IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Samson Chikomborero Chirambe Petitioner v. **David Easterwood**, Director of St. Paul Enforcement and Removal Operations, Immigration and Customs Enforcement; **Markwayne Mullin**, Sec'ty of the Dep. Homeland Security; **Warden**, Fort Snelling Whipple Building **Todd Lyons**, Acting Director, U.S. Immigration and Customs Enforcement; **Todd Blanche**, Attorney General of the United States Respondents.	EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS CASE No: 0:26-cv-3588

EMERGENCY VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241, THE FIFTH AMENDMENT, THE IMMIGRATION AND NATIONALITY ACT, AND THE ADMINISTRATIVE PROCEDURE ACT

INTRODUCTION

1. Petitioner is a citizen of Zimbabwe who has lived in the United States for more than thirty years. He entered lawfully in December 1995 on a visitor visa. He has lived openly in Minnesota, worked for decades, maintained stable medical care,

participated in his community, and complied with every reporting obligation Immigration and Customs Enforcement ("ICE") imposed upon him.

2. On January 27, 2004, an Immigration Judge entered a final order that expressly protected Petitioner from removal to Zimbabwe and ordered that, if removal could be accomplished, it be to a country other than Zimbabwe willing to accept him. Petitioner's protection claim arose in significant part from his HIV status and the consequences he faced if returned to Zimbabwe. At the time, Petitioner was also recovering from serious cancer affecting the area around his brain, brain surgery, and chemotherapy.

3. The Government did not remove Petitioner. Instead, it released him into the community and, for more than two decades, allowed him to remain at liberty subject to immigration supervision. Petitioner complied. ICE repeatedly knew where he lived and worked. He appeared when instructed. He committed no serious or violent offense. His only known United States offense is an approximately 1998 or 1999 careless-driving matter.

4. Indeed, immediately before the events giving rise to this Petition, Petitioner appeared for a routine ICE reporting appointment and was told that his next reporting date would not be until 2027. That determination was wholly consistent with the preceding decades: supervision worked.

5. Yet almost immediately afterward ICE abruptly changed course. Petitioner received a new ICE call-in notice dated August 5, 2026. He complied with the

Government's instruction and appeared as directed. At that appearance on August 6, 2026, ICE arrested him and confined him at the Sherburne County Jail.

6. ICE did not identify any violation of Petitioner's conditions of supervision. It did not identify a missed check-in, new conviction, effort to abscond, refusal to cooperate, or other misconduct. Petitioner was not provided, before the deprivation of his liberty, with a meaningful notice of changed circumstances or an opportunity to contest the factual basis for taking away the freedom under which he had lived for more than twenty years. Undersigned counsel, the attending attorney, was only informed that ICE had a third country that they would be sending Petitioner to.

7. Nor could ICE plausibly have believed Petitioner was likely to flee before a warrant could be obtained. He appeared at ICE's own office because ICE told him to appear. Days earlier, ICE itself had told him he did not need to return until 2027.

8. Respondents now seek to justify Petitioner's detention through a contemplated removal to Uganda, a country that was never specifically identified, considered, or litigated during Petitioner's 2004 removal proceedings. In addition, the notice of this was only provided to Petitioner a few hours before his scheduled staging and removal.

9. Petitioner has never had an opportunity before a neutral immigration judge to present any fear-based claim concerning Uganda, including persecution, torture,

inability to obtain necessary life-preserving treatment, or the risk of onward removal or refoulement. Nor has DHS provided a procedure adequate to determine those individualized questions before putting Petitioner on a plane.

10. The Government may possess authority in appropriate circumstances to identify a lawful third country for removal. That is not the question presented here. The question is whether the Government may first imprison a man who successfully lived under its supervision for more than two decades without complying with the regulations governing revocation, and then use the prospect of removal to a newly identified country as a substitute for the process required by the INA, the regulations, and the Fifth Amendment.

11. District courts, including this Court, have repeatedly answered the first question no. In *Roble v. Bondi*, 803 F. Supp. 3d 766, 772–74 (D. Minn. 2025), this Court held that where ICE relies on changed circumstances to revoke release under 8 C.F.R. § 241.13(i)(2), ICE bears the burden of demonstrating circumstances showing a significant likelihood of removal in the reasonably foreseeable future. In *Aleixi A.-H. v. Easterwood*, No. 26-cv-1155 (LMP/EMB), Dkt. 9 (D. Minn. Feb. 17, 2026), the Court applied *Roble* and ordered immediate release because ICE's assertion that it was merely seeking travel documents fell "woefully short" of that burden.

12. Petitioner's case is stronger. For more than twenty years the Government had a final order, knew of Petitioner's Zimbabwean nationality, knew that removal to

Zimbabwe was prohibited, and nevertheless maintained him in the community. Nothing about Petitioner changed. What changed was the Government's desire to imprison him while exploring a third-country removal.

