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

JOSE ANGEL BARRETO ALFONZO

Petitioner,

v.

WARDEN of the Irwin County Detention Center, in his official capacity; David VENTURELLA, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; Markwayne MULLIN, in his official capacity as Secretary of the U.S. Department of Homeland Security; Todd BLANCHE, in his official capacity as Acting U.S. Attorney General; Ladeon FRANCIS, in his official capacity as Director of the ICE Atlanta Field Office, ,

Respondents.

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS

INTRODUCTION

1. Petitioner Jose Angel Barreto Alfonzo ("Petitioner") is presently being detained by U.S. Immigration and Customs Enforcement ("ICE") at the Irwin County Detention Center in Ocilla, Georgia. Prior to his detention, he resided in Johns Creek, Georgia with his U.S. citizen wife and 5-year-old daughter. He is the primary source of financial support for his family.

2. Petitioner is a native and citizen of Venezuela. He fled Venezuela with his family when he was 16 years old to seek safety in the United States. Petitioner was granted withholding of removal by an Immigration Judge ("IJ") on March 9, 2010, after a finding that he and his family's life and freedom would be threatened if they were returned to Venezuela. Since then, he

has lawfully resided in Georgia with his family and maintained lawful employment authorization. Petitioner has no criminal history and has never been in immigration custody prior to this instance

3. Despite Petitioner's relief from removal and over twenty years of residence in the United States, ICE officers arrested Petitioner without warning, cause, or observance of legal procedures required by regulation on May 26, 2026, while attending an interview with his U.S. citizen wife for a pending I-130 petition at the U.S. Citizenship and Immigration Services ("USCIS") Atlanta Field Office.

4. Should Respondents wish to remove Petitioner to Venezuela, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Respondents wish to remove Petitioner to any other country, they would first need to provide him with notice and the opportunity to apply for protection as to that country as well.

5. Until they do either of these things, they cannot remove Petitioner from the United States. Nonetheless, Respondents appear to be seeking to deport Petitioner without observance of any legal procedures, ripping him away from his wife and young daughter. Even more, Petitioner does not appear on the ICE Detainee Locator and Respondents have failed to respond to undersigned counsel's questions regarding his whereabouts.

6. Petitioner files this habeas petition to seek release from ICE custody because his continued detention is a violation of the Immigration and Nationality Act, the Foreign Affairs Reform Restructuring Act, and the Due Process Clause of the U.S. Constitution.

JURISDICTION

7. This action arises under the U.S. Constitution, the Immigration and Nationality Act of 1952, as amended ("INA"), 8 U.S.C. § 1101 *et. seq.*, and the Foreign Affairs Reform

Restructuring Act of 1998 (FARRA), Pub. L. 105-277 Div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1999) (codified as statutory note to § 1231).

8. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. This Court may grant relief pursuant to 28 U.S.C. § 2241 et. Seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Suspension Clause.

VENUE

10. Venue is proper in the U.S. District Court for the Middle District of Georgia under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within this District and his immediate physical custodian is located within this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

11. Venue is also properly in this Court because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia. *See also Braden v. 30th Judicial Cir. Ct. of Ky.*, 410 U.S. 484, 493–500 (1973).

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

13. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

14. Petitioner Jose Angel Barreto Alfono is a citizen of Venezuela who has resided in the United States for over 20 years. Petitioner was granted protection from removal to Venezuela under 8 U.S.C. § 1231(b)(3) on March 9, 2010. Prior to his detention, Petitioner was residing in Johns Creek, Georgia. Petitioner is currently detained at Irwin County Detention Center in Ocilla, Georgia.

15. Respondent Ladeon Francis is the ICE Field Office Director for Enforcement and Removal Operations ("ERO") for the states of Georgia, North Carolina, and South Carolina. As such, Mr. Francis is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

16. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). He is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

17. Respondent Todd Blanche is the Attorney General of the United States. He is responsible for the Department of Justice ("DOJ"), of which the Executive Office for Immigration Review ("EOIR") and the immigration court system it operates is a component agency. He is sued in his official capacity.

