UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

O.E.E.M.
(A [redacted]),
Petitioner,

v.

Todd Blanche, *Attorney General, U.S. Dept. of Justice*,

Markwayne Mullin, *Secretary, U.S. Dept. of Homeland Security*,

Todd Lyons, *Acting Director, U.S. Immigration and Customs Enforcement*,

Joseph B. Edlow, *Director, U.S. Citizenship and Immigration Services*

Russell Hott, *Chantilly Field Office Director, U.S. Immigration and Customs Enforcement*,

Jeff Crawford, *Warden, Farmville Detention Center*

Respondents.

Civil Action No.

PETITION FOR WRIT OF HABEAS CORPUS

On December 19, 2025, Petitioner O.E.E.M.[1] was granted withholding of removal from Immigration Judge Julia Egy, of the Sterling, Virginia, Immigration Court. Soley due to the *Circumvention of Lawful Pathways* ("CLP") rule[2], which was in force at the time, Petitioner was denied asylum. Petitioner belongs to the LGBTQ community and fled Honduras seeking safety from persecution in his native Honduras on account of his sexual orientation. Petitioner would

[1] Motion for Leave to Proceed Under Pseudonym is forthcoming.
[2] Circumvention of Lawful Pathways Rule, 83 Fed. Reg. 55,934 (the "entry ban"); 84 Fed. Reg. 33,829 (the "transit ban").

have been granted asylum *but for* the CLP rule, which was vacated approximately one week ago. *East Bay Sanctuary Covenant, et al., v. Trump, et al.,* No. 18-CV-06810-JST, 2026 WL 1256873, at *1 (N.D. Cal. May 7, 2026) ("*East Bay Sanctuary Covenant*"). *Exh.* E. (East Bay Sanctuary Covenant ruling and affirmance regarding vacatur of CLP). This decision has been affirmed and the vacatur is now in force. *Id.* In a separate and concurrent pleading before another court, Petitioner seeks to have this decision reconsidered by the EOIR Immigration Court so that an order granting asylum may be entered – however, his removal from the U.S. would quickly void this effort, irreversibly so. Petitioner's removal is imminent.

Recently, the Chief Immigration Judge ordered all Immigration Judges ("IJs") to re-adjudicate decisions accordingly, as if CLP had never existed, yet due to myriad factors, IJs continue to deny these motions. *Exh.* F (Email from Chief Immigration Judge Teresa Riley regarding Circumvention of Lawful Pathways cases). Additionally, brand new precedent from the Board of Immigration Appeals ("BIA") represents yet another barrier to Petitioner's relief. *Matter of Herrera-Nunez*, 29 I&N Dec. 695; *Matter of Yadav*, 29 I&N Dec. 438 (2026). Starting ***yesterday***, the BIA generally requires a noncitizen to file a stay of removal first with DHS before doing so with EOIR. The exception would be for emergency stays when removal is imminent. Otherwise, this opinion says that the respondent "should provide an explanation as to why the request was not filed with DHS with an adequate amount of time for DHS to respond". *Id.*

For many reasons that undersigned counsel regrets are not simply hyperbole, there is no reason to believe that EOIR will appropriately and exigently deem Petitioner's situation an emergency. *Exh.* I-O (Various exhibits documenting bias). Secondly, due to the requirement that an I-246, *Application for Stay of Removal* be not only delivered in person, but the very novel requirement that it must be *adjudicated* before the EOIR stay of removal is even considered, it is very unlikely that Petitioner will have time to obtain a grant of asylum before he is removed from

the United States, something that he is entitled to pursuant to the vacatur in *East Bay Sanctuary Covenant.*

Petitioner only finds himself in ICE custody now because he called the police for help when he was being strangled by a partner – in turn the police turned him over to ICE custody. Before this arrest, he was reporting diligently with ICE ERO pursuant to an Order of Supervision ("OSUP") issued after the withholding grant, previously an Order of Release on Recognizance "ROR"). Petitioner's OSUP cannot be revoked without due process. Relatedly, even *arguendo* that Respondents did engage in some pretextual "process" concerning this rescission — Petitioner maintains that being a *victim* of intimate partner violence is not a valid basis for the rescission of his OSUP. *Exh.* G (Evidence of dismissal Loudoun County criminal charges).

