UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSE MARTINEZ DE LA CRUZ, ***Petitioner,*** **v.** **FRANCIS J. RUSSO, ET AL.,** ***Respondents.***	**Civil Action No. 1:26-cv-629** **(Gonzalez, J.)**

[PROPOSED] STIPULATION AND ORDER OF DISMISSAL

WHEREAS, On February 4, 2026, Petitioner Jose Martinez de la Cruz filed a Petition for a Writ of Habeas Corpus petition, challenging his detention by U.S. Immigration and Customs Enforcement ("ICE");

WHEREAS, On February 27, 2026, ICE released Petitioner from custody and is not presently detained or subject to any Alternative to Detention, such as an ankle monitor, the SMARTLink mobile application, through which a foreign national may check in with ICE remotely, or requirements for an in person check in at an ICE facility;

WHEREAS, Petitioner has nevertheless declined to dismiss this suit;

WHEREAS, Petitioner's counsel has represented to Respondents that Petitioner is currently an in-patient at Long Island Living Center, a 24/7 assisted living facility in Queens, NY; and

WHEREAS, the parties seek to resolve this action in order to avoid needless litigation, without waiving any defense or conceding any liability, fault, or wrongdoing:

IT IS HEREBY STIPULATED AND AGREED by and between the parties, through their undersigned counsel, that:

1. This action shall be and hereby is dismissed without prejudice and without costs or attorney's fees to either party.
2. ICE shall not detain the Petitioner while he remains an in-patient at Long Island Living Center or if he is transferred to a different assisted living facility, or, if being provided full time care and supervision, to a nursing home, rehabilitation facility, or hospital;
3. Petitioner, through undersigned counsel, shall keep ICE updated of his patient status regarding such hospital, nursing home, rehabilitation facility, or assisted living facility, within 24 hours of such transfers or check-outs/releases.
4. Petitioner will surrender to ICE within 72 hours of his discharge from such a facility, in order for ICE to issue him a Form I-220A, Order of Release on Recognizance, to include, *inter alia,* enrollment of Petitioner in ICE's Alternatives to Detention Program ("ATD"), which includes SMARTLink.
5. In light of Petitioner's counsel's representations regarding his dementia and an immigration judge's findings, that Petitioner was, at the time of the June 2022 hearing, incompetent, in the event that Petitioner fails to comply with a condition of such Order of Recognizance and additional instructions in the SMARTLink program, ICE shall contact any counsel who has a current Form G-28 on file with ICE for Petitioner, if any at that time. ICE will not detain Petitioner without first providing him an opportunity to respond and cure his noncompliance. ICE shall allow 72 hours for Petitioner to cure. If upon 72 hours, Petitioner has not complied with his Smartlink reporting, ICE may re-detain Petitioner.

6. ICE shall not detain Petitioner, absent violation of his Order of Recognizance and SMARTlink Program instructions conditions as specified above (allowing for 72 hours for Petitioner to cure), engages in felonious criminal activity, and/or he becomes subject to a final order of removal.
7. Nothing in this stipulation shall be construed as an admission of liability or wrongdoing by Respondents, or a concession of rights or arguments by Respondents or by the Petitioner; nor shall it be construed to require Respondents to provide similar terms to aliens in other

circumstances, and this agreement shall in no way be used to undermine Respondents' litigation position in any other case.

Dated: April 16, 2026
New York, New York

THE BRONX DEFENDERS
IMMIGRATION PRACTICE
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Dated: April 16, 2026
Brooklyn, New York

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SO ORDERED:

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HON. HECTOR GONZALEZ
UNITED STATES DISTRICT JUDGE