18. Respondent David Venturella is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

19. Respondent Warden of Irwin County Detention Center is the Warden where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTS AND PROCEDURAL HISTORY

20. Petitioner is a 36 year old citizen of Venezuela. *See* **Ex. 1**, Venezuelan Passport. He is not a citizen of any other country. Petitioner entered the United States in 2005 at the age of 16 with his father, stepmother, and two half-siblings.

21. Petitioner's father affirmatively applied for asylum with USCIS in March 2009 and included Petitioner as a derivative. His application for asylum was then referred to the Miami Immigration Court and Petitioner and his family were each issued a Notice to Appear on May 1, 2009. *See* **Ex. 2**, Petitioner's Notice to Appear, Dated May 1, 2009.

22. On March 9, 2010, the IJ granted Petitioner withholding of removal pursuant to 8 U.S.C. § 1231(b)(3), preventing his deportation to Venezuela because he established that he was more likely than not to be persecuted in Venezuela if he were returned. *See* **Ex. 3**, Order of the Immigration Judge, Dated March 9, 2010. This order remains in full force and effect; it has not been rescinded or terminated by any court.

23. Petitioner was never detained during or after his removal proceedings. He went on to build his life in the United States for the next 16 years. Petitioner married his U.S. citizen wife, welcomed his U.S. citizen daughter, and has been consistently working with authorization and providing for his family. *See* **Ex. 4**, Marriage Certificate; *see also* **Ex. 5**, Petitioner's wife's U.S. Passport and Certificate of Naturalization; *see also* **Ex. 6**, Petitioner's daughter's Birth Certificate; *see also* **Ex. 7**, Petitioner's 2025 W2s. He has not been convicted of any crimes.

24. On May 1, 2022, Petitioner's wife filed Form I-130, Petition for Alien Relative for Petitioner. *See* **Ex. 8**, Form I-130, Receipt Notice.

25. On May 26, 2026, Petitioner and his wife attended an interview for their pending I 130 application at the USCIS Atlanta Field Office. *See* **Ex. 9**, USCIS Interview Notice. During the interview, ICE agents entered the room and asked to speak to Petitioner. Petitioner was then escorted outside and told that they were executing his removal order. Petitioner informed the ICE agents of his grant of withholding from 2010 and told them that he had presented the IJ Order to the USCIS officer. Nonetheless, Petitioner was arrested and taken into custody without prior notice or explanation. He was taken to the ICE/ERO Atlanta Field Office, where he was detained for 2 days. Then, on May 28, 2026, Petitioner was transferred to Federal Correctional Institute in Atlanta, Georgia. Later, on June 5, 2026, Petitioner was transferred to Irwin County Detention Center, where he remains detained today and faces imminent removal to a third country.

26. Nonetheless, upon information and belief, Respondents have not formally designated any third country for removal. Indeed, since there is no third country in which Petitioner has a claim to legal immigration status, there is no third country to which Respondents can remove Petitioner without that third country sooner or later removing him to Venezuela, where it has already been determined that he will face persecution. This chain refoulement would violate the withholding of removal statute just as surely as if Respondents carried out the removal directly to Venezuela. Should Respondents designate a third country as a country of removal, Petitioner intends to submit a statement of fear of third-country removal as to any country so designated.

27. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

LEGAL FRAMEWORK

A. Withholding of Removal and the Convention Against Torture

28. U.S. immigration law affords noncitizens in the United States three forms of protection from persecution or torture: asylum, withholding of removal, and protection under the Convention Against Torture ("CAT").

29. Individuals who are not eligible for asylum, e.g., because they did not apply within one year of entering the country, *see id.* § 1158(a)(2)(B), may qualify for withholding of removal, *id.* § 1231(b)(3)(A); *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a "mandatory" protection that prohibits removal to a designated country where a noncitizen establishes that they are more likely than not to face persecution. *INS v. Aguirre-Aguirre*, 526 U.S. 415, 419 (1999). If a noncitizen is granted withholding of removal, "DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated." *Johnson v. Guzman Chavez*, 594 U.S, 523, 531 (2021). No exceptions lie.

30. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f).

31. Finally, pursuant to FARRA, Congress instructed that the U.S. government may not "expel, extradite, or otherwise effect the involuntary return of *any person* to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture." Pub. L. 105-277 Div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1999) (codified as statutory note to § 1231).

B. The INA's Scheme for Third Country Removal

32. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some *other* country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to *that* country as well. 8 U.S.C. § 1231(b)(3)(A). *See also Kumar v. Wamsley*, 2:25-cv-02055-KKE (Western District of Washington, November 17, 2025); *see also Salim Nizar Esmail v. Noem*, No. 2:25-CV08325-WLH-RAO, 2025 WL 3030589, at *5 (C.D. Cal. Sept. 26, 2025); *see also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received "ample notice and an opportunity to be heard").

33. As relevant here, the INA "provides four consecutive removal commands" about where to remove a noncitizen. *Jama*, 543 U.S. at 341. First, the noncitizen must be provided the opportunity to "designate one country to which the [noncitizen] wants to be removed." 8 U.S.C. § 1231(b)(2)(A)(i). Second, if the noncitizen declines to designate a country, DHS then designates the "country of which the [noncitizen] is a subject, national, or citizen" for removal, as required by statute. *Id.* § 1231(b)(2)(D).

34. Third, if DHS is unable to remove the individual to either the country of their designation or the country of which they are a subject, national, or citizen, then the government is required to remove them to any of the following options: (1) "[t]he country from which the [noncitizen] was admitted to the United States;" (2) "[t]he country in which is located the foreign port from which the [noncitizen] left for the United States or for a foreign territory contiguous to the United States;" (3) "[a] country in which the [noncitizen] resided before [they] entered the

country from which [they] entered the United States;" (4) "[t]he country in which the [noncitizen] was born;" (5) "[t]he country that had sovereignty over the [noncitizen's] birthplace when the [noncitizen] was born;" or (6) "the country in which the [noncitizen's] birthplace is located when the [noncitizen] is ordered removed." *Id.* § 1231(b)(2)(E).

35. Finally, only where it is "impracticable, inadvisable, or impossible to remove the [noncitizen] to each country described" above may DHS seek removal to some other alternative country. *See id.* § 1231(b)(2)(E)(vii).

36. Notably, no matter where DHS seeks to remove a person, the INA's protections against removal to a country where a person may face persecution and FARRA's protections against removal to a country where a person may face torture apply. *See* 8 U.S.C. § 1231(b); FARRA § 2242(b); 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18; *see also, e.g.*, *Jama v. ICE*, 543 U.S. 335, 341, 348 (2005).

C. Constitutional Limits on Detention and Noncitizens' Due Process Rights

37. The Due Process Clause applies "to all 'persons' within the United States…whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690.

38. For individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. §1231(a)(1)(A).

39. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements).

40. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691.

41. The purpose of detention during and beyond the removal period is to "'secure[] the alien's removal." *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court "read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien's removal." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

42. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." *See id.* at 689.

43. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a

"presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

44. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

D. The Nationwide Class Action *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass.).

45. On March 23, 2025, four noncitizens filed *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass.), a putative nationwide class action challenging, inter alia, DHS's practice of failing to provide noncitizens with certain final orders of removal with meaningful notice and opportunity to raise a fear-based claim before DHS could deport them to any country not designated on their removal order. Plaintiffs alleged that they are entitled to such protections pursuant to 8 U.S.C. § 1231(b)(3), FARRA, and the Due Process Clause prior to any third-country removal.

46. On March 30, 2025, in response to the court's issuance of a temporary protective order (TRO) ensuring protections, DHS issued a memo entitled "Guidance Regarding Third Country Removals." *Guidance Regarding Third Country Removals*, (Mar. 30, 2025), https://immigrationlitigation.org/wp-content/uploads/2025/04/43-1-Exh-A-Guidance.pdf (hereinafter, "March 30 Memo").