After persistent urging by Petitioner's co-counsel, Respondents finally afforded him access to a Reasonable Fear Interview "(RFI") – however despite having two attorneys enrolled before DHS – and despite insisting that at least one of them be allowed to represent him during the RFI – counsel was not permitted to attend. *Exh.* H (Emails from Co-counsel to the Asylum Office requesting Reasonable Fear Interview with IJ Review). Subsequently, Respondent agency, Asylum Division, informed Petitioner that he had been adjudicated as not having a reasonable fear of persecution as to Mexico, and, that he was not entitled to Immigration Judge Review of that determination. *Exh.* I. (Notice of Third Country Screening issued by the Asylum Office). While this retort squarely tracks DHS' own guidance, it certainly does not "pass constitutional muster". *A. A. R. P. v. Trump*, 605 U.S. 91, 95 (2025) (per curiam). This "determination" was delivered to counsel in the form of a half-page notice, formatted as a checklist, with no substantive analysis or reasoning provided. *Id.*

JURISDICTION AND VENUE

1. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

2. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

3. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of Virginia. Petitioner is under the jurisdiction of ICE's Washington Field Office in Chantilly, Virginia, and he is currently detained in Farmville, Virginia.

THE PARTIES

4. Petitioner O.E.E.M. is a citizen and native of Honduras who resides in Virginia and is currently detained at the Farmville Detention Center in Farmville, Virginia. He was granted withholding of removal on December 19, 2025. *Exh.* A.

5. Respondent Todd Blanche is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as his designees.

6. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). He is the cabinet-level secretary responsible for all immigration enforcement in the United States.

7. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Joseph B. Edlow is the Director of the U.S. Citizenship and Immigration Services ("USCIS"), which presides over the Asylum Division. The Asylum Division is charged with adjudicating Reasonable Fear screenings, which if done in accordance with due process, would potentially shielf Petitioner from removal.

9. Respondent Russell Hott is the Field Office Director for the Washington, D.C. Field Office of U.S. Immigration and Customs Enforcement ("ICE") in Chantilly, Virginia, which has jurisdiction over the Farmville Detention Center where Petitioner is currently detained. As the local ICE official overseeing enforcement operations in the region, he is responsible for Petitioner's continued detention and any actions related to her removal. He is therefore Petitioner's immediate legal custodian for purposes of habeas jurisdiction.

10. Respondent Jeff Crawford is the Warden of the Farmville Detention Center, a facility operated under contract with U.S. Immigration and Customs Enforcement (ICE) in in Farmville, Virginia, is Petitioner's immediate physical custodian for purposes of habeas jurisdiction.

11. All government Respondents are sued in their official capacities.

LEGAL FRAMEWORK
Immigration Detention & *Habeas Corpus*

12. A federal district court may grant a writ of habeas corpus to a petitioner who is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The petitioner "bears the burden of proving that he [or she] is being held contrary to law; and because the habeas proceeding is civil in nature, the petitioner must satisfy his [or her]

burden of proof by a preponderance of the evidence." *Villanueva v. Tate*, 801 F.Supp.3d 689, 696 (S.D. Tex. 2025) (internal citations omitted).

13. A court considering a habeas petition must "determine the facts, and dispose of the matter as law and justice require." *Id.* (citing 28 U.S.C. § 2243). When the Court finds a petitioner's constitutional rights have been violated, the petitioner is entitled to the issuance of the writ. *Id.* The Fifth Amendment prohibits the Government from depriving any person of liberty without due process of law.

14. The habeas statute directs prompt judicial review for writ of habeas corpus or to 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.*

15. 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F. 3d 1116, 1120 (CA 9 2000)(citation omitted); *See also, Johnson v. Rogers,* 917 F.2d 1283, 1284 (10th Cir. 1990).

16. Courts have identified only two legitimate purposes for immigration detention: mitigating flight risk pending removal and preventing danger to the community. *See Zadvydas,* 533 U.S. at 690-91. To satisfy substantive due process under the Fifth Amendment, a noncitizen's detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.

17. Freedom from physical restraint lies at the core of the liberty protected by due process. *Zadvydas*, 533 U.S. at 690.

18. Civil detention must bear a reasonable relation to a legitimate governmental purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Even where detention is authorized by statute, it may not be imposed arbitrarily or without procedural safeguards.

Withholding of Removal

19. Withholding of removal under 8 U.S.C. § 1231(b)(3) prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. *See* 8 C.F.R. § 1208.16(b). This is not discretionary relief – if the applicant clears the legal threshold, it is mandatory. Withholding of relief also differs from asylum, which is discretionary relief, in that a grant of withholding of removal does not provide a subsequent path to lawful permanent residence.