13. Detention is not itself a lawful "changed circumstance." Nor can ICE manufacture the predicate for re-detention by first taking away Petitioner's liberty and then beginning to search for somewhere to send him.

14. Petitioner's present detention violates the Immigration and Nationality Act ("INA"), 8 C.F.R. §§ 241.4 and 241.13, the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act ("APA"), and, to the extent Respondents did not possess and execute lawful arrest authority, 8 U.S.C. § 1357 and the Fourth Amendment.

15. The consequences are immediate. Petitioner is living with HIV and has maintained viral suppression for years because he consistently took prescribed antiretroviral medication and attended medical appointments. Before Petitioner arrived at Sherburne, ICE officers represented that Sherburne medical staff had been advised of his medications and were prepared to continue them. Yet since his detention, Petitioner has not been receiving his HIV medication as prescribed.

16. Interruption of antiretroviral therapy presents an obvious and unnecessary medical danger and adds extraordinary urgency to a detention that was unlawful from its inception.

17. Petitioner therefore seeks his immediate release under the conditions that successfully governed his prior supervision, an order protecting him from re-detention absent lawful grounds and required process, and an injunction preventing his removal to Uganda or any other newly identified third country unless he first receives meaningful notice and a genuine opportunity to present any country-specific protection claim.

JURISDICTION

18. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in custody in violation of the Constitution and laws of the United States.

19. District courts possess jurisdiction over habeas challenges to the legality of immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001).

20. This Court also has jurisdiction under 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution, the INA, and the APA, 5 U.S.C. §§ 701–706.

21. Petitioner also invokes Article I, § 9, cl. 2 of the United States Constitution, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and, to the extent necessary to preserve this Court's habeas jurisdiction and ability to grant effective relief, the All Writs Act, 28 U.S.C. § 1651.

22. Petitioner does not ask this Court to vacate or review the validity of his 2004 final order of removal.

23. Nor does Petitioner contend that the Government can never execute that order. He challenges (1) the legality of his present detention; (2) the procedures by which Respondents revoked his longstanding supervised release; and (3) Respondents' authority to remove him to a newly identified third country without meaningful country-specific process.

24. Sections 1252(a)(5), 1252(b)(9), and 1252(g) therefore do not bar review. Challenges to detention remain cognizable in habeas, and a challenge to the manner and process by which DHS proposes a third-country removal is distinct from judicial review of the underlying final order. See *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018); *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471, 482 (1999); *Trump v. J.G.G.*, 604 U.S. 670, 671–73 (2025).

25. Courts adjudicating individual habeas petitions after the Supreme Court's emergency stay in *Department of Homeland Security v. D.V.D.* have likewise concluded that the unexplained emergency stay does not foreclose individualized habeas review of the procedures required before third-country removal. *See*, e.g., *Kumar v. Wamsley*, 817 F. Supp. 3d 1059, 1072–73 (W.D. Wash. 2025).

VENUE

26. Petitioner is presently confined at the the Fort Snelling Henry Whipple Building in Fort Snelling, Minnesota, within the District of Minnesota.

27. Venue is therefore proper under 28 U.S.C. § 2241 and *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

28. Venue is additionally proper under 28 U.S.C. § 1391(e) because relevant federal officials exercise authority in this District and substantial events giving rise to this Petition occurred here.

CUSTODY

29. Petitioner is in the physical custody of ICE and the Fort Snelling Henry Whipple Building.

30. Petitioner's immigration custody arises from a final 2004 removal order and is therefore governed by the post-final-order framework of 8 U.S.C. § 1231, not the pre-final-order detention provisions of §§ 1225 or 1226.

31. Petitioner was admitted to the United States on a visitor visa in 1995 and, in all events, has been subject to a final removal order since January 27, 2004.

32. The ninety-day statutory removal period expired more than twenty years ago.

33. Any present detention is therefore detention beyond the removal period under § 1231(a)(6) and is constrained by *Zadvydas*, the Fifth Amendment, and the custody and release regulations at 8 C.F.R. §§ 241.4 and 241.13.

PARTIES

34. Petitioner Samson Chikomborero Chirambe, is a native and citizen of Zimbabwe who has lived in the United States since December 1995.

35. Respondent Warnden, Fort Snelling Whipple Building is Petitioner's immediate physical custodian and is sued in his or her official capacity.

36. Respondent David Easterwood, Field Office Director for the St. Paul Enforcement and Removal Operations Field Office exercises authority over ICE detention and removal operations affecting Petitioner in this District and is sued in his or her official capacity.

37. Respondent Todd M. Lyons is Acting Director of ICE and is responsible for ICE policies and practices concerning detention, supervision, and removal. He is sued in his official capacity.

