UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Case No. 26-cv-1966

JIMMIE ANGEL DURAND-CRESPO,

Petitioner,

v.

WARDEN, Florida Soft Sided Facility, in his official capacity;

KELIE WALKER, in her official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office;

Respondents.
_____/

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Jimmie Angel Durand-Crespo ("Mr. Durand"), by and through undersigned counsel, submits this Petition for Writ of Habeas Corpus pursuant to 28 U. S. C. § 2241.

INTRODUCTION

1. Mr. Durand is a 61-year-old aviation mechanic who is unlawfully detained at the Florida Soft Side South facility in Ochopee, Florida, also known as Alligator Alcatraz.

2. Mr. Durand is a Venezuelan national who has been living in Florida since 1990. He has a home, a U.S. citizen wife, two U.S. citizen children, and gainful legal employment as an aviation mechanic. His wife is pregnant and expecting a

child in July 2026.

3. Mr. Durand has Withholding of Removal to Venezuela, an approved I-130 spousal petition, and 23 years of compliance with ICE annual check-ins.

4. U.S. Immigration and Customs Enforcement ("ICE") has ignored its own regulations in detaining Mr. Durand.

5. Mr. Durand's detention is prolonged, indefinite, and devoid of legal purpose. His detention violates the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment.

6. There is no reasonable likelihood of Mr. Durand being legally deported.

7. Therefore, Petitioner requests this Court grant his Petition and order the Respondents to release him from custody immediately.

PARTIES

8. Petitioner, Jimmie Angel Durand-Crespo, is a native and citizen of Venezuela. He is currently detained at Alligator Alcatraz.

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

10. Respondent Kellie Walker is the Acting Field Office Director for the ICE Miami Office of Enforcement and Removal Operations. In this capacity, she has jurisdiction over Mr. Durand as his legal custodian. Ms. Walker is sued in her official capacity.

JURISDICTION

11. This action arises under the Constitution of the United States of America, 28 U.S.C. § 2241 *et seq.* (habeas corpus), the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, and Title 8 of the Code of Federal Regulations.

12. The Court has jurisdiction over this case under 28 U.S.C. § 2241 (habeas corpus), and § 1331 (federal question).

13. The Court may grant relief pursuant to the U.S. Const., Art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (declaratory relief), and 28 U.S.C. § 2241 (habeas corpus).

14. "[T]he primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear these cases." *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

15. Venue is proper because Mr. Durand is detained at Alligator Alcatraz, within the geographical confines of the Middle District of Florida. *See* 28 U.S.C. §§ 1391(e)(1)(B), (C); 28 U.S.C. §2241(d).

FACTUAL BACKGROUND

16. Mr. Durand is a 61-year-old Venezuelan national who has been living in Florida since 1990.

17. On September 19, 2002, an immigration judge issued a removal order against Mr. Durand. However, that same day, the immigration judge granted Mr.

Durand Withholding of Removal, after the Executive Office for Immigration Review agreed that Mr. Durand's "political problems in Venezuela" prevented his return to that country. Exhibit 1 ("Decision of the Immigration Judge"). Mr. Durand was promptly released on an Order of Supervision ("OSUP"). Exhibit 2.

18. Mr. Durand's danger in Venezuela stems from [redacted]

[redacted]

20. Mr. Durand continues to have Withholding of Removal, pursuant to 8 U.S.C. § 1231(b)(3). ICE has made no efforts to revoke his Withholding of Removal. Given the unchanged political situation in Venezuela, such efforts would be futile; the regime that persecuted Mr. Durand decades ago remains in power today.

21. Since 2002, Mr. Durand has been married to a U.S. citizen, fathered two American children, and worked as an aviation mechanic. He complied with his annual ICE check-ins, as required by his OSUP.

22. In approximately 2012, he bought a home in Hialeah Gardens, Florida.

23. On or around March 27, 2014, Mr. Durand was convicted of attempting to shoplift from Walmart. He was sentenced to one year and one day in

prison. He served his time and returned to his life, including his annual ICE check-ins. Each year since then, the ICE officer concluded that there was no change in circumstances that would justify revoking his OSUP.

24. In 2018, Mr. Durand's U.S.-citizen wife submitted an I-130 petition on behalf of Mr. Durand, so that he could obtain permanent lawful residency. *See* Exhibit 3 (approval notice).

25. On July 28, 2021, USCIS approved Mr. Durand's I-130, rendering him eligible to apply for lawful permanent residency. *Id.*

26. On February 10, 2026, Mr. Durand applied for Form I-212, Application to Reapply for Admission After Removal. Exhibit 4 (USCIS receipt reflecting pending status). That application remains pending.

27. Mr. Durand lawfully obtained an Employment Authorization Document (EAD) and renewed it annually, without issue, for over 20 years. *See, e.g.*, Exhibit 5 (approved EAD). However, in 2025 and 2026, USCIS returned his renewal application four times for purported errors in filling out the form. As a result, his EAD expired on February 14, 2026. Because his EAD was expired, he could not renew his Florida driver's license, which had a one-year expiration date.