20. An applicant for withholding of removal has the burden of proving that it is more that it is more likely than not that they would face persecution if returned to their country of origin. The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

21. Following a grant of 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). To terminate a grant of withholding of removal, DHS must move to reopen the removal proceedings and show that the applicant would no longer face persecution. 8 C.F.R. § 1208.24(f). Removal to that specific country is not lawful in the absence of this process.

Third Country Removal

22. As withholding of removal only applies to one country, the country of citizenship of the applicant – DHS then usually moves to effectuate "third country removal". In March of 2025, the then Secretary of Homeland Security, Kristi Noem, issued a memorandum entitled Guidance Regarding Third Country Removals ("March Guidance"), which does not mandate an individualized due process review where a noncitizen claims fear of removal to a particularized country, if that country has provided generalized assurances to the U.S. government that it does not persecute or torture. Even where an interview is carried out by a U.S. Citizenship and Immigration Services ("USCIS") officer, the policy does not provide for review by an Immigration Judge.

23. The legality of these procedures is unsettled, however. In *D.V.D. v. U.S. Dep't of Homeland Sec., 778 F. Supp. 3d 355 (D. Mass. 2025),* five noncitizens filed a class action for declaratory and injunctive relief against DHS and others for violating procedural due process by planning to remove noncitizens to a third country without first providing notice and an opportunity to apply for protection from removal to that country.

24. The class in *D.V.D.* is composed as such:

> 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.

25. On April 18, 2025, the District Court of Massachusetts granted the plaintiffs' class certification and a preliminary injunction. On June 23, 2025, however, the Supreme Court granted the Government's application to stay the preliminary injunction in *D.V.D. Dep't of Homeland Sec. v. D.V.D.*, —— *U.S.* ——, 145 S. Ct. 2153, 222 L.Ed.2d 1109 (2025). Notably, the Supreme Court

did not provide an analysis for the stay – and as several courts have highlighted, it is unknown whether the order was stayed on procedural or substantive grounds. *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2841886, at *11 (D. Md. Oct. 7, 2025). Following this logic, and despite the injunction, the court in *Sagastizado v. Noem, 5:25-cv-00104, (S.D. Tex.)* ruled that the Petitioner there was not precluded to seek relief on the basis of his *D.V.D* class membership.

26. Independent of the *D.V.D* class membership status and discussion, multiple courts across the country have found that ICE's March 2025 Guidance "violates due process." *Kumar v. Wamsley*, No. 25-2055, --- F. Supp. 3d ---- , 2025 WL 3204724, at *5–6 (W.D. Wash. Nov. 17, 2025). Furthermore, the Supreme Court has recently held that giving "notice roughly 24 hours before removal"—as the March 2025 Guidance allows—"devoid of information about how to exercise due process rights to contest that removal, surely does not pass muster." *A. A. R. P. v. Trump*, 605 U.S. 91, 95 (2025) (per curiam).

27. Petitioners facing third country removal must be provided access to the Reasonable Fear Process, and if found to be negative, to the Immigration Judge Review of that determination. *Sagastizado v. Noem*, 802 F.Supp.3d 992 (2025); *Rodriguez Romero v. Ladwig*, 3:25-cv-01106, (M.D. La.).

Liberty Interest

28. "No person shall . . . be deprived of . . . liberty . . . without due process of law[.]" U.S. CONST. AMEND. V. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, 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.

29. The Constitution forbids the Government from revoking granted liberty without constitutionally adequate process. *Morrissey v. Brewer,* 408 U.S. 471, 482 (1972); *Young v. Harper,* 520 U.S. 143, 152–53 (1997); *see also Zadvydas v. Davis,* 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause").

30. "The opportunity to present reasons, either in person or in writing, why proposed action should not be taken is a fundamental due process requirement." *Cleveland Bd. of Educ.*, 470 U.S. at 546. And "[D]ue process does not hinge on whether one has a winning argument, a colorable argument, or any argument at all." *Aurecchione v. Falco*, 2023 WL 6255529, at *12 (S.D.N.Y. Sept. 25, 2023) (citing Goldberg v. Kelly, 397 U.S. 254, 267 (1970) ("The fundamental requisite of due process of law is the opportunity to be heard. The hearing must be 'at a meaningful time and in a meaningful manner.'")).

