UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RIGOBERTO CONTRERAS, Petitioner, v. Warden, Florida Soft Side South Detention Center; TODD LYONS, in His official capacity as Acting Director of Immigration and Customs Enforcement; GARRET RIPA, in his official capacity as the Miami Field Office Director ICE; (DHS) KRISTI NOEM, in her official capacity as Secretary of Department of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the United States. Respondents.	PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

1. This is a petition for a writ of habeas corpus filed on behalf of Rigoberto Contreras (henceforth "Mr. Contreras") seeking relief to remedy his unlawful detention pursuant to 28 U.S.C. § 2241. Respondents are detaining Mr. Contreras pending the execution of his final removal order. Mr. Contreras has fully cooperated with Respondents in their efforts to remove him. Since his final order of removal to date, Respondents have been unable or unwilling to remove Mr. Contreras. He has now been detained for prolonged period following his re-detention, with no concrete plan for removal and no indication

that removal is likely in the foreseeable future. Mr. Contreras is not a flight risk or a danger to the community. Prior to his detention, he was reporting regularly with U.S. Immigration and Customs Enforcement. His continued detention is no longer justified under the Constitution or the Immigration and Nationality Act ("INA").

2. Mr. Contreras was ordered removed on May 4, 2005. Following the entry of his final order of removal, he was taken into ICE custody for a period exceeding 180 days. Because Petitioner was granted withholding of removal, Mr. Contreras was released from custody and placed under an Order of Supervision on January 16, 2014.

3. Mr. Contreras complied with all conditions of supervision and continued to report to ICE as required. However, on February 9, 2026, during a routine supervision check-in, Respondents took Mr. Contreras into custody where he has remained detained since that date.

4. To date, Respondents have not secured travel documents or otherwise demonstrated that Mr. Contreras's removal is likely in the reasonably foreseeable future. Mr. Contreras has fully cooperated with Respondents' requests and has not delayed or obstructed removal in any way. Respondents, however, have been unable to effectuate his removal.

5. Mr. Contreras submits that his continued detention violates his

constitutional rights. His prolonged detention is no longer justified under the Constitution or the Immigration and Nationality Act. Petitioner seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release Mr. Contreras from their custody.

PARTIES

6. Mr. Contreras is a citizen of El Salvador. He is currently detained at Florida Soft Side South Detention Center. Despite complying with his order of supervision, he was arbitrarily taken into custody in February 2026 at his last ICE check-in.

7. Respondent, Warden of the Florida Soft Side South Detention Center, is sued in their official capacity.

8. Respondent Pamela Bondi is the Attorney General for the United States Justice Department. Ms. Bondi is the official ultimately responsible with proper enforcement of federal immigration law. She is sued in her official capacity.

9. Respondent Garrett J. Ripa is the Acting Field Office Director for the ICE Miami Office of Enforcement and Removal Operations ("ICE ERO"). In this capacity, he has jurisdiction over Petitioners and is a legal custodian of Petitioners. Mr. Ripa is sued in his official capacity, as well as any other individual officially occupying the office of Miami ICE Field Office Director

subsequent to his departure from that office.

10. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"), the arm of the U.S. government responsible for enforcement of immigration laws. ICE is a subdivision of DHS. Ms. Noem is the ultimate legal custodian of Petitioner. Ms. Noem is sued in her official capacity.

11. Respondent Todd Lyons, is the Acting Director of U.S. ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including noncitizen detention. The Respondent is being sued in his official capacity.

JURISDICTION

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 1331 (federal question) and the U.S. Constitution, art. I, § 9, cl. 2 (Suspension Clause). While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, 8 U.S.C. § 1252(a)(l), (b), the federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas corpus claims by aliens challenging "the constitutionality of the entire statutory scheme under the Fifth Amendment." 2 This case arises under the United States Constitution; the Immigration and Nationality Act ("INA"), 8 U.S.C. §§1101 et seq., and the Due

Process Clause of the Fifth Amendment. This Court has remedial authority under its inherent authority and the All Writs Act, 28 U.S.C. §1651.

13. Furthermore, 28 U.S.C. §2241 authorizes district courts to grant writs of habeas corpus to individuals "in custody in violation of the Constitution or laws or treaties of the United States." federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention; as well as claims by noncitizens seeking to protect their due process rights. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840-41 (2018); *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas*, 533 U.S. at 687. Petitioners are currently detained by U.S. Immigration and Customs Enforcement ("ICE") within this judicial district, satisfying the "in custody" requirement at the time of filing. *See Zadvydas; Demore*.