38. Respondent Markwayne Mullin is Secretary of the Department of Homeland Security and exercises supervisory authority over ICE. He is sued in his official capacity.

39. Respondent Todd Blanche is Acting Attorney General of the United States and exercises authority over the Executive Office for Immigration Review. He is sued in his official capacity.

FACTUAL BACKGROUND

A. Petitioner has lived in the United States since 1995.

40. Petitioner arrived in New York in December 1995 with a visitor visa.

41. He initially came to the United States to assist and care for a fiancée who had suffered a stroke.

42. During his early years in the United States, Petitioner worked, including as a summer camp counselor in Minnesota and performing moving work.

43. Petitioner has now lived in the United States for more than thirty years and has become deeply integrated into American life.

44. He is Catholic and attends the Cathedral of Saint Paul when able.

45. He has volunteered in his community, including at Ronald McDonald House.

46. He has maintained longstanding employment and has provided counsel with recent pay records confirming his employment.

47. Petitioner has never sought to support himself through disability benefits despite serious health conditions.

48. His immediate supervisor, Megan Anderson, and members of his employer's human-resources management are available to provide evidence concerning his character, employment, and reliability.

49. Petitioner also maintains longstanding personal relationships with a host family and other community members in the United States.

50. His mother, a retired registered nurse who lived to age ninety-six, and his younger brother have died. His life, medical treatment, employment, and principal community connections are now rooted in the United States.

B. Petitioner survived serious cancer and has lived successfully with HIV for decades.

51. In approximately 1997, Petitioner was hospitalized after experiencing serious pain near his ears and head.

52. Physicians discovered cancerous material in or near the area surrounding his brain.

53. Petitioner underwent surgery involving his skull and subsequently underwent chemotherapy.

54. During this period he was also diagnosed with HIV and immediately began treatment.

55. Petitioner has treated his HIV with extraordinary consistency. He reports that he did not skip his medication, maintained medical appointments, and has remained virally undetectable for years.

56. Petitioner is presently treated by Dr. Winston Cavert, who has longstanding knowledge of Petitioner's medical history and treatment.

57. Continuous access to Petitioner's prescribed HIV medication is medically important.

C. The Immigration Court prohibited Petitioner's removal to Zimbabwe in 2004.

58. Petitioner appeared in removal proceedings before the Immigration Court.

59. On January 27, 2004, the Immigration Judge entered a final order of removal and granted Withholding of Removal.

60. Thus, the order prohibited Petitioner's removal to Zimbabwe. Petitioner understands that he was granted withholding of removal from Zimbabwe.

61. His protection claim concerned, among other matters, [redacted] and the consequences he faced upon return to Zimbabwe.

62. The Government did not appeal or otherwise eliminate that protection.

63. Petitioner has therefore spent the ensuing twenty-two years subject to a final order that DHS could not execute by returning him to his country of nationality.

D. ICE released Petitioner and successfully supervised him for more than two decades.

65. Because removal was not accomplished, ICE released Petitioner into the community subject to supervision.

66. Petitioner complied with ICE reporting requirements over many years. He did not abscond. He did not miss required reporting appointments. He did not commit any serious or violent criminal offense. His only known United States offense is a

careless-driving matter from approximately 1998 or 1999. ICE knew where to locate Petitioner throughout this period.

67. The extraordinary duration and success of Petitioner's release are themselves powerful evidence that physical confinement was unnecessary to protect the Government's interests.

68. Shortly before the events giving rise to this Petition, Petitioner again appeared for an ICE reporting appointment.

69. At that appointment, ICE personnel told Petitioner that his next reporting date would be in February 2027. That instruction necessarily reflected ICE's determination, made only days before re-detention, that Petitioner could safely remain at liberty in the community.

E. ICE abruptly called Petitioner back and detained him without meaningful revocation process.

76. Notwithstanding its instruction that Petitioner need not return until 2027, ICE issued another call-in letter dated August 5, 2026. Petitioner again did exactly what the Government expected him to do: he appeared.

77. On August 6, 2026, when Petitioner reported to ICE pursuant to its directive, ICE officers took him into custody without a warrant. ICE did not identify any reporting violation. ICE did not identify any new criminal conduct. ICE did not contend that Petitioner had absconded, concealed himself, failed to cooperate with

removal efforts, or otherwise breached the terms of his supervision. Before taking Petitioner's liberty, ICE did not provide a hearing before a neutral decisionmaker at which Petitioner could contest whether re-detention was warranted.

78. Nor, on information presently available, did ICE provide Petitioner the notice and meaningful opportunity to contest revocation required by 8 C.F.R. § 241.13(i)(3) or § 241.4(l).

