

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) Joel Rodriguez Rosales,

Petitioner,

V.

**(1) Don Jones, Warden, Kay County
Detention Center;**

(2) **Russell Holt**, Director of Chicago Field Office, U.S. Immigration and Customs Enforcement;

(3) **Kristi Noem**, Secretary of the U.S. Department of Homeland Security; and

(4) **Pamela Bondi,**
Attorney General of the United States,
in their official capacities,

Respondents.

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Joel Rodriguez Rosales (“Mr. Rodriguez Rosales”) is a national of Honduras held in the custody of the Department of Homeland Security (“DHS”) at the Kay County Detention Center (“Kay”) in Newkirk, Oklahoma. Mr. Rodriguez Rosales fled Honduras after police officers and Mara Salvatrucha gang members kidnapped and tortured him; he entered the United States in 2017. An Immigration Judge (“IJ”) granted deferral of removal under the Convention Against Torture to Mr. Rodriguez Rosales, prohibiting his removal to Honduras, in January 2025. DHS did not appeal the decision, thus accepting the IJ’s finding that Mr. Rodriguez Rosales faced a likelihood of torture in Honduras. The IJ decision granting relief became administratively final as of the IJ’s decision date when DHS opted not to pursue an appeal. *See* 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(1)(B), 1101(a)(47)(B)(ii).
2. Mr. Rodriguez Rosales’s continued detention violates 8 U.S.C. § 1231(a)(6) and moreover violates his substantive due process rights under the Fifth Amendment. Mr. Rodriguez Rosales has now been detained for eight months since he was granted deferral of removal in an administratively final decision. To date, although DHS purports to be finding third countries that will accept him, Mr. Rodriguez Rosales has not received notice of removal to any such country. Mr. Rodriguez Rosales’s detention cannot continue when DHS is barred from removing him to Honduras and there is no foreseeable possibility that he will be removed to another country.
3. Mr. Rodriguez Rosales’s continued detention also violates procedural due process. Although DHS may argue that they can remove Mr. Rodriguez Rosales to a third

country, assuming that that they could find a third country to remove him to, DHS is obligated to give Mr. Rodriguez Rosales a hearing before removal. The mere possibility of removal after hypothetical future additional proceedings cannot justify continued detention now.

4. Because Mr. Rodriguez Rosales's removal is not reasonably foreseeable, and because DHS would need to provide meaningful notice and an opportunity to be heard before deporting Mr. Rodriguez Rosales to a third country, his continued detention is unlawful. Accordingly, to vindicate Mr. Rodriguez Rosales's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus. Alternatively, this Court should schedule a hearing at the earliest practicable opportunity to hear argument and, if necessary, receive evidence on Mr. Rodriguez Rosales's Petition.

JURISDICTION AND VENUE

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
8. Venue is proper because Mr. Rodriguez Rosales is detained at Kay County

Detention Center in Kay County, Oklahoma, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

9. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
10. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

11. Petitioner, Joel Rodriguez Rosales, is a citizen of Honduras. He first entered the United States as a minor in 1998 but was deported in 2012. While in Honduras, Mr. Rodriguez Rosales was kidnapped and tortured, leading him to flee the country. After one unsuccessful attempt to re-enter the United States in 2017, Mr. Rodriguez Rosales was able to enter the country that same year and has lived here since that time. In 2024 Mr. Rodriguez Rosales was detained by Immigration & Customs Enforcement (“ICE”) and sought protection against deportation to Honduras. The IJ granted his application for deferral of removal under the Convention Against

Torture, prohibiting his removal to Honduras. Mr. Rodriguez Rosales is currently detained at Kay County Detention Center in Kay County, Oklahoma. Mr. Rodriguez Rosales is in the custody, and under the direct control, of Respondents and their agents.