28. On February 21, 2026, approximately one week after his driver's license expired, Mr. Durand was stopped for a minor traffic violation in Hiahleah Gardens, Florida.

29. On February 25, 2026, Mr. Durand was transferred to ICE custody and detained at Alligator Alcatraz. He remains there today. Exhibit 6 (ICE Detainee

Locator).

30. Notably, DHS has not reopened an immigration case or issued a Notice to Appear. Mr. Durand is languishing in detention with no notice as to the reason for his detention. He petitions this Court "for protection of the Great Writ of habeas corpus" so that he can be released prior to his child's birth in July. *Arias v. Noem*, 818 F. Supp. 3d 864, 865 (W.D. Tex. 2026) (criticizing the government for failing to follow a "modicum of due process" and ordering petitioners' release).

CAUSES OF ACTION

COUNT ONE
Violation of the Due Process Clause of the
Fifth Amendment to the U.S. Constitution
(Substantive Due Process - Unlawful Detention)

31. Mr. Durand re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-30.

32. Noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976).

33. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas*, 533 U.S. at 690. Because "liberty is the norm, and detention prior to trial or without trial is the carefully limited exception," the government may imprison people as a preventive measure only within strict limits.

Foucha v. Louisiana, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).

34. Immigration detention is civil detention and must "bear a reasonable relation to the purpose for which the individual was committed." *Zadvydas*, 533 U.S. at 690 (cleaned up). It must remain "nonpunitive in purpose and effect." *Id.*; *see, e.g.*, *Schall v. Martin*, 467 U.S. 253, 264–69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).

35. Under 8 U.S.C. § 1231(a)(2)(A), detention is mandatory during the 90 days following the entry of a final order of removal. *Hidalgo Hernandez v. Noem, et al.*, 2026 WL 809576, *4 (M.D. Fla. Mar. 24, 2026). After that period, detention may continue only for a period "reasonably necessary" to effectuate removal. *Id.*

36. The Supreme Court has identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *Zadvydas,* 533 U.S. at 690-91.

37. Mr. Durand is not a flight risk because he (a) is married to a U.S. citizen, (b) his wife is expecting a child in July, 2026, (c) he has owned a home since 2012, (d) he complied with yearly ICE check-ins for decades, and (e) he has an approved I-130 as well as a pending I-212 application, which are the appropriate legals steps to obtaining Legal Permanent Resident status.

38. As for danger to the community, *Zadvydas* stressed that preventive detention based on dangerousness is permissible "only when limited to specially dangerous individuals." *Id.* at 691. Mr. Durand's convictions for shoplifting and

driving with an expired license do not render him dangerous. Indeed, ICE noted after each annual check-in that there was "no change in circumstance" that would justify revoking his OSUP.

39. Importantly, Mr. Durand's final order of removal to Venezuela has remained unexecuted for decades, and removal to that country is impossible because he has been granted Withholding from Removal. ICE has not attempted to follow legal process to revoke his Withholding status; he currently has no immigration proceedings. Therefore, he has no opportunity to apply for bond from an Immigration Judge.

40. While ICE officers have suggested removing him to Mexico, no immigration judge has designated Mexico or any other country as a third country of removal. Furthermore, the Administration's third-country removal program is illegal. *See D.V.D. v. U.S. Dep't of Homeland Sec.*, 821 F. Supp. 3d 102, 117 (D. Mass. Feb. 25, 2026) ("This case is about whether the Government may, without notice, deport a person to the wrong country . . . thereby depriving that person of the opportunity to seek protections to which he would be undisputedly entitled."); *see also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply for . . . withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.").

41. Additionally, to the extent Respondents intend to send Mr. Durand to Mexico, it is the policy and practice of that country to return non-Mexican

individuals deported from the United States to their country of origin, regardless of their credible fears of persecution.[1] In this case, that would entail Mr. Durand's forcible return to Venezuela, the country wherein Mr. Durand's life would be in peril, according to the immigration judge who granted him Withholding of Removal in 2002. *See* Exhibit 1.

42. In short, there is no likelihood of Mr. Durand being legally deported, so there is no valid purpose of his ongoing, indefinite detention. *See Zadvydas*, 533 U.S. at 690.

COUNT TWO
Violation of the Due Process Clause of the
Fifth Amendment to the U.S. Constitution
(Procedural Due Process)

43. Mr. Durand re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-30.

44. Mr. Durand was denied a pre-deprivation process before being denied his liberty and re-detained by ICE in violation of his procedural due process rights. *See Morrissey v. Brewer*, 408 U.S. 471, 485 (1972). It violates his procedural due process rights under (1) the *Accardi* Doctrine and (2) *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

45. Under the *Accardi* Doctrine, agencies of the government are required to follow their own rules or procedures when those rules or procedures affect

[1] *See, e.g.*, American Immigration Council, "What are Third-Country Removals?" (Dec. 5, 2025), https://www.americanimmigrationcouncil.org/fact-sheet/what-are-third-country-removals-factsheet/; Amnesty International, "Refoulement in Mexico: Overlooked, Under-Protected" (Jan. 23, 2018), https://www.amnesty.org/en/latest/news/2018/01/refoulement-in-mexico/.

people's fundamental rights. *United States ex rel. Accardi v. Shaughnessy,* 347 U.S. 260 (1954); *see also Romano-Murphy v. Comm'r*, 816 F.3d 707, 720 (11th Cir. 2016).