31. Procedural due process must be evaluated by using a balancing test that accounts for the interests of the affected individual, the interest of the government in limiting procedural burdens, and the risk of erroneously curtailing individual interests under the existing procedures, as well as how much additional procedures would help reduce the risk of error. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

FACTUAL ALLEGATIONS

32. Petitioner O.E.E.M. is a citizen of Honduras and no other country.

33. Petitioner is LGBTQ and has a severe trauma history – [redacted]. Due to this attack, Petitioner struggles with memory loss.

34. Petitioner was also [redacted]. He was excommunicated from his family, who also further endangered him by circulating information about his sexuality. These experiences are detailed in the sworn statement that was submitted as part of his asylum case.

35. On October 2, 2023, Petitioner entered the United States, fleeing persecution in Honduras. He was issued an ICE form I-862, *Notice to Appear* and charged under 212(a)(7)(A)(i)(I) and 212(a)(6)(A)(i).

36. Due to the date of Petitioner's entry on October 2, 2023, i.e. a date falling between May 11, 2023, and May 11, 2025, he was barred from asylum pursuant to CLP.

37. On December 18, 2023, Petitioner was released from custody pursuant to an Order of Release on Recognizance ("ROR"). *Exh* X – ROR. Respondents released him from custody based on their own determination that he was not a danger to the community, nor did he pose a flight risk.

38. Subsequently, Petitioner diligently appeared for all his immigration court hearings and ICE appointments. He complied with the requirements imposed on him and for approximately seven months, he also wore an ankle monitor.

39. On December 19, 2025, Petitioner was granted withholding of removal under 8 INA § 241(b)(3), after the immigration judge found that he was more likely than not that he would be tortured in Honduras. *See* Ex. X.

40. Both parties preserved appeal and neither party appealed. The IJ order became final on January 21, 2026. *Id.* DHS did not take any further, nor successful, steps to invalidate the order of withholding of removal, meaning that Petitioner cannot be removed to Honduras.

41. After Petitioner's December 19, 2025, grant of withholding of removal, he remained at liberty but continued to report with ICE at the Manassas, Virginia, ICE office. His ROR had been converted to an OSUP[3].

42. Petitioner recalls that at one of his ICE appointments after he had been granted withholding of removal, the ICE officer asked him "many of the same questions" he had been asked by ICE during his asylum hearing. Petitioner testified via his sworn statement that he still suffers from "nightmares, flashbacks and fear" due to his experiences in Honduras.

43. On April 10, 2026, Petitioner had an argument with an intimate partner who then proceeded to strangle him. Petitioner struggled to breathe and was fearful for his life, leading him to call the police. Petitioner does not speak English, but his assailant does. Despite calling the police for help, he was arrested.

44. Petitioner was arrested and charged in Loudoun County, but those charges have since been dismissed. *Exh.* G (Evidence of dismissal Loudoun County criminal charges). Instead of being released from police custody, Petitioner was transferred to ICE custody. He was transferred to Louisiana before being returned to Virginia.

45. As of this writing, Petitioner remains detained at the Farmville Detention Center in Farmville, Virginia. *Exh.* A (ICE Locator as of June13, 2026).

46. On June 11, 2026, Petitioner had a Reasonable Fear Interview with Asylum Officer Joseph Payne, whose office was identified as "District 3- APSO".

47. Petitioner's counsel before the Asylum Office, Robert Bruce, was not permitted to attend and was not provided prior notice of the interview. Afterwards, Petitioner was issued a one page "Third Country Screening Notice" with a one box checked next to the following sentence:

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[3] *Undersigned counsel is in the process of obtaining a copy of the OSUP.*

"You did not establish that it is more likely than not that you will be persecuted or tortured in Mexico". *Exh.* I (Notice of Third Country Screening issued by the Asylum Office). Neither Petitioner nor his counsel before AO were provided with any detailed rationale or analysis illuminating the basis for this decision.

48. Petitioner's counsel before AO subsequently requested in writing that he be afforded judicial review of the negative determination – to which the AO responded "[redacted] was screened for third country removal. As he was not processed as a reinstatement, alien is not entitled to IJ review of the case under 8 CFR § 208.31(f) and (g)". *Exh.* H (Emails from Co-counsel to the Asylum Office requesting Reasonable Fear Interview with IJ Review).

49. Petitioner fears being removed to Mexico – a country where he has no connection, no support network and no status. The likelihood that he will be forced, directly or indirectly, to return to the country from which he fled is very high.