12. Respondent Don Jones is the Warden of the Kay County Detention Center, and he has immediate physical custody of Mr. Rodriguez Rosales pursuant to the facility's contract with ICE to detain noncitizens and is a legal custodian of Mr. Rodriguez Rosales. Respondent is a legal custodian of Mr. Rodriguez Rosales.
13. Respondent Russell Holt is sued in his official capacity as the Acting Director of the ICE Chicago Field Office. Respondent is a legal custodian of Mr. Rodriguez Rosales and has authority to release him.
14. Respondent Kristi Noem is sued in her official capacity as DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, the component agency responsible for Mr. Rodriguez Rosales's detention. Respondent Noem is a legal custodian of Mr. Rodriguez Rosales.
15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Mr. Rodriguez Rosales.

FACTS AND PROCEDURAL HISTORY

16. Petitioner is a 39-year-old citizen of Honduras¹. Mr. Rodriguez Rosales was raised in Honduras by his grandparents and extended family but was brought to the United States as a teenager. Mr. Rodriguez Rosales' immediate family is in the United States, including his parents and United States citizen half-siblings. Mr. Rodriguez Rosales is also in a committed relationship with a United States citizen.
17. Mr. Rodriguez Rosales was deported to Honduras in 2012 via a final administrative removal order under 8 U.S.C. § 1228(b).
18. Upon his return to Honduras, Mr. Rodriguez Rosales attempted to establish a life there and had no plans of returning to the United States. Mr. Rodriguez Rosales became a taxi driver. However, soon after police officers and by extension the Mara Salvatrucha criminal gang started extorting him. Mr. Rodriguez Rosales stopped paying the extortion fee after half a year as he was frustrated and angry that he had to turn his salary over to the Mara.
19. Ultimately in 2014, state police officers – working with the Mara – kidnapped Mr. Rodriguez Rosales and turned him over to the Mara Salvatrucha. Mr. Rodriguez Rosales was taken to an undisclosed location, and there the Mara Salvatrucha proceeded to hang him from a beam, stab him and beat him with a 2x4 on his face, head and body. He was left abandoned on the side of a road. With the help of family, Mr. Rodriguez Rosales fled Honduras.

¹ Mr. Rodriguez Rosales may have had temporary residency in Mexico due to his marriage to a Mexican national. However, Mr. Rodriguez Rosales is now divorced and never completed the process of obtaining residency in Mexico.

20. Mr. Rodriguez Rosales returned to the U.S. in 2017. Since then, he has worked in Chicago, Illinois and Wisconsin and joined a church. Mr. Rodriguez Rosales has continued to experience mental trauma related to his experience in Honduras. While in detention, Mr. Rodriguez Rosales was prescribed medication for his depression and anxiety and diagnosed with Post-Traumatic Stress Disorder.
21. Mr. Rodriguez Rosales was detained by ICE on September 11, 2024, and his prior removal order was reinstated. However, Mr. Rodriguez Rosales expressed fear of returning to Honduras and, following a positive reasonable fear decision his case was referred to the Immigration Court for withholding-only proceedings. On December 30, 2024, an immigration judge granted Mr. Rodriguez Rosales's requests for withholding of removal and deferral of removal under the Convention Against Torture. However, upon motion from DHS, on January 28, 2025, the immigration judge amended her order to a grant of deferral of removal only. Under that order, Mr. Rodriguez Rosales's prior removal order from 2012 remains in place, but the government is prohibited from removing him to Honduras based on the substantial likelihood that he would be tortured there.
22. On February 27, 2025, immigration counsel for Mr. Rodriguez Rosales emailed ICE an inquiry regarding his release. ICE informed counsel that a custody review had already occurred and that the case was being sent to ICE headquarters for further review.
23. On April 9, 2025, immigration counsel for Mr. Rodriguez Rosales submitted an evidentiary packet with letters of support advocating for his release. On May 13,

2025, ICE issued a decision to continue detention. In that decision, ICE stated that it would continue to seek removal to third countries for Mr. Rodriguez Rosales.