14. This Court further has jurisdiction under Article I, Section 9, Clause 2 of the U.S. Constitution, the Suspension Clause, which guarantees the availability of the writ of habeas corpus except in cases of rebellion or invasion.

15. The claims raised herein are not barred by 8 U.S.C. § 1252, as Petitioners are not challenging the validity of a final order of removal, but rather the legality of detention in violation of federal regulations and the due process under the Fifth Amendment. See Clark v. Martinez, 543 U.S. 371 (2005) (extending *Zadvydas* to inadmissible aliens).

16. Interpreting § 1252(g) as barring judicial review of these claims risks

conflicting with the Supreme Court's instruction that§ 1252(g) is not a broad jurisdictional limitation on "all claims arising from deportation proceedings." *Reno v. Am. -Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482, 487 (1999); *see also Grigorian v. US. Atty. Gen.*, No. 1:25-cv-22914 (S.D. Fla. Sept. 9, 2025). Indeed, the Supreme Court has emphasized that 28 U.S.C. § 2241 provides federal courts with jurisdiction to consider challenges to the lawfulness of immigration-related detention. *Zadvydas*, 533 U.S. at 687.

VENUE

17. Venue lies in the United States District Court for the Middle District of Florida, the judicial district where Petitioner is detained. 28 U.S.C. § 1391(e).

FACTUAL AND PROCEDURAL HISTORY

18. Rigoberto Contreras is a native and citizen of El Salvador who was ordered removed from the United States on May 4, 2005.

19. Following the grant of his withholding of removal, Mr. Contreras was placed under an Order of Supervision ("OSUP") with U.S. Immigration and Customs Enforcement ("ICE"). **See Exhibit A – Order of the Immigration Judge granting Withholding of Removal.**

20. On or about May 2013, Mr. Contreras was taken into ICE custody.

21. Mr. Contreras remained in ICE custody until January 16, 2014, over

230 days. During that time, ICE was unable to effectuate his removal and Mr. Contreras was granted withholding of removal by an immigration judge.

22. On January 16, 2014, after more than 180 days post removal and over 230 days in ICE custody, because his removal could not be carried out in the reasonably foreseeable future and he was granted withholding of removal, ICE released Mr. Contreras under an Order of Supervision. **See Exhibit B – Order of Supervision documents.**

23. Following his release in January 2014, Mr. Contreras remained under an Order of Supervision and complied with all reporting and supervision requirements.

24. As part of his supervision obligations, Mr. Contreras reported to ICE for a routine check-in at the ICE Field Office in Miramar, Florida on January 9, 2026. He was then instructed to reappear February 9, 2026.

25. During that check-in, Respondents took Mr. Contreras into ICE custody once again for the stated purpose of executing his removal order. Mr. Contreras has remained detained since February 9, 2026. **See Exhibit C – ICE Detainee Locator.**

26. In detaining Mr. Contreras, ICE violated his due process in failing to comply with the statutory requirements required to revoke an Order of Supervision outlined in 8 C.F.R. §§ 241.4. Mr. Contreras has never violated the

terms of his supervision, and the conditions supporting Mr. Contreras's release on supervision have not changed. Thus, any subsequent detention by ICE was and is unlawful.

27. Since receiving his order of supervision, Mr. Contreras has complied with all requirements of his release, including regular reporting to ICE and seeking residency in another country. He has been a productive member of American society. He has been lawfully employed pursuant to his government issued employment authorization and has consistently paid his taxes. Had Mr. Contreras been provided with an interview as required by law, he would have offered evidence his compliance with the OSUP requirements and the lack of changed circumstances since his OSUP was put in place.

28. Mr. Contreras has strong family ties in the United States. His wife and children reside in the United States. His continued detention has caused significant emotional distress to both Mr. Contreras and his family.

29. As of today, Respondents have not provided Mr. Contreras with any concrete plan or timeline for removal, nor have they demonstrated that his removal is likely in the reasonably foreseeable future. Mr. Contreras has fully complied with all ICE requirements and has not delayed or obstructed removal in any way.

30. Mr. Contreras is not a danger to the community or a flight risk. He

has no pending criminal cases and has complied with ICE supervision for many years.

31. Mr. Contreras has deep roots in the United States. His wife and children reside in the United States. Prior to his detention, he was working, paying taxes, and supporting his family.