47. Pursuant to the March 30 Memo, DHS does not need to provide any notice or process whatsoever to a noncitizen prior to their removal if the United States has received "diplomatic assurances [from the country of removal] that [noncitizens] removed from the United States will not be persecuted or tortured." March 30 Memo at 1.

48. If the U.S. has not received such assurances, a deportation officer must "inform the [noncitizen] of removal to [the third] country." *Id.* at 7. "Immigration officers will not affirmatively ask whether the [noncitizen] is afraid of being removed to that country." *Id.* If a noncitizen states a fear, then U.S. Citizenship and Immigration Services (USCIS) must screen the noncitizen "within 24 hours of referral from the immigration officer." *Id.* At the screening, the noncitizen must prove that it is "more likely than not" they will be persecuted or tortured upon removal.

49. This process differs dramatically from the typical standard of review applied in reopened removal proceedings in which an immigration judge can assess an individual's fear-based claim in the first instance.

50. The process also differs from the reasonable fear process, where USCIS assesses only if there is a "reasonable possibility" the noncitizen could establish they are likely to face persecution or torture if provided the opportunity to present their full case to an immigration judge. *See* 8 C.F.R. § 208.31(c) (outlining reasonable fear interview procedure for persons with reinstatement orders or administrative removal orders under 8 U.S.C. §§ 1231(a)(5), 1228(b), respectively). A "reasonable possibility" is a lower standard of proof than the "more likely than not" standard required to win a grant of withholding of removal or CAT protection.

51. On April 18, 2025, the district court in *D.V.D.* certified a nationwide class of noncitizens as follows:

> All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) whom DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

D.V.D. v. DHS, 778 F. Supp. 3d 355, 378 (D. Mass. 2025).

52. The district court also issued a classwide injunction requiring the government to undertake certain procedures before removing a person to a third country, rejecting the March 30 Memo policy as sufficient. *Id.* at 392–93. *D.V.D. v. DHS.*, No. CV 25-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025). The *D.V.D.* defendants subsequently obtained a stay of the preliminary injunction from the Supreme Court on June 23, 2025, but the Court did not provide any reasoning. *See DHS v. D.V.D.*, 145 S. Ct. 2153 (2025). The preliminary injunction was later dissolved. *See D.V.D. v. DHS*, No. CV 25-10676-BEM, ---F. Supp. 3d---, 2026 WL 521557 (D. Mass. Feb. 25, 2026).

53. Following that decision, on July 9, 2025, ICE issued guidance regarding how to implement the March 30 Memo. ICE, *Third Country Removals Following the Supreme Court's Order in Department of Homeland Security v. D.V.D., No. 24A1153 (U.S. June 23, 2025)* (July 9, 2025), https://immigrationlitigation.org/wp-content/uploads/2025/07/190-1-July-9-Guidance.pdf (hereinafter, "July 9 Guidance"). The July 9 Guidance is identical to the March 30 Memo except that, in cases where diplomatic assurances do not exist, it provides that an officer will serve a "Notice of Removal" with interpretation. July 9 Guidance at 1.

54. It further provides that DHS may effectuate removal 24 hours after serving notice; however, "[i]n exigent circumstances," with approval from chief counsel of DHS or ICE, DHS may execute removal to the third country with a mere six hours' notice if ICE provides the noncitizen "means and opportunity to speak with an attorney." *Id.*

55. On February 25, 2026, the district court in *D.V.D.* entered a final judgment on the class's claims. *D.V.D. v. DHS*, No. CV 25-10676-BEM, ---F. Supp. 3d ----, 2026 WL 521557 (D. Mass. Feb. 25, 2026). The court granted the plaintiffs' motion for summary judgment in part, setting aside as "unlawful" DHS' third-country removal policy, as embodied in the March 30

Memo and July 9 Guidance *Id.* at *44. The court further declared that class members have the right to both "meaningful notice before removal to any third country" as well as "a meaningful opportunity to raise a country-specific claim against removal before removal to any third country." *Id.* at *44; *id.* at *27–40 (analyzing both statutory and constitutional bases for these rights and how DHS' policy violated them).