24. Approximately in April 2025, Mr. Rodriguez Rosales was transferred from the Dodge County Detention Center in Wisconsin to the Leavenworth facility in Kansas. Mr. Rodriguez Rosales reported horrible conditions at Leavenworth, including prolonged isolation, overcrowding, overheating and inadequate food. Mr. Rodriguez Rosales was ultimately transferred to the Kay County Detention Center in Oklahoma approximately in June 2025.

25. On July 28, 2025, immigration counsel for Mr. Rodriguez Rosales again emailed ICE to ask whether Mr. Rodriguez Rosales would be released and alternatively whether ICE had secured or was in the process of securing travel documents to a third country. To date, there has been no response from ICE.

26. Mr. Rodriguez Rosales has now been in ICE custody for over one year, including eight months following his final deferral of removal grant.

LEGAL FRAMEWORK

Legal Protections Under the Convention Against Torture

27. In removal proceedings, the noncitizen is entitled to select a country of removal. 8 U.S.C. § 1231(b)(2)(A); *see also* 8 C.F.R. § 1240.10(f) (“[T]he immigration judge shall notify the respondent that if he or she is finally ordered removed, the country of removal will in the first instance be the country designated by the respondent . . .”). The IJ will designate the country where the person “is a subject, national, or citizen,” if either the noncitizen does not select a country or as an alternative in the

event the noncitizen's designated country does not accept the individual. 8 U.S.C. § 1231(b)(2)(D). The IJ also may designate alternative countries, as specifically set out by 8 U.S.C. § 1231(b)(2)(E).

28. An IJ must provide sufficient notice and opportunity to apply for protection from a designated country of removal. 8 C.F.R. § 1240.10(f) (providing that the “immigration judge shall notify the respondent” of designated countries of removal); 8 C.F.R. § 1240.11(c)(1)(i) (providing that the IJ shall “[a]dvice the [noncitizen] that he or she may apply for asylum in the United States or withholding of removal to [the designated countries of removal]”).
29. Individuals in removal proceedings who fear returning to their country of origin but are ineligible for asylum and withholding of removal are still entitled to receive protection under the Convention Against Torture (CAT) in the form of withholding or deferral of removal, upon demonstrating a likelihood of torture if removed to the designated country of removal. *See* 8 U.S.C. § 1231; 8 C.F.R. § 1208.17(a); 28 C.F.R. § 200.1. CAT protection is mandatory. *Id.* With respect to any individual granted deferral of removal under CAT, the IJ “shall also inform the [noncitizen] that removal has been deferred only to the country in which it has been determined that the [noncitizen] is likely to be tortured, and that the [noncitizen] may be removed at any time to another country where he or she is not likely to be tortured.” 8 C.F.R. § 1208.17(b)(2).
30. Although individuals granted CAT protection may be removed to a third country, the regulations provide that they may not be removed to a country where they are

likely to be tortured: “The immigration judge shall also inform the [noncitizen] that removal has been deferred only to the country in which it has been determined that the [noncitizen] is likely to be tortured, and that the [noncitizen] may be removed at any time to another country where he or she is not likely to be tortured.” 8 C.F.R. §1208.17(b)(2).

31. Pursuant to § 1231(b)(3)(A), courts repeatedly have held that individuals cannot be removed to a country that was not properly designated by an IJ if they have a fear of persecution or torture in that country. *See Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v. Ashcroft*, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att’y Gen.*, 149 F. App’x 947, 953 (11th Cir. 2005) (per curiam) (permitting designation of third country where individuals received “ample notice and an opportunity to be heard”).

Substantive Due Process Limits to Detention.

32. The detention of individuals who have been granted protection under the Convention Against Torture is governed by 8 U.S.C. § 1231. 8 C.F.R. 1208.17(c). Under § 1231, individuals with final removal orders are subject to mandatory detention only during a 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen who is not removed within that period “shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3).
33. While § 1231(a)(6) permits detention beyond the removal period in certain situations, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Zadvydas*, 533 U.S. at 699.