79. Petitioner has not been provided a Notice of Revocation identifying a valid factual and legal ground for revocation. Petitioner has not received the prompt informal interview required to respond to the asserted reasons for revocation.

80. Petitioner has not received a post-revocation custody review resolving contested facts and explaining why continued detention, rather than return to supervision, is warranted.

81. Petitioner is presently confined at the Henry Whipple Building in Fort Snelling, Minnesota.

F. ICE now seeks removal to Uganda.

91. Upon information and belief, ICE presently intends or is actively attempting to remove Petitioner to Uganda. This notification was provided on August 10, 2026 late in the afternoon and Petitioner was staged for removal by early morning August 11, 2026.

92. Uganda was not specifically identified as a country of removal in Petitioner's 2004 proceedings.

93. No individualized evidence concerning Petitioner's safety in Uganda was considered at his 2004 removal hearing.

94. Petitioner was never asked in 2004 to litigate whether he would face persecution, torture, denial of essential medical treatment, or onward refoulement from Uganda.

95. Nor could he reasonably have anticipated more than twenty years ago that ICE would now select Uganda as the country to which it would attempt to send him.

96. Petitioner has not been afforded a full and fair opportunity before a neutral immigration judge to present any fear-based claim relating specifically to Uganda.

97. ICE has not provided Petitioner and counsel written notice identifying the statutory provision under § 1231(b)(2) pursuant to which Uganda has been selected, the evidence that Uganda has agreed to accept Petitioner, the anticipated timing of removal, or the procedures by which Petitioner may obtain meaningful review of a Uganda-specific protection claim.

98. Any attempt to remove Petitioner before providing meaningful country-specific process risks extinguishing his ability to obtain review before the Court can act.

G. Petitioner is not receiving his prescribed HIV medication in detention.

99. Before Petitioner was booked into Sherburne County Jail, two ICE officers documented his medications.

100. Those officers represented that they had communicated directly with Sherburne medical staff and that the jail was prepared to ensure Petitioner received his medications.

101. Petitioner was specifically told that medical staff would address his medication needs upon arrival.

102. Despite those assurances, Petitioner has reported that he is not receiving his HIV medication as prescribed.

103. Petitioner has maintained successful HIV treatment for decades precisely because of his strict adherence to medication.

104. The interruption of that treatment magnifies the immediate and irreparable consequences of his unlawful detention.

LEGAL FRAMEWORK

A. Post-order detention is governed by § 1231.

105. Section 1231(a)(1)(A) provides a ninety-day "removal period" following entry of a final removal order.

106. Detention is mandatory during that removal period. 8 U.S.C. § 1231(a)(2).

107. After the removal period expires, § 1231(a)(6) permits detention of certain noncitizens, but it does not authorize indefinite or arbitrary detention.

108. In *Zadvydas*, the Supreme Court construed § 1231(a)(6) to permit detention only for "a period reasonably necessary to bring about that alien's removal from the United States." 533 U.S. at 689.

109. Once removal is no longer reasonably foreseeable, "continued detention is no longer authorized by statute." *Id.* at 699.

110. Six months is presumptively reasonable. After that period, once the noncitizen provides good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future, the Government must rebut that showing with evidence. *Id.* at 701.

111. The statutory period is measured from the removal period; it does not restart simply because DHS releases and later re-detains the same person. Otherwise, ICE could evade *Zadvydas* indefinitely by cycling a person between detention and supervision.

B. ICE's own regulations strictly govern revocation of post-order release.

112. Regulations implementing § 1231 govern both continued custody and supervised release. See 8 C.F.R. §§ 241.4, 241.13.

113. Where DHS previously determined that there was no significant likelihood of removal in the reasonably foreseeable future, § 241.13 governs release and re-detention.

114. Under § 241.13(i)(2), ICE may revoke such release based on "changed circumstances" only when those circumstances support a determination "that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future."

115. Section 241.13(i)(3) additionally requires ICE to notify the person of the reasons for revocation and promptly conduct an informal interview providing a meaningful opportunity to respond.

116. The individual may submit evidence showing that removal remains unlikely or that no supervision condition was violated, and ICE must evaluate contested facts and determine whether they actually warrant revocation and continued detention.

117. In the District of Minnesota, it is the Government's burden to demonstrate the changed circumstances necessary under § 241.13(i)(2). *Roble*, 803 F. Supp. 3d at 772–73.

118. If DHS instead contends that Petitioner's historical release arose under § 241.4, that regulation also constrains revocation.

119. Section 241.4(l) requires a lawful basis for revocation, notice of the reasons, a prompt informal interview providing an opportunity to respond, and further custody review if detention continues.

120. An agency must follow its own mandatory regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954).

C. The Fifth Amendment protects Petitioner's continued liberty.

121. "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. *Zadvydas*, 533 U.S. at 690.