46. ICE failed to follow its own regulations governing revocation of an order of supervision under 8 CFR § 241.4 and § 241.13. Section 241.4(l) requires that, "upon revocation, the alien will be afforded an initial formal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." ICE did not provide Mr. Durand with a notice or an interview that would allow him to contest the reasons for revocation of his order of supervision.

47. When a federal agency fails to follow its own procedures outlined in regulation, judicial review is available if the final agency action prejudices the plaintiff. *See Graham v. Caston*, 568 F.2d 1092, 1097 (5th Cir. 1978) (citing *Accardi v. Shaughnessy*, 347 U.S. at 260). Mr. Durand was prejudiced by the lack of any individualized review of dangerousness or flight risk, and he was not given any opportunity to respond. ICE must be required to follow its own regulations. Because Mr. Durand was denied the process he was due, he must be released. *See Rodriguez Romero v. Ladwig*, No. 25-cv-1106, 2026 WL 321437, at *8 (M.D. La. Feb. 6, 2026) (stating in the release revocation context that where a rule was intended to "avoid erroneous deprivation of a noncitizen's liberty," then "[n]othing this Court can do can retroactively cure the lack of process resulting in Petitioners' wrongful detention," and therefore ordering release).

48. Under *Mathews v. Eldridge*, 424 U.S. at 335, the Court balances (1) the private interest affected; (2) the risk of erroneous deprivation through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including fiscal and administrative burdens.

49. The first factor weighs in Mr. Durand's favor, since he has an interest in being free from detention. He has significant ties to the community, owns a home in Florida, and he has a U.S. citizen wife, two U.S. citizen children, and a third expected within a month.

50. The second factor weighs in his favor as well, since Mr. Durand was arrested without any type of hearing to determine if the circumstances since his last apprehension have changed. Mr. Durand attended check-ins for decades and, at each check-in, the ICE official noted that there was "no change in circumstances" that would justify revocation of his OSUP. Mr. Durand received no notice of the reason for revocation of his OSUP, and he never received an informal interview at which he would be given an opportunity to respond to the reasons for the revocation. Lastly, ICE has not even attempted to reopen immigration proceedings to revoke Mr. Durand's Withholding of Removal to Venezuela. Given ICE's failure to follow existing procedures, the probable value of additional safeguards is high.

51. The third factor also weighs in Mr. Durand's favor. Releasing Mr. Durand is fiscally and administratively less burdensome on the government than continuing to detain him in an obscenely expensive cage in the Everglades.[2]

52. Mr. Durand's detention violates procedural due process under the Fifth Amendment. The Court should order his immediate release, or in the alternative, hold a bond hearing to determine his dangerousness and flight risk.

COUNT THREE
Violation of the Immigration and Nationality Act
8 U.S.C. § 1231; 8 CFR § 241.4 and § 241.13

53. Mr. Durand re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-30.

54. The INA under 8 U.S.C. § 1231(a)(3) states that "if the alien does not leave or is not removed within the removal period, the alien, pending removal, shall be subject to supervision under regulations prescribed by the Attorney General," requiring conditions such as periodic appearances. The regulations under 8 CFR § 241.4 and § 241.13 require ICE to follow certain conditions before re-detaining an individual as outlined in Claim Two.

55. ICE failed to follow its own regulations governing revocation of an order of supervision under 8 CFR § 241.4 and § 241.13. They did not provide Mr.

[2] *See* Kate Payne, "New records show Florida officials spent over $1.2 million a day on 'Alligator Alcatraz.'" CBS12 News (March 2, 2026), https://cbs12.com/news/local/new-records-show-florida-officials-spent-over-12-million-a-day-on-alligator-alcatraz-fdem-149-billion-grant-federal-reimbursement-608-million-fema-award-daily-burn-rate-12-million-per-day-emergency-preparedness-response-fund-public-r.

Durand with a notice or an interview that would allow him to contest the reasons for revocation.

PRAYER FOR RELIEF

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

(a) Assume jurisdiction over this matter;

(b) Order the Respondents to refrain from transferring the Petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while the Petitioner remains in the Respondent's custody;

(c) Grant the Petitioner a writ of habeas corpus ordering his immediate release from custody because that custody is unconstitutionally punitive;

(d) Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law;

(e) Order Respondents to return Petitioner's property including his driver's license and EAD; and

(f) Grant any other and further relief that the Court deems just and proper.

Dated: June 11, 2026

Respectfully submitted,

/s/ Andrew Udelsman
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*Motion for Pro hac vice admission forthcoming

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

Based upon a review of the administrative record, discussions with the Petitioner's other attorneys, and discussions with the Petitioner, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: June 11, 2026

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