34. The Supreme Court has held, in the context of post-removal immigration detention, that if the “detention’s goal is no longer practically attainable,” detention becomes unreasonable and violates the detained person’s Fifth Amendment right to due process. *Zadvydas*, 533 U.S. at 690. “[I]f removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699-700.
35. Six months is the presumptively reasonable period during which ICE may detain non-citizens in order to effectuate their removal. *Id.* at 701. After six months of detention, if “the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, DHS must respond with evidence sufficient to rebut that showing” or else a Constitutional violation occurs. *Id.* Moreover, “an inversely proportional relationship is at play: the longer a [] [noncitizen] is detained, the less he must put forward to obtain relief.” *Alexander v. Att’y Gen. U.S.*, 495 F. App’x 274, 276-77 (3d Cir. 2012).
36. There is no exception to the above protections based on DHS’s attempts to find a third country for removal. *See* 8 U.S.C. § 1231(b)(3) (Restricting the Attorney General from removing an individual to a country where the individual’s life or freedom would be threatened because of the individual’s race, religion, nationality, membership in a particular social group or political opinion.) Indeed, because noncitizens must have a meaningful opportunity to challenge removal to a third country where they fear torture, *see supra* pp 8-10, locating a third country for removal does not make removal reasonably foreseeable.

37. Additionally, even assuming DHS can remove a noncitizen to a third country at some unknown date in the future, their continued detention is not reasonably related to its stated purpose when alternative conditions of release could mitigate flight risk. *Bell v. Wolfish*, 441 U.S. 520, 536-39 (1979) (observing that pretrial detention not reasonably related to a legitimate government purpose would constitute punishment in violation of Due Process).
38. DHS regularly utilizes orders of supervision when releasing individuals from its custody when a final order of removal is in place. An order of supervision operates like terms of probation, with the ability to impose “conditions of supervision” on individuals. *See* 8 C.F.R. § 214.15(a). For example, noncitizens released on such orders regularly are prohibited from leaving the state in which they reside without advance permission from an ICE officer. *Id.*(a)(4). They may also be required to report to an ICE officer in person or by telephone on a periodic basis. *See Fernandez Aguirre v. Barr*, No. 19-CV-7048 (VEC), 2019 WL 4511933, at *5 (S.D.N.Y. Sept. 18, 2019) (listing alternatives to detention, “such as home detention, electronic monitoring, and so forth”); *Mathon v. Searls*, 623 F. Supp. 3d 203, 218 (W.D.N.Y. 2022) (“[T]he form used by ICE to list the terms of supervision (Form I-220B) includes a section for ‘other specified conditions’, which implies that ICE has flexibility in imposing release terms.”).
39. Such conditions of release would be sufficient to ensure Mr. Rodriguez Rosales’s presence in the event that removal to a third country becomes possible.

Procedural Due Process Limits to Detention.

40. Meaningful notice and opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture are fundamental due process protections under the Fifth Amendment. *See Andriasian*, 180 F.3d at 1041; *Protsenko*, 149 F. App'x at 953; *Kossov*, 132 F.3d at 408; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019). Similarly, a “last minute” IJ designation of a country during removal proceedings that affords no meaningful opportunity to apply for protection “violate[s] a basic tenet of constitutional due process.” *Andriasian*, 180 F.3d at 1041.
41. The Due Process Clause and the INA require the Government to give a noncitizen notice and a hearing where the immigrant can present evidence on his or his behalf in defense of removal. *See* U.S. Const., Amend. V; 8 U.S.C. § 1229a(b)(4) (an immigrant in removal proceedings “shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien’s own behalf, and to cross-examine witnesses presented by the Government”); *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Mathews v. Eldridge*, 424 U.S. 319, 332–33 (1976).
42. Multiple courts have held—including in the context of purported removals to third countries—that “affirming a deportation order without a fair hearing concerning that deportation violates due process.” *Kuhai v. INS*, 199 F.3d 909, 913 (7th Cir. 1999) (holding that the noncitizen must be given the opportunity to brief removal to a third country when there was no indication during removal proceedings that she could be

removed there); *Su Hwa She v. Holder*, 629 F.3d 958, 965 (9th Cir. 2010) (“It follows that a failure to provide notice and, upon request, stay removal or reopen the case for adjudication of [the noncitizen’s] applications as to Burma would constitute a due process violation *if* Burma becomes the proposed country of removal.”); *Romero v. Evans*, 280 F. Supp. 3d 835, 847 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioner to a third country, as DHS would first need to give petitioner notice and the opportunity to raise any reasonable fear claims.”).