122. The Fifth Amendment applies to all persons within the United States regardless of immigration status. *Id.* at 693.

123. A person who has been conditionally released into the community develops a protected liberty interest in continued release. *See Morrissey v. Brewer*, 408 U.S. 471, 481–84 (1972); *Young v. Harper*, 520 U.S. 143, 147–52 (1997).

124. Courts confronting re-detention following immigration supervised release have applied those principles and concluded that the Government may not withdraw established liberty arbitrarily or without adequate process.

125. What process is due is evaluated under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), considering the private liberty interest, risk of erroneous deprivation

and value of additional safeguards, and the Government's interest and administrative burden.

D. Third-country removal remains subject to mandatory protection and due process.

126. Section 1231(b)(2) establishes the statutory framework for selecting countries of removal.

127. Although DHS may in appropriate circumstances remove a noncitizen to an alternative accepting country, that authority is constrained by § 1231(b)(3), which prohibits removal to a country where the person's life or freedom would be threatened on a protected ground.

128. The Convention Against Torture and its implementing regulations likewise prohibit removal to a country where the individual is more likely than not to be tortured. See 8 C.F.R. §§ 208.16–.18, 1208.16–.18.

129. Those protections necessarily require an individualized determination. A generalized conclusion concerning conditions faced by deportees as a group cannot substitute for determining what will happen to the particular person DHS proposes to remove.

130. Courts addressing third-country removal have therefore held that due process requires meaningful notice of the proposed country and a genuine opportunity to present country-specific fear claims before removal. *See*, e.g.,

Kumar, 817 F. Supp. 3d at 1068–73; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009–19 (W.D. Wash. 2019); *Sagastizado v. Noem*, 802 F. Supp. 3d 992, 1008–13 (S.D. Tex. 2025).

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF 8 U.S.C. § 1231 AND 8 C.F.R. §§ 241.13 AND 241.4 — UNLAWFUL REVOCATION OF SUPERVISED RELEASE

131. Petitioner incorporates the preceding paragraphs.

132. Petitioner's ninety-day removal period expired more than twenty years ago.

133. DHS thereafter released Petitioner and permitted him to live under supervision for more than two decades.

134. On the facts presently available, that history demonstrates that Petitioner's release is governed by § 241.13 or, alternatively, § 241.4.

135. If § 241.13 governs, ICE could revoke release only on a lawful regulatory ground, including a violation of supervision or changed circumstances showing a significant likelihood of removal in the reasonably foreseeable future.

136. Petitioner violated no known condition of supervision.

137. He did not miss check-ins, abscond, commit a serious new crime, or refuse to cooperate.

138. Respondents have identified no conduct by Petitioner warranting revocation.

139. Respondents likewise identified no legally sufficient changed circumstance before re-detention establishing that Petitioner's removal had suddenly become significantly likely in the reasonably foreseeable future.

140. The mere possibility of finding Uganda or another third country willing to receive Petitioner is not itself evidence that lawful removal is significantly likely.

141. In *Roble*, this Court rejected speculation and placed the burden on ICE to establish actual changed circumstances. 803 F. Supp. 3d at 772–74.

142. In *Aleixi A.-H.*, this Court held that even ICE's representation that it was affirmatively "seeking a travel document" did not satisfy the Government's burden without concrete evidence concerning the history, ongoing nature, and reasonably foreseeable results of the removal efforts. No. 26-cv-1155, Dkt. 9 at 2.

143. Here, ICE's position is even more arbitrary because immediately before re-detention it told Petitioner that his next reporting date was in 2027.

144. Respondents cannot reconcile that contemporaneous determination with an unexplained assertion, days later, that physical custody suddenly became necessary.

145. Respondents further failed to provide the meaningful revocation process required by § 241.13(i)(3).

146. If Respondents contend § 241.4 governs instead, the result is the same. ICE was obligated to comply with § 241.4(l)'s mandatory revocation and custody-review procedures.

147. Respondents' failure to identify a lawful basis for revocation and follow the governing procedures renders Petitioner's present detention unlawful.

148. Immediate restoration to Petitioner's prior supervised release is the appropriate remedy.

COUNT II

FIFTH AMENDMENT PROCEDURAL DUE PROCESS — DEPRIVATION OF PETITIONER'S PROTECTED INTEREST IN CONTINUED LIBERTY WITHOUT ADEQUATE PROCESS

149. Petitioner incorporates the preceding paragraphs.

150. Petitioner spent more than twenty years at liberty with the Government's knowledge and permission.

151. During that extraordinary period he worked, established a home, obtained and consistently participated in lifesaving medical treatment, formed community relationships, attended church, and complied with ICE.

152. His release created a reasonable expectation that he would remain free unless he violated his conditions or circumstances materially changed in a manner legally justifying renewed custody.