32. Respondents' continued detention of Mr. Contreras, despite their prior determination that removal was not feasible and absent any material change in circumstances, is no longer legally justifiable.

Violations of Due Process, Federal Statutes and Regulations, and the Accardi Doctrine

33. Mr. Contreras was previously released on OSUP after the government made a determination that he did not present a danger to the community, did not present a flight risk, and/or was not likely to be removed in the reasonably foreseeable future. The conditions of El Salvador have not changed so as to undermine the basis of Petitioner's order of supervision and warrant their detention.

34. Accordingly, the factual basis underlying Mr. Contreras's original release under an Order of Supervision has not changed. El Salvador has refused to accept his deportation, his life would be in danger should he return, and no third country has accepted him.

35. In addition, Mr. Contreras did not receive a prompt informal interview regarding ICE's decision to revoke their OSUP and redetain them,

either when they were being re-detained or soon thereafter. Nor was Mr. Contreras's given the opportunity at any point to submit any evidence or information showing that there is no significant likelihood of removal in the reasonably foreseeable future, or that he had not violated his order of supervision.

36. To detain Mr. Contreras indefinitely without any previous identification and notification of a third country, a hearing on that third country, a change in country conditions, or a violation of their Orders of Supervision is an arbitrary and unlawful detention that violates Mr. Contreras's constitutional rights.

37. Moreover, Mr. Contreras's actions contravene the *Accardi* doctrine, which requires agencies to follow their own binding regulations. ICE may release a noncitizen from detention after the removal period, subject to certain conditions, on an OSUP. 8 U.S.C. § 1231(a)(l)(A). DHS has promulgated two generally applicable regulations, 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13, that govern when a noncitizen may be released on an OSUP and when that release may be revoked. Section 241.4 provides generic requirements governing the use of OSUPs. Section 241.13 applies specifically when OSUPs are used or revoked because there has been a change in the likelihood of the noncitizen' s removal in the reasonably foreseeable future.

LEGAL FRAMEWORK

38. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243 (emphasis added).

39. It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

40. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. See *id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious."). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

41. Detaining Mr. Contreras at an ICE check-in, without prior notice,

without identifying any parole or supervision violation, and without providing an opportunity to contest the revocation, constitutes the very sort of arbitrary governmental action that violates due process. Courts repeatedly hold that custody cannot be re-imposed without procedural safeguards, especially where the person has complied with all conditions and is living in the community. *See Morrissey v. Brewer*, 408 U.S. 471 (1972) (recognizing that a parolee's conditional liberty is a protected liberty interest and may not be terminated without orderly procedural safeguards). Thus, revoking an OSUP with no violation, no notice, and no hearing is a clear violation of the Fifth Amendment.

42. ICE's actions violate the *Accardi* doctrine, which requires agencies to follow their own binding regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). *Accardi* prohibits the Respondents from disregarding mandatory procedures governing OSUP revocations.

43. As the Southern District Court of Florida explained in *Grigorian* regarding the r evocation of an Order of Supervision and the requirement for a meaningful informal interview, "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause. This compels Petitioner's release." *Grigorian*, No. 1:25-cv-22914, at *18-19.

44. The *Grigorian* court continued to explain its power to ensure that such discretion is exercised in accordance with regulations and constitutional due process requirements:

45. To be clear, the Court is not "reviewing and reversing the manner in which discretion was exercised." Accardi, 347 U.S. at 268. As the Court has already explained, the Government may revoke Petitioner's OSUP for any of the reasons stated in§ 241.4(1)(2). But they may not detain him without offering a meaningful opportunity to contest those reasons. After all, "if men must turn square comers when they deal with the government, it cannot be too much to expect the government to tum square comers when it deals with them." *Niz-Chavez*, 593 U.S. at 172. The Court therefore finds that Petitioner must be released from custody. Id at. *20.

46. Numerous courts throughout the nation have reached similar conclusions. *See, e.g., Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025); *You v. Nielsen*, 321 F. Supp. 3d 451,463 (S.D.N.Y. 2018); *Rombot v. Souza*, 296 F. Supp. 3d 383,387 (D. Mass. 2017); *Zhu v. Genalo*, No. 1 :25-CV-06523 (JLR), 2025 WL 2452352, at *7-9 (S.D.N.Y. Aug. 26, 2025); *MS.L. v. Bostock*, No. 6:25-CV01204-AA, 2025 WL 2430267, at *10--12 (D. Or. Aug. 21, 2025); *Escalante v. Noem*, No. 9:25- CV-00182-MJT, 2025 WL

2491782, at *3 (E.D. Tex. July 18, 2025); *Hoac v. Becerra*, No. 2:25- cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025); *Wing Nuen Liu v. Carter*, Case No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025); *MQ. v. United States*, 2025 WL 965810, at *3, *5 n.1 (S.D.N.Y. Mar. 31, 2025).