43. A fair hearing provides a noncitizen “an adequate opportunity to defend themselves against that deportation,” including seeking protection from removal to that alternate country. *Kossov v. INS*, 132 F.3d 405, 408 (7th Cir. 1998).

44. However, a detained noncitizen may not seek protection from any theoretical third country until the Government has affirmatively designated that country for removal. *See Hwa She*, 629 F.3d at 965 (“Under the plain wording of 8 C.F.R. § 1208.16, an applicant is not entitled to adjudication of an application for withholding of removal to a country that nobody is trying to send them to.”); *Yakubov v. Att’y Gen.*, 586 F. App’x 86, 87 (3d Cir. 2013) (“Yakubov’s claim for deferral [to Russia] will not become ripe unless and until the Government’s efforts to remove him to Israel prove unsuccessful.”).

45. DHS’s current procedures allowing a noncitizen to be removed to a third country without such process are inapposite, as these procedures do not comport with due process. A July 9, 2025, memorandum from Acting Director of ICE Todd Lyons to ICE employees states that ICE may remove noncitizens with removal orders to third

countries without meaningful notice or a meaningful opportunity to respond, so long as that third country has provided diplomatic assurances that the individual will not be tortured there. Under this memorandum, ICE officers need not explain to the noncitizen that they can express a fear of return to the third country or challenge removal to that country in any way. Moreover, the memorandum allows ICE to deport a noncitizen in as few as six hours following a notice of third country removal.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act: 8 U.S.C. § 1231(a)(6) Does Not Authorize Prolonged Detention Beyond a Reasonable Period

46. The allegations in the above paragraphs are realleged and incorporated herein.

47. Mr. Rodriguez Rosales's continued detention by Respondents is unlawful and violates 8 U.S.C. § 1231(a)(6) as interpreted by the Supreme Court in *Zadvydas*. Mr. Rodriguez Rosales's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have both expired. Mr. Rodriguez Rosales has been detained for over 11 months in total, over 6 months after his removal order became final, and there is no indication that his removal to a third country is significantly likely to occur in the reasonably foreseeable future, particularly since DHS has not provided him with a notice of third country removal or permitted him the opportunity to claim a fear of return to any such third country. Mr. Rodriguez Rosales has cooperated with ICE in all aspects, but ICE has failed to

demonstrate that it has any ability to arrange for removal within a constitutionally meaningful time frame.

COUNT 2
Violation of Fifth Amendment Right to Substantive Due Process

48. The allegations in the above paragraphs are realleged and incorporated herein.

49. Mr. Rodriguez Rosales has a liberty interest under the Fifth Amendment Due Process Clause in not being detained for an indeterminate length of time by the Attorney General.

50. Deprivation of a fundamental liberty interest can only be justified if narrowly tailored to serve a compelling governmental interest. *Flores v. Reno*, 507 U.S. 292, 302 (1993).

51. The Court in *Zadvydas* found that the government interests at stake were not compelling. The Court considered two interests asserted by the government: ensuring the noncitizen's appearance at future proceedings and preventing danger to the community. The first interest was held to be "weak or nonexistent" when an individual cannot be deported in the foreseeable future. *Zadvydas*, 533 U.S. at 690.

52. The second interest, preventative detention, could only be upheld where "limited to specially dangerous individuals and subject to strong procedural protections." *Id.* at 690-91. DHS has not alleged that Mr. Rodriguez Rosales falls within this category.