153. Petitioner therefore possessed an exceptionally weighty liberty interest in his continued release.

154. The first *Mathews* factor weighs overwhelmingly in Petitioner's favor.

155. The second factor does as well. The risk of erroneous deprivation is extreme where ICE can reverse decades of successful supervision without first identifying the factual predicate for that reversal and providing an effective opportunity to contest it.

156. This case demonstrates that danger. ICE told Petitioner his next appointment would be in 2027 and then, almost immediately, summoned and detained him without any intervening misconduct by Petitioner.

157. A pre-deprivation or, at absolute minimum, immediate meaningful post-deprivation procedure would have permitted Petitioner to establish his decades of compliance, lack of dangerousness, lack of flight risk, medical vulnerability, and the absence of any material change in his removability.

158. The third *Mathews* factor cannot justify dispensing with those safeguards.

159. The Government already operates administrative custody-review procedures. Providing meaningful notice and an opportunity to contest re-detention is minimal in comparison with the extraordinary deprivation of physical liberty.

160. There was also no emergency preventing advance process. ICE controlled the timing and location of the encounter. Petitioner voluntarily appeared at ICE's office.

161. Respondents therefore deprived Petitioner of liberty without due process of law.

COUNT III

VIOLATION OF 8 U.S.C. § 1231(a)(6) AND ZADVYDAS — DETENTION IS NOT REASONABLY RELATED TO REMOVAL

162. Petitioner incorporates the preceding paragraphs.

163. Section 1231(a)(6) authorizes post-removal-period detention only for a period reasonably necessary to accomplish removal.

164. Petitioner's final removal order became effective in 2004.

165. DHS could not return him to Zimbabwe because the Immigration Judge prohibited that removal.

166. For more than twenty years DHS did not accomplish removal to any alternative country.

167. DHS instead released and supervised Petitioner.

168. That history supplies unusually strong reason to believe that removal has not been significantly likely in the reasonably foreseeable future.

169. Re-detention in 2026 does not reset the *Zadvydas* clock and provide DHS another six months of presumptively reasonable detention.

170. The Supreme Court's six-month period begins with the statutory removal period. It cannot rationally begin anew every time DHS chooses to release and re-arrest a person, because such a rule would permit the indefinite detention *Zadvydas* prohibits.

171. Nor can DHS rely on an unlawful or procedurally incomplete third-country-removal effort to establish reasonably foreseeable lawful removal.

172. Unless Respondents can establish both that Uganda will accept this Petitioner and that DHS can lawfully remove him there after providing required country-specific protections, the Uganda proposal is not evidence of significantly likely removal. It is only a prospective plan.

173. Petitioner's detention presently serves no legitimate removal-related purpose that cannot be accomplished through the same supervision that worked successfully for decades.

174. His continued detention therefore violates § 1231(a)(6) as construed in *Zadvydas*.

COUNT IV

FIFTH AMENDMENT, 8 U.S.C. § 1231(b), AND IMPLEMENTING REGULATIONS — THIRD-COUNTRY REMOVAL TO UGANDA WITHOUT

MEANINGFUL NOTICE AND AN OPPORTUNITY TO PRESENT A FEAR-BASED CLAIM

175. Petitioner incorporates the preceding paragraphs.

176. Petitioner does not ask this Court to hold that Uganda can never be selected as a country of removal. He asks the Court to require Respondents to follow the law before physically sending him there.

177. Petitioner's 2004 proceedings adjudicated his protection from removal to Zimbabwe. Those proceedings did not adjudicate Petitioner's individualized risk in Uganda.

178. Uganda was not specifically identified as a proposed destination and Petitioner had no reason or opportunity to develop evidence or seek protection relating to Uganda.

179. Section 1231(b)(3) creates a mandatory prohibition on removal where the statutory withholding standard is met.

180. CAT regulations similarly prohibit removal where the individual is more likely than not to suffer torture.

181. These protections are meaningless if DHS may identify an entirely new country decades after the removal hearing and physically remove a person before allowing him to raise a claim concerning that country.

182. Meaningful process requires adequate written notice of the actual country of removal and sufficient time to investigate and present a country-specific claim.

183. It also requires that DHS actually determine whether Petitioner fears removal to that country rather than place the burden on a detained, unrepresented, medically vulnerable person to guess what must be said to activate protection.

184. *Kumar v. Wamsley* is particularly instructive. There, as here, DHS proposed removal to Uganda. 817 F. Supp. 3d at 1062–63. The court emphasized the importance of ICE affirmatively asking whether the person fears removal and memorializing the response so that DHS obtains the information necessary to comply with § 1231(b)(3). Id. at 1069.

