Counsel DHS/ICE

Stewart Detention Center

146 CCA Rd.

Lumpkin, GA 31815

X



MAY- 18 -2026

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146 CCA Rd.

Lumpkin, GA 31815