47. Here, Mr. Contreras's final orders of removal have remained unexecuted for decades, and no immigration judge has ever designated a third country of removal. No alternative country has been identified by the government because no acceptable, alternative country can be identified. DHS has failed to reopen Petitioners' removal proceedings and has failed to obtain a new order of removal with a proper third country designated. ICE and DHS have failed to provide Petitioners or their counsel with any advance notice of a third country of removal and has failed to provide. Mr. Contreras was recently informal informed that he would be removed to Mexico.

48. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during "the removal period," which is defined as the 90-day period beginning on "the latest" of either "[t]he date the order of removal becomes administratively final"; "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court's final order"; or "[i]f the [noncitizen]is detained or

confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement."

49. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that "the statute, read in light of the Constitution's demands, limits [a noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

50. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen's due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

51. The Court's ruling in *Zadvydas* is rooted in due process's requirement

that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

52. The first justification of preventing flight, however, is "by definition . . . weak or nonexistent where removal seems a remote possibility." *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is "no longer practically attainable, detention no longer 'bears [a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, "preventive detention based on dangerousness" is permitted "only when limited to specially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 690–91.

53. Thus, under *Zadvydas*, "if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699–700. If removal is reasonably foreseeable, "the habeas

court should consider the risk of the [noncitizen's] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period." *Id.* at 700.

54. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that "Congress previously doubted the constitutionality of detention for more than six months" and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

CLAIMS FOR RELIEF

COUNT I
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FITH AMENDMENT
Substantive Due Process

55. Petitioner alleges and incorporates by reference paragraphs 1 through 54 above.

56. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

57. Petitioners' detention violates his right to substantive and

procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO
STATUTORY CLAIM

58. Petitioner alleges and incorporates by reference paragraphs 1 through 57 above.

59. Petitioner's continued detention violates the Immigration and Nationality Act and the U.S. Constitution.

COUNT THREE

VIOLATION OF THE ACCARDI DOCTRINE AND 8 C.F.R. §§ 241.4, 241.13

No Regulatory Authority to Detain

60. Under the Accardi doctrine, agencies must follow their own binding regulations, particularly when those regulations protect individual liberty interests. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260,268 (1954).

61. Respondents have violated the notice, interview, and opportunity to respond requirements of 8 C.F.R. §§241.4(1) and 241.13.

COUNT FOUR

LACK OF MEANINGFUL OPPORTUNITY TO CONTEST THIRD COUNTRY REMOVAL THROUGH CLAIMS OF FEAR OF PERSECUTION OR TORTURE, AND CLAIMS OF CHAIN NONREFOULEMENT

62. The allegations in paragraphs 1-57 are realleged and incorporated

herein.

63. 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 immigration judge if they have a fear of persecution or torture in that country. See *Andriasian v. INS*, 180 F. 3d 1033, 1041 (CA9 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply ... for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process."); *Kossov v. INS*, 132 F. 3d 405, 408–09 (CA7 1998) (failure to provide notice of and hearing on deportation to third country was a "fundamental failure of due process"); *see also Hadera v. Gonzales*, 494 F. 3d 1154, 1159 (CA9 2007); *El Himri v. Ashcroft*, 378 F. 3d 932, 938 (CA9 2004); cf. *Protsenko v. U. S. Att'y Gen.*, 149 Fed. Appx. 947, 953 (CA11 2005) (per curiam) (failure to give "proper notice of a potential country of deportation" and a subsequent order of removal to that country may constitute a violation of due process, citing Kossov).

64. Subsection 1231(b)(2) sets out a 4-step process for designating countries of removal. This procedure is also addressed in *Jama v. ICE*, 543 U. S. 335, 338–41 (2005).

65. First, in the removal hearing, subject to § 1231(b)(3), the noncitizen is entitled to select a country of removal. § 1231(b)(2)(A); 8 CFR § 1240.10(f).