185. If Petitioner expresses fear of Uganda, due process requires a meaningful mechanism to adjudicate the claim before removal—not a perfunctory procedure in which the agency seeking removal is effectively the final decisionmaker.

186. At minimum, Petitioner must receive meaningful advance notice, access to counsel, an opportunity to develop evidence, a country-specific protection screening, and sufficient time to obtain review before removal occurs.

187. If Petitioner establishes the applicable fear threshold, Respondents must provide a procedure through which the country-specific claim can be adjudicated before an Immigration Judge.

188. A motion to reopen filed on Petitioner's initiative after receiving a last-minute removal notice is not an adequate substitute. A motion to reopen is discretionary, does not ordinarily stay removal, and may not be adjudicated before DHS executes removal.

189. Removal first and process later is not due process.

190. Respondents therefore may not remove Petitioner to Uganda or another newly identified country until they provide meaningful notice and a meaningful opportunity to present and obtain adjudication of any fear-based claim.

COUNT V

ALTERNATIVE CLAIM — VIOLATION OF 8 U.S.C. § 1357(a)(2) AND THE FOURTH AMENDMENT

193. Petitioner incorporates the preceding paragraphs.

194. Respondents may contend that Petitioner was taken into custody pursuant to a lawful revocation of his supervised release. For the reasons above, Petitioner disputes that any lawful revocation occurred.

195. If Respondents instead contend that Petitioner's seizure was an independent warrantless immigration arrest, the arrest was subject to the express limitations Congress imposed in 8 U.S.C. § 1357(a)(2).

196. Section 1357(a)(2) authorizes a warrantless immigration arrest only where the officer has reason to believe both that the person is in the United States in

violation of immigration law and that the person "is likely to escape before a warrant can be obtained for his arrest."

197. The "likely to escape" requirement is an independent statutory limitation and cannot be treated as surplusage. Petitioner was not likely to escape. He had lived openly in the United States for more than thirty years. He had complied with ICE supervision for years.

198. ICE knew his identity and location. He had appeared voluntarily for every required reporting appointment. He was arrested when he appeared at ICE's own office because the Government ordered him to appear.

199. Only days earlier, ICE considered him sufficiently reliable to schedule his next reporting date for 2027. No rational, individualized basis existed to believe Petitioner would escape before ICE could obtain whatever warrant it believed necessary.

200. The District of Minnesota has recently recognized that even where the Government asserts a detention statute applies, § 1357 independently regulates the manner in which ICE may effect a warrantless interior arrest. *Jorge F.G. v. Easterwood*, No. 26-cv-2360 (MJD/LIB), Dkt. 15 at 13–18 (D. Minn. July 7, 2026).

201. In *Jorge F.G.*, the Court held that where nothing suggested the petitioner was likely to escape before a warrant could be obtained, Respondents failed to satisfy § 1357(a)(2), rendering the resulting custody unlawful. *Id.*

202. The facts here are more compelling because Petitioner voluntarily placed himself in ICE's presence in compliance with an affirmative Government directive. To the extent Respondents lacked lawful revocation authority and arrested Petitioner without a valid warrant, the seizure exceeded the authority conferred by § 1357(a)(2) and was unreasonable under the Fourth Amendment.

203. Because Petitioner's current custody flows directly from that unlawful seizure, habeas relief is appropriate.

COUNT VI

ADMINISTRATIVE PROCEDURE ACT — AGENCY ACTION CONTRARY TO LAW, IN EXCESS OF STATUTORY AUTHORITY, ARBITRARY AND CAPRICIOUS, AND WITHOUT OBSERVANCE OF REQUIRED PROCEDURE

212. Petitioner incorporates the preceding paragraphs.

213. The APA requires a reviewing court to hold unlawful and set aside agency action that is arbitrary, capricious, an abuse of discretion, contrary to law, in excess of statutory authority, or taken "without observance of procedure required by law." 5 U.S.C. § 706(2)(A), (C), (D).

214. Respondents acted contrary to law and without observance of required procedure by revoking Petitioner's release without satisfying 8 C.F.R. § 241.13 or, alternatively, § 241.4.

215. Respondents acted arbitrarily and capriciously by reversing decades of successful supervision without meaningfully addressing the factors most relevant to custody.

216. Those factors include Petitioner's decades of compliance, fixed residence, employment, lack of serious criminal history, lack of danger, lack of flight risk, serious medical vulnerability, and the success of less-restrictive supervision.

217. Most starkly, Respondents failed to explain why ICE itself considered Petitioner suitable to remain in the community until 2027 immediately before deciding he required imprisonment.

218. Respondents further act contrary to § 1231 and the Fifth Amendment to the extent they seek removal to Uganda without meaningful country-specific process.

219. If Petitioner was arrested without a valid revocation or warrant, Respondents additionally acted in excess of statutory authority and without observance of § 1357(a)(2).