50. Petitioner stands to benefit immensely from the *East Bay Sanctuary Covenant* vacatur, which has only been in existence for approximately one week. Premature removal from the United States would void his ability of having his EOIR case reconsidered or reopened.

51. Petitioner has a documented history of diligent compliance with both the ROR and OSUP orders and his detention is unjustified and violates due process, including maintain an updated address with ICE, attending in-person appointments and wearing an ankle monitor.

52. Petitioner is not eligible to seek bond. The Petitioner seeks habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. See *Boumediene v. Bush,* 553 U. S. 723, 783 (2008).

FIRST CLAIM FOR RELIEF:

Rescission of the ROR/OSUP Violates Due Process

53. Petitioner re-alleges and incorporates by reference the preceding paragraphs.

54. ICE exercised discretionary authority to release Petitioner after his initial detention pursuant to a ROR on December 18, 2023; after Petitioner's grant of withholding of removal on December 19, 2025, that ROR was converted to an OSUP. *Exh.* C (Order of Release on Recognizance (dated December 18, 2023).

55. In both instances, Petitioner diligently complied, including wearing an ankle monitor for approximately seven months and reporting to in person ICE appointments.

56. An ICE ROR/OSUP is based on that agency's own finding that an individual has no criminal history, is not a danger to the community and does not present a flight risk.

57. That release created a protected liberty interest.

58. Petitioner lived freely in the community for over two and a half years, without incident, and complied with the conditions of his ROR/OSUP release, consistently and diligently.

59. On April 10, 2026, Petitioner was strangled by an intimate partner. Petitioner called the police himself – further evidence that he does not seek to abscond but simply wishes to live openly and free from violence. His assailant attempted to press charges and those were dismissed – a common fact pattern in abusive relationships.

60. ICE capitalized on Petitioner's victimization and took him into custody.

61. Upon information and belief, Petitioner was not afforded an opportunity to challenge the ostensible rescission of the OSUP or supplement with evidence memorializing the dismissal of charges.

62. Re-detaining a previously released individual without individualized process violates procedural due process.

63. Analysis of the *Matthews* factors necessitate Petitioner's release – firstly, Petitioner's private interest is immense, namely his freedom to be free from restraint, cannot be overstated. Additionally, Petitioner's detention is significantly complicated his ability to access

asylum through the *Motion to Reconsider* process – i.e. his detention means that he could very well lose the opportunity to start this process. *Mathews v. Eldridge*, 424 U.S. 319 (1976)

64. Petitioner has a cognizable private interest in being liberated from unlawful detention – as he is not bond eligible in Respondent's for a bond hearing, as such she has no other path forward.

65. Secondly, the risk of erroneous deprivation is great and has already occurred, he has been detained for over two months and has yet to be given any explanation for why the OSUP was rescinded. Clearly, whatever "safeguards" are contemplated by *Matthews,* or even ICE itself, are either not in place or are being entirely ignored. Petitioner has a severe trauma history that continues to impact him. Every hour that the Petitioner is detained exacerbates this harm.

66. Third, the government interest here is unclear – besides the fact that Petitioner already won a withholding case and came into custody after being nearly strangled to death and calling the police, he has consistently complied with the conditions of his ROR/OSUP release for over two years, the government is now paying thousands of dollars to detain him. This fact is paradoxical when considering the third *Matthews* factor which concerns "the fiscal and administrative burdens" which should be considered in favor of the government's interest.

67. The government has not produced any evidence that it has any legitimate interest in the re-detention of Petitioner – animus towards asylum seekers is not a legitimate interest. *See Exhs.* J-N.

68. Petitioner's continued detention is therefore unconstitutional.

SECOND CLAIM FOR RELIEF:
Unlawful Third Country Removal

69. Petitioner re-alleges and incorporates by reference the preceding paragraphs.

70. Respondents intend to remove Petitioner to a third country where he is not a citizen, nor does he have any other status there. He has no family or support network there. Many of the cultural and criminal elements which victimize members of the LGBTQ community in Honduras are also present in Mexico. Honduras is easily accessible from Mexico, further heightening safety concerns for Petitioner.

71. Petitioner runs the risk of being directly or indirectly forced to return to Honduras. Respondents simply seek to effectuate refoulment, by adding a stop in an arbitrary country.

72. While Respondents have hastily completed a RFI, Petitioner's counsel was not permitted to represent him – nor was he afforded any explanation for the negative determination besides a one-page notice, formatted as a checklist.