66. Second, subject to Subsection 1231(b)(3), the immigration judge or DHS may dis-regard a designation if the noncitizen "fails to designate a country promptly," the designated country is nonresponsive or unwilling to accept the person, or removal to the designated country would prejudice U.S. interests. § 1231(b)(2)(C).

67. Third, still subject to § 1231(b)(3), the immigration judge may designate, or DHS may select, an alternative country of removal where the person "is a subject, national, or citizen," unless such country is nonresponsive or unwilling to accept the person. § 1231(b)(2)(D).

68. Fourth, subject to § 1231(b)(3), the immigration judge may designate or DHS may select, certain specified additional alternative countries, including the country: (i) from which the noncitizen was admitted; (ii) of the noncitizen's port of departure for the United States or a foreign contiguous territory; (iii) where the noncitizen resided before entering the United States; (iv) where the noncitizen was born; (v) having sovereignty over the noncitizen's place of birth at the time of birth; or (vi) where the noncitizen's birthplace is located at the time of the removal order. § 1231(b)(2)(E)(i)-(vi).

69. Only if removal to one of these countries is "impracticable, inadvisable, or impossible" may DHS remove the noncitizen to "another country whose government will accept [the noncitizen]." § 1231(b)(2)(E)(vii). For this last step, DHS counsel must provide evidence to the immigration court that the foreign government

"will accept" the individual. *El Himri*, 378 F. 3d, at 939.

70. Critically, Congress carved § 1231(b)(3) out from the designation statutes, i.e., §§ 1231(b)(1) and (b)(2). See §§ 1231(b)(1)–(2) (providing that both subsections are "subject to paragraph (3)"); *see also Jama*, 543 U. S., at 348 (noncitizens who "face persecution or other mis-treatment in the country designated under § 1231(b)(2), . . . have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); relief under an international agreement prohibiting torture, see 8 C.F.R. §§ 208.16(c)(4), 208.17(a)"); *Andriasian*, 180 F. 3d, at 1041 (IJ must provide sufficient notice and an opportunity to apply for relief from designated country of removal); *Kossov*, 132 F. 3d, at 405 (due process violation to order deportation to Russia after a claim of asylum as to Latvia where uncounseled noncitizen was provided insufficient notice of Russia possibility).

71. In 2005, in jointly promulgating regulations implementing 8 U.S.C. § 1231(b), the Departments of Justice and Homeland Security assumed that "[a noncitizen] will have the opportunity to apply for protection as appropriate from any of the countries that are identified as potential countries of removal under [8 U.S.C. § 1231(b)(1) or (b)(2)]." 70 Fed. Reg. 661, 671 (Jan. 5, 2005) (codified at 8 C.F.R. pt. 241) (supplementary information). Furthermore, the Departments contemplated that, in cases where DHS sought removal to a country that was not designated in removal proceedings, namely, "removals pursuant to [8 U.S.C. § 1231(b)(1)(C)(iv) or (b)(2)(E)(vii)]," DHS would join motions to reopen "[i]n appropriate circumstances"

to allow the noncitizen to apply for protection. *Id.*

72. For these reasons, if DHS designates a new country of removal after the completion of removal proceedings, the Immigration and Nationality Act (INA), the Due Process Clause, and binding international agreements obligate DHS to provide meaningful notice and an opportunity to present a fear-based claim prior to carrying out the deportation.

73. Notice is only meaningful if it is presented sufficiently in advance of the deportation to stop the deportation, is in a language the person understands, and provides for an automatic stay of removal to permit the filing of a motion to reopen removal proceedings if the person claims a fear of removal to the third country. *See Andriasian*, 180 F. 3d, at 1041; *Aden v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash 2019) ("A noncitizen must be given sufficient notice of a country of deportation [such] that, given his capacities and circumstances, he would have a reasonable opportunity to raise and pursue his claim for withholding of deportation."); *Sadychov v. Holder*, 565 Fed. Appx. 648, 651 (CA9 2014) ("However, should circumstances change such that Azerbaijan is the designated country of removal, the agency must provide Sadychov with notice and an opportunity to reopen his case for full adjudication of his claim of withholding of removal from Azerbaijan.").

74. Likewise, an opportunity to present a fear-based claim is only meaningful if the noncitizen is not deported before removal proceedings are reopened. *See Aden*, 409 F. Supp. 3d, at 1010 (merely giving petitioner an opportunity

to file a discretionary motion to reopen "is not an adequate substitute for the process that is due in these circumstances;" ordering reopening); *Dzyuba v. Mukasey*, 540 F. 3d 955, 957 (CA9 2008) (remanding to BIA to determinate whether designation is appropriate).

