IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALERXI RONDON REYES, Petitioner, v. J.L. JAMISON, et al.; Respondents.	Case No.: 2:26-cv-1324

PETITIONER'S MEMORANDUM OF LAW IN SUPPORT OF HIS MOTION FOR RECONSIDERATION

Petitioner Alerxi Rondon Reyes respectfully requests that this Court grant his motion for reconsideration of this Court's April 09, 2026 Order, ECF No. 15, and reverse its decision denying Mr. Rondon Reyes' petition for a writ of habeas corpus. In light of new evidence, Petitioner makes this request under Federal Rule of Civil Procedure 60(b)(2), (6) and/or 59. Fed. R. Civ. P. 59, 60.

This Court found that Respondents' revocation of Mr. Rondon Reyes' Order of Supervision (OSUP) comported with due process and did not yet implicate due process concerns under *Zadvydas v. Davis*, in large part because Respondents provided evidence that Immigration and Customs Enforcement ("ICE") had initiated the third country removal process, Mr. Rondon Reyes had not been detained for six months, and therefore his removal was reasonably foreseeable. ECF No. 14, Memorandum at 9. Reconsideration is warranted because of new evidence that confirms that his removal is not reasonably foreseeable and informs the Court's prior analysis.

Following the Court's decision on April 09, 2026, ECF No. 15, Mr. Rondon Reyes obtained the following new pieces of evidence:

(1) An email from Mr. Rondon Reyes' Deportation Officer at the ICE Field Office, who informed counsel that ICE had no plan for Mr. Rondon Reyes' removal to a third country.

See Ex. A, Email Correspondence with ICE. Notably, ICE confirmed that it did "not have a travel document" for Mr. Rondon Reyes "to any third country" and had no knowledge that any third country had even been designated. *Id.*

(2) A letter from the Philadelphia District Attorney's Office ("DAO") explaining that it withdrew the charges against Mr. Rondon Reyes for reasons unrelated to his immigration status, but rather because, upon evaluation of the case, the prosecutor's office determined that filing a writ for production of Mr. Rondon Reyes, as they typically would, was not appropriate due to evidentiary concerns. *See* Ex. B, Letter from District Attorney's Office. After reviewing the underlying allegations and discovery, the District Attorney concluded that Mr. Rondon Reyes' medical records—noting chest pain and confusion at the time of the arrest and an assessment of his medical condition at a hospital—presented evidentiary concerns for the DAO. *Id.* This weighed heavily in favor of withdrawing the charges and not pursuing a writ. Though this Court found that it did not have jurisdiction to review ICE's discretionary decision to revoke an OSUP, *see* ECF No. 14 at 14, the DAO Letter informs the Court's analysis of whether Respondents complied with the regulatory and due process requirements when they revoked Mr. Rondon Reyes' OSUP.

(3) Medical Records for Mr. Rondon Reyes from his time at the Federal Detention Center, which confirm Mr. Rondon Reyes' severe and life threatening medical issues, including atrial fibrillation, heart disease, hyperlibidemia, and type 2 diabetes mellitus. *See* Ex. C, Medical Records.[1]

[1] Petitioner will subsequently file a motion to file his medical records under seal or protective order given the highly sensitive personal information contained therein. They are therefore not attached to this memorandum of law but will be submitted promptly.

This new and previously unavailable[2] evidence warrants the Court's reopening and reconsideration of Mr. Rondon Reyes' habeas petition, ECF No. 1, because the Court's analysis was based upon (1) its belief that ICE could actually remove Mr. Rondon Reyes to a third country; and (2) that there was a criminal incident, which gave rise to ICE revoking Mr. Rondon Reyes' OSUP. In its decision, the Court relied on Respondent's contention that Mr. Rondon Reyes' removal was reasonably foreseeable and that his detention was necessary to effectuate third country removal. *See* ECF No. 8 at 11, 12. However, this evidence demonstrates that Mr. Rondon Reyes' removal is not reasonably foreseeable, and he has not violated the terms of his OSUP. Because those changes indicate that Mr. Rondon Reyes' removal is not reasonably foreseeable, he must be released.

ICE is now subjecting Mr. Rondon Reyes to unnecessary detention despite his severe and life-threatening medical conditions. If ICE wishes to obtain travel documents for Mr. Rondon Reyes to an identified third country that will accept him, it has the right to do so and can schedule a time for Mr. Rondon Reyes to be deported. In the meantime, ICE violated Mr. Rondon Reyes' due process rights when it revoked his OSUP on February 27, 2026 because it could not deport him and because he did not violate his OSUP conditions. New evidence confirms that his removal

[2] In his medical records, as a new arrival to the Federal Detention Center in Philadelphia, it was noted that he is insulin dependent and takes various medications to treat his diabetes. He has a history of shortness of breath, chest pain, and blood clot as well as chronic left arm pain. The medical records also show that he was assaulted in 2024. On March 24, 2026, Mr. Rondon Reyes complained of chest pain in the left middle of his chest. He identified the quality of pain as "sharp" with a pain scale of 8. The facility notes that their recommended intervention was "rest and relaxation." He was then sent to Jefferson Hospital Emergency Room to rule out a Myocardial Infarction. On Wednesday March 25, 2026, Jefferson Hospital treated Mr. Rondon Reyes for chest pain and shortness of breath. The record states "He does not sleep for 203 days at a time before experiencing substernal chest pain that radiates to his bilateral shoulders and shortness of breath, inconsistent administration of his medications."

was not reasonably foreseeable then and it is not reasonably foreseeable now. *See* 8 C.F.R. § 241.13(i)(2); *Villanueva v. Tate*, 801 F. Supp. 3d 689, 699 (S.D. Tex. 2025) (finding violation of the regulations where "[t]he declaration contains no information tending to show that circumstances have changed to the point that Villanueva's removal is now reasonably foreseeable when it was not before. Further, any efforts to remove Villanueva to a third country would likely be delayed by proceedings contesting his removal to the third country finally identified").

In sum, reconsideration is warranted to ensure the fundamental principles of fairness and justice. Mr. Rondon Reyes remains detained, despite his severe debilitating medical conditions, while the government has no plan and does nothing to effectuate his removal to a third country. While this Court took the government at their word in denying the Petitioner's habeas petition on April 10, 2026, on April 15, 2026, ICE confirmed in writing to Petitioner's counsel that it does not have a travel document and does not have a country designated for third country removal. Accordingly, this Court's reconsideration is necessary to ensure Petitioner's liberty and constitutional rights are protected.

STANDARD OF REVIEW

Under Rule 60(b)(2)[3], a party may ask the court to relieve him from a final judgment, order, or proceeding if he can point to "newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)." Fed. R. Civ. P. 60(b)(2). A court should only grant relief if the asserted newly discovered evidence: (1) is material and not merely cumulative; (2) could not have been discovered before the grant of summary judgment through the exercise of reasonable diligence; and (3) would have changed the outcome of the

[3] Mr. Rondon Reyes moves