53. Thus, as the Supreme Court held in *Zadvydas*, neither interest is compelling here.

54. Because there is no likelihood that Respondents can effectuate deportation in this case within the reasonably foreseeable future, the continued detention of Mr. Rodriguez Rosales no longer falls within the grant of authority to the Attorney General to continue to hold them in detention.

55. Since the continued detention of Mr. Rodriguez Rosales is not authorized by statute, he is now being held unlawfully by Respondents.

56. Mr. Rodriguez Rosales seeks recourse via a writ of habeas corpus, ordering Respondents to produce some reason for his continued detention. *Zadvydas* at 701, 121 S. Ct. at 2505 (“once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, DHS must respond with evidence sufficient to rebut that showing.”).

COUNT 3
Violation of Fifth Amendment Right to Procedural Due Process

57. Mr. Rodriguez Rosales repeats and incorporates by reference the allegations in the preceding paragraphs as fully set forth herein.

24. DHS—having failed before now to designate any country other than Honduras for removal—cannot remove Mr. Rodriguez Rosales to some other country without providing procedural protections.

25. Although Mr. Rodriguez Rosales received notice that the Government may try to remove him to another country, he has received no notice as to which countries the Government may be considering and no opportunity to challenge those efforts.

26. The Due Process Clause and the INA require the Government to give a noncitizen notice and a hearing where the noncitizen can present evidence on his or her behalf. *See* U.S. Const., Amend. V; 8 U.S.C. § 1229a(b)(4) (an immigrant in removal proceedings “shall have a reasonable opportunity to examine the evidence against the alien, to present evidence on the alien’s own behalf, and to cross-examine witnesses presented by the Government”); *Mathews*, 424 U.S. at 332–33; *see also Kuhai*, 199 F.3d at 913.
27. ICE has detained Mr. Rodriguez Rosales since September 11, 2024, more than one year, including 244 days after his grant of deferral of removal.
28. The Government cannot, consistent with procedural due process, deport Mr. Rodriguez Rosales to any third country without telling him where he will be removed and giving him at least an opportunity to file a protection-based claim. *See Kossov*, 132 F.3d at 408 (a fair hearing provides a noncitizen “an adequate opportunity to defend themselves against that deportation,” including seeking protection from the alternate country). Thus, ICE’s current procedures as outlined in its July 9, 2025 memorandum, *see supra* p. 5, violate Mr. Rodriguez Rosales’s right to procedural due process.
29. Mr. Rodriguez Rosales fears deportation to other countries where the Mara Salvatrucha had deep ties. Thus, any possible third country removal would at minimum trigger additional hearings, new removal proceedings, and multiple additional months of detention.

30. Considering the slim likelihood of removal to a third country, DHS's failure to designate any third country in removal proceedings, and the statutory regime created by Congress, procedural due process is offended by Mr. Rodriguez Rosales's ongoing detention.
31. Where the sole permissible purpose of detention is to effectuate removal, and where Mr. Rodriguez Rosales has already been granted CAT protection from removal to the only country designated for removal by DHS, and where DHS cannot indicate any plausible alternative country for removal, the likelihood of erroneous deprivation of liberty is at its peak.
32. Further, DHS regularly employs conditions of release by utilizing Orders of Supervision. *See* 8 C.F.R. § 214.15(a). Because DHS could continue investigating potential third country removal, and because DHS would have ongoing access to Mr. Rodriguez Rosales, as necessary, their release from custody would impose no harm to the Government.
33. By contrast, Mr. Rodriguez Rosales's ongoing detention of liberty in immigration detention imposes an ongoing and very heavy cost on Mr. Rodriguez Rosales.
34. The balance of these factors tips strongly in Mr. Rodriguez Rosales's favor, such that the Government's continued detention of him violates his procedural due process rights.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully request this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that Petitioner's detention and attempts to remove him to a third country violate the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231a(a)(6), and 8 C.F.R. § 1208.17(a).
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (5) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/S/ Elissa R Stiles
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Dated: September 30, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Joel Rodriguez Rosales, and submit this verification on their behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 30th day of September, 2025.

/S/ Elissa R Stiles
Elissa Stiles