75. Alternatively, a reasonable fear interview before an asylum officer must be provided, along with the right to an immigration judge review, prior to removal to a third alternate country. *Cruz-Medina v. Noem*, — F. Supp. 3d —, No. 25-CV-1768-ABA, 2025 WL 2841488, at *9 (D. Md. Oct. 7, 2025) ("Accordingly, Petitioner has shown a strong likelihood of success on the merits of his claim that until and unless an immigration judge concurs with the asylum officer's determination that Petitioner lacks a reasonable fear of persecution or torture in Mexico, due process precludes his removal to Mexico."); *Sagastizado v. Noem*, — F. Supp. 3d —, No. 5:25-CV-00104, 2025 WL 2957002, at *16 (S.D. Tex. Oct. 2, 2025) ("For the foregoing reasons, this Court hereby ORDERS that Respondents and all of their officers, agents, servants, employees, attorneys, successors, assigns, and persons acting in concert or participation with them are hereby EN-JOINED from removing Petitioner from the continental United States until seven (7) days after an Immigration Judge reviews Petitioner's denied Reasonable Fear Interview, and only if the Immigration Judge affirms such denial.")

76. Upon information and belief, ICE, as a matter of practice, does not voluntarily afford this process, and is not currently affording this process to the

petitioner.

77. As such, the petitioner's ongoing and continued civil immigration detention is unlawful.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an order directing Respondents to show cause why the writ should not be granted;

c. Enjoin respondents from transferring Mr. Contreras outside of the jurisdiction of this court pending the adjudication of this matter.

d. Issue a writ of habeas corpus ordering Respondents to release Mr. Contreras on his own recognizance or reasonable conditions of supervision;

e. In the alternative, order the government to provide Petitioners with notice and a hearing where they can confront and oppose removal to any alternative third country that agrees to accept them, if one is identified;

f. Enjoin the Respondents from re-arresting or re-detaining Petitioners absent full and strict compliance with federal law;

g. Award Petitioner reasonable costs and attorney's fees; and,

h. Grant any other relief which this Court deems just and proper.

Respectfully Submitted,

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Counsel for Petitioner

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

Pursuant to 28 U.S.C. § 2242, undersigned counsel certifies under penalty of perjury that I am submitting this verification because I am one of the Petitioner/Plaintiff's attorneys and I have discussed the facts within this Petition with the Petitioner/Plaintiff's counsel in stay of removal proceedings before Respondents/Defendants. Pursuant to these discussions, I have reviewed the foregoing petition and that, to the best of my knowledge, the facts therein are true and accurate and the attachments to the petition are true and correct copies of the originals.

Dated: February 12, 2026

s/Alexandra Friz-Garcia, Esq.
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RIGOBERTO CONTRERAS, Petitioner, v. Warden, Florida Soft Side South Detention Center; TODD LYONS, in His official capacity as Acting Director of Immigration and Customs Enforcement; GARRET RIPA, in his official capacity as the Miami Field Office Director ICE; (DHS) KRISTI NOEM, in her official capacity as Secretary of Department of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the United States. Respondents.	PETITION FOR WRIT OF HABEAS CORPUS

TABLE OF EXHIBITS

Exhibit A
Order of the Immigration Judge granting Withholding of Removal.....Pg. 1

Exhibit B
Order of Supervision documents.....Pgs. 2-4

Exhibit C
ICE Detainee Locator.....Pgs. 5

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

I HEREBY CERTIFY that the following persons may have an interest in the outcome of
this case:

1. **Bondi, Pamela**, Attorney General of the United States, U.S. Department of Justice
2. **Warden**, Florida Soft Side South Detention Center
3. **Contreras, Rigoberto**, Petitioner
4. **Lyons, Todd. M**, Acting Director of ICE, U.S. Department of Homeland Security
5. **Noem, Kristi**, Secretary, Department of Homeland Security
6. **Ripa, Garrett**, ICE Field Office Director for the Miami Field Office, Department of Homeland Security
7. **Friz-Garcia, Alexandra**, Esquire, Counsel for Petitioner
8. **Echevarria, Sandra,** Esquire, Counsel for Petitioner before USCIS, ICE/ERO

Dated: February 16, 2026

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