73. Secondly, and herein lies a genuine dispute – Respondents aver that "Alien 783 was screened for third country removal. As he was not processed as a reinstatement, alien is not entitled to IJ review of the case under 8 CFR § 208.31(f) and (g)". *Exh.* H (Office requesting Reasonable Fear Interview with IJ Review). This does not comport with common sense, due process or recent decisions such as Sagastizado v. Noem, 802 F.Supp.3d 992 (2025) and Rodriguez Romero v. Ladwig, 3:25-cv-01106, (M.D. La.).

74. As this District reasoned in *Serpas v. Noem*, 1:25-cv-02369, (E.D. Va.), a case where D.V.D. class membership was raised and relevant but not entirely determinative, "there are compelling circumstances to consider Petitioner's claims. Petitioner brings claims concerning his ongoing detention, the revocation of an order of supervision, and his removal to a third country under the due process clause, the INA, and the governing regulations that are substantively different than the claims at issue in *D.V.D.*". *Id.*

THIRD CLAIM FOR RELIEF:
Petitioner Deserves Access to Asylum Relief Recently Made Available by the *East Bay Sanctuary Covenant* Vacatur

75. Petitioner must be able to access relief very recently presented by the vacatur in *East Bay Sanctuary Covenant.*

76. The Immigration Court, the Board of Immigration Appeals and ICE ERO all have processes to seek a "stay of removal" – however, these function, in practice of late, more as barriers to relief by giving the appearance of "emergency relief". The reality is that those requests are rarely granted, and the integrity of those agencies has been compromised severely. *Exhs.* J-N.

77. Petitioner argues that here it is futile. exhaustion is not required where remedies are inadequate or futile. *See Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994).

78. Very recent precedent from the Board of Immigration Appeals ("BIA") represents yet another barrier to Petitioner's relief. *Matter of Herrera-Nunez*, 29 I&N Dec. 695; *Matter of Yadav*, 29 I&N Dec. 438 (2026). Starting ***today***, the BIA generally requires a noncitizen to file a stay of removal first with DHS before doing so with EOIR.

79. Petitioner is required to seek a stay from the very agency that is unlawfully detaining him, and from the agency he is suing in the instant action.

PRAYER FOR RELIEF

80. Petitioner respectfully requests that this Court assume jurisdiction over this matter and enter an order:

a) Declaring that Petitioner's continued detention violates his due process rights;

b) Granting the writ of habeas corpus and order Respondents to release Petitioner from detention forthwith, on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3);

c) Enjoining the removal of Petitioner to any country, unless Petitioner has received written notice of such country, with adequate time to state and file a claim for deferral of removal under the Convention Against Torture as to such country and is provided

access to his counsel throughout that process and that determination is subject to judicial review by an Immigration Judge;

d) Enjoining the removal of Petitioner until he is able to obtain a legally sufficient and unbiased adjudication of his pending *Motion to Reconsider* with EOIR, in light of the recent vacatur in *East Bay Sanctuary Covenant*;

e) Granting any other relief that this Court deems just and proper.

Dated: June 13, 2026

Respectfully submitted,

/s/ Madeline Taylor Diaz
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Counsel for Petitioner – Pro Hac Vice Application forthcoming

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

I, Emily C. Trostle, am submitting this verification on behalf of the petitioner because I am the petitioner's attorney. I am acting on behalf of the petitioner, O.E.E.M., based on discussions with him and/or his legal representative. Based on these discussions and reviewing the record, 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 13, 2026

/s/ Emily C. Trostle
Emily C. Trostle (LA 36058)
Attorney for Petitioner – Application for Pro Hac Vice Forthcoming

EXHIBITS

A. ICE Locator as of June 13, 2026

B. I-862, Notice to Appear (dated December 12, 2023)

C. Order of Release on Recognizance (dated December 18, 2023)

D. Immigration Judge's Order Granting Withholding of Removal (dated December 19, 2025)

E. *East Bay Sanctuary Covenant* ruling and affirmance regarding vacatur of CLP

F. Email from Chief Immigration Judge Teresa Riley regarding *Circumvention of Lawful Pathways* cases

G. Evidence of dismissal Loudoun County criminal charges

H. Emails from Co-counsel to the Asylum Office requesting Reasonable Fear Interview with IJ Review, along with his G-28, Entry of Appearance

I. Notice of Third Country Screening issued by the Asylum Office (dated June 11, 2026)

J. New York Times Article, *How Trump Purged Immigration Judges to Speed Up Deportations* (April 9, 2026).

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