220. Respondents may not cure unlawful agency action through post hoc rationalizations developed after Petitioner was already deprived of his liberty.

221. The detention decision should be set aside and Petitioner restored to his prior supervised release.

EMERGENCY AND IRREPARABLE HARM

222. Petitioner suffers irreparable injury every day he remains unlawfully deprived of his physical liberty.

223. The constitutional injury is especially acute because Petitioner spent more than two decades successfully at liberty before Respondents abruptly confined him.

224. Petitioner also faces substantial medical harm.

225. He is living with HIV and has relied on uninterrupted antiretroviral treatment for decades.

226. His adherence to medication has enabled him to remain virally undetectable.

227. Despite specific representations before booking that Sherburne was prepared to continue his medication, Petitioner reports that his prescribed HIV medication has not been provided.

228. Continued interruption risks compromising a treatment regimen Petitioner successfully maintained for decades.

229. Removal presents a separate irreparable injury.

230. Once Petitioner is physically removed to Uganda, his ability to obtain meaningful judicial review of the procedures preceding removal may be extinguished or severely impaired.

231. That risk is particularly serious because his original protection from Zimbabwe arose in connection with [redacted] and he has never had any adjudication concerning his individualized circumstances in Uganda.

232. Temporary protection preserving the status quo therefore is essential until Respondents establish that both detention and any contemplated third-country removal are lawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Issue the writ of habeas corpus and order Petitioner's immediate release from immigration detention into Minnesota under the conditions of his preexisting Order of Supervision or substantially equivalent conditions;

b. Order Respondents to provide an expedited return within 24 hours or such other period the Court finds appropriate;

c. Declare that Respondents violated 8 C.F.R. § 241.13 or, alternatively, § 241.4 by re-detaining Petitioner without a valid regulatory basis and required revocation process;

d. Enjoin Respondents from re-detaining Petitioner based on the present removal order absent:

B. a violation of lawful conditions of supervision; or

C. legally sufficient changed circumstances satisfying the applicable regulations, together with all notice, interview, custody-review, and due-process protections required by law;

a. Alternatively, if the Court does not order immediate release, require an immediate hearing before a neutral decisionmaker at which Respondents bear the burden of establishing that continued physical detention is presently necessary and lawful;

b. Pending final resolution of this action, enjoin Respondents from transferring Petitioner outside the District of Minnesota without advance notice to counsel and permission of the Court, or, if transferred before relief can issue, order his return to this District;

c. Enjoin Respondents from removing Petitioner to Uganda or any other country not specifically litigated as a country of removal unless and until Respondents:

D. provide Petitioner and counsel meaningful written notice identifying the proposed country of removal and the statutory basis for its selection;

E. provide Petitioner a meaningful opportunity to consult with counsel and investigate country-specific conditions;

F. affirmatively ask whether Petitioner fears persecution, torture, other legally cognizable harm, or refoulement in or through the proposed country and memorialize his response;

G. provide no fewer than ten days after meaningful notice for Petitioner to raise and prepare any fear-based protection claim, absent a knowing and counseled waiver;

H. if Petitioner asserts fear, provide a meaningful individualized protection process consistent with 8 U.S.C. § 1231(b)(3), CAT, and the Fifth Amendment;

I. if the applicable fear threshold is met, provide a meaningful opportunity for adjudication before an Immigration Judge before removal occurs; and

J. following any adverse screening determination, provide Petitioner no fewer than fifteen days to obtain judicial or administrative review, seek reopening, and request a stay before removal is executed;

    a. Immediately require Respondents, while Petitioner remains in custody, to ensure that Petitioner receives his prescribed antiretroviral medication without further interruption and has access to medically necessary HIV care;

b. Order Respondents upon release to return Petitioner's identification documents, immigration documents, personal property, medications, and other effects taken during his arrest;

c. Require Respondents to provide prompt notice to Petitioner's counsel of the time and location of release sufficient to arrange safe transportation and continuation of medical care;

d. Award Petitioner reasonable attorneys' fees and costs to the extent authorized by law; and

e. Grant such other and further relief as this Court deems just and proper.

REQUEST FOR EXPEDITED CONSIDERATION

Petitioner respectfully requests expedited review because he remains physically detained pursuant to a challenged revocation of decades-long supervised release, Respondents are pursuing removal to Uganda, and Petitioner presently reports interruption of medication necessary to manage his HIV.

Petitioner further requests that the Court direct Respondents to answer this Petition on an expedited basis and preserve the status quo, including Petitioner's presence within the District of Minnesota and within the United States, until the Court can determine whether his detention and contemplated third-country removal comply with federal law and the Constitution.

[SIGNATURE BLOCK TO FOLLOW]

Respectfully submitted,

/s/ Hannah Brown
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