56. The court concluded that "the March Guidance extinguishes valid challenges to third-country removal by effecting removal before those challenges can be raised," for the guidance "does nothing to safeguard" withholding of removal claims and is at best "insufficient" in safeguarding CAT claims. *Id.* at *39.

57. The court also declared that, prior to a third-country removal, Respondents are required to follow 8 C.F.R. § 1240.12(d) by "first seek[ing] removal to that class member's designated country of removal or specified alternative country or countries of removal, as provided in that class member's final order of removal," as well as 8 U.S.C. § 1231(b) by "first seek[ing] removal to that class member's designated country of removal or country or countries of citizenship, if any." *Id.* at *44.

58. Defendants filed an appeal of the district court's decision and requested an emergency stay of the district court's order. *See D.V.D., et al v. U.S. Department of Homeland Security, et al.*, Case No. 26-1212 (1st Cir.). On March 16, 2026, the First Circuit granted an emergency stay of the district court's order, and sua sponte issued an expedited scheduling order on the underlying appeal. Oral arguments took place on May 13, 2026.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA (8 U.S.C. § 1231)

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

60. First, as interpreted by the Supreme Court, 8 U.S.C. § 1231(a)(6) authorizes detention beyond the 90-day removal period only for a "period reasonably necessary to bring about the [noncitizen's] removal from the United States." *Zadvydas*, 533 U.S. at 701. Here, Petitioner's removal order became administratively final on March 9, 2010, over sixteen years ago. Within that time, Respondents have made no efforts to rescind or terminate Petitioner's withholding grant or remove Petitioner to a specifically identified third country.

61. On information and belief, Petitioner has not engaged in any conduct to trigger an extension of the removal period under 8 U.S.C. § 1231(a)(1)(C). Because it has been far more than six months since Petitioner's removal order became administratively final, it is presumed that his removal is no longer reasonably foreseeable. *See Zadvydas*, 533 U.S. at 699-701; *see also Zavvar*, 2025 WL 2592543, at *4 ("[T]he six-month period runs from the beginning of the removal period, even if the noncitizen is not detained throughout that period."); *Tadros*, 2025 WL 1678501, at *3 (similar); *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 500 (S.D.N.Y. 2009) (similar).

62. Moreover, unlike the Petitioner in *Zadvydas*, Petitioner has been granted withholding of removal to Venezuela, "substantially increas[ing] the difficulty of removing" Petitioner. *Zavvar v. Scott, et al*, 2025 WL 2592543, at *15; *Munoz-Saucedo*, 2025 WL 1750346, at *6; see 8 C.F.R. 1208.24(f). Petitioner cannot be removed to Venezuela without the lifting of the order providing for withholding of removal. *Id.*

63. Further, 8 U.S.C. § 1231(b)(3) and its implementing regulations prevent removal to a country where a noncitizen is more likely than not to face persecution. Notwithstanding this statutory mandate, DHS seeks to remove Petitioner to an unidentified third country without providing him meaningful notice and opportunity to access the protections required pursuant to 8 U.S.C. § 1231(b)(3) and its implementing regulations.

64. Accordingly, because Respondents are violating 8 U.S.C. § 1231(a)(6) and 8 U.S.C. § 1231(b)(3) and its implementing regulations, and for the reasons provided by the district court in *D.V.D.*, DHS' attempt to remove Petitioner to a third country is unlawful.

COUNT II
Violation of FARRA

65. Petitioner realleges and incorporates by reference each and every allegation contained in the paragraphs above as if fully set forth here.

66. FARRA and the implementing regulations prevent removal to a country where a noncitizen is more likely than not to face torture. Notwithstanding this statutory mandate, DHS seeks to remove Petitioner to a third country without providing him meaningful notice and opportunity to access the protections required pursuant to FARRA and the CAT regulations.

67. Accordingly, Respondents are violating FARRA and the CAT regulations and for the reasons provided by the district court in *D.V.D.*, DHS' attempt to remove Petitioner to a third country is unlawful.

COUNT III
Violation of Fifth Amendment Right to Substantive Due Process

68. Petitioner realleges and incorporates by reference each and every allegation contained in the paragraphs above as if fully set forth here.

69. Civil immigration detention violates substantive due process if it is not reasonably related to its statutory purpose. *See id.* at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and to prevent danger to the community. *Zadvydas*,

533 U.S. at 690; *Demore*, 538 U.S. at 514-15. Petitioner's detention is not reasonably related to the primary statutory purpose of ensuring imminent removal. Over the past sixteen years, the government has made no effort to effectuate Petitioner's from the United States or designate a third country of removal. Even more, it is vital to the removal foreseeability analysis to acknowledge that "even if ICE identified a third country, Petitioner . . . would be entitled 'to seek fear-based relief from removal to that country,' which would require 'additional, lengthy proceedings'"). *See Munoz-Saucedo*, 2025 WL 1750346, at *7. Thus, here, there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future.

70. The lack of any action on behalf of Respondents for sixteen years, and the lack of an explanation as to why Petitioner was detained on May 26, 2026, all lead to the conclusion that Petitioner is unlikely to be afforded the constitutional protections required under the law without this Court's immediate intervention. *See Villanueva v. Tate*, 2025 WL 2774610, at *10 (S.D. Tex. 2025) (where the court granted the habeas petition based on *Zadvydas* because the petitioner had withholding of removal, respondents had not initiated proceedings to lift the order granting withholding of removal, respondents made no attempt to remove petitioner for 8 years after his final order, and there was no change in circumstances to make petitioner's removal foreseeable).

71. Further, there is no evidence to suggest that Petitioner poses a danger to the community. To the contrary, he has led a law-abiding life, dedicated to his work and family.

72. Petitioner's detention is unrelated to the only two purposes justifying civil immigration detention and thus, contravenes Petitioner's substantive due process rights.

COUNT IV
Violation of Fifth Amendment Right to Procedural Due Process

73. Petitioner realleges and incorporates by reference each and every allegation contained in the paragraphs above as if fully set forth here.

74. Respondents' policy on third-country deportations allows a noncitizen to be deported to a third country based on generalized assurances from that country's government that the noncitizen will not be tortured in that country. However, the Due Process Clause requires DHS to provide Petitioner with meaningful notice and a meaningful opportunity to present claims for various forms of protection from removal

75. Specifically, Petitioner has a procedural due process right not to be removed to any country in which he fears persecution or torture, or to any country which he fears will re-deport him to Venezuela where it has already been judicially determined that he is more likely than not to face persecution or torture, without an IJ first reviewing his claim of fear of removal. Here, as explained above, Respondents have had more than sixteen years to designate a country of removal for Petitioner, yet they have not even attempted to do so. Still, Respondents seek to remove Petitioner to a third country without providing meaningful notice or a meaningful opportunity to seek protection under the mandatory provisions of 8 U.S.C. § 1231(b)(3) and FARRA's provisions with respect to CAT.

76. Accordingly, Respondents are violating the Due Process Clause of the Constitution and for the reasons provided by the district court in *D.V.D.*, DHS' attempt to remove Petitioner to a third country is unlawful.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an Order to Show Cause ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

c. Enjoin Respondents from removing Petitioner outside this District during the pendency of this action;

d. Enjoin Respondents from removing Petitioner to Venezuela, unless and until his order of Withholding of Removal is terminated, including all appeals;

e. Enjoin Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal or protection under CAT as to that country, including all appeals;

g. Issue a writ of habeas corpus, ordering that Petitioner be released from physical custody;

h. Award attorney's fees and costs under the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

i. Grant any other and further relief that this Court deems just and proper.

Executed this 8th of June, 2026.

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Attorneys for Petitioner

**Motion for pro hac vice admission forthcoming*

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 8th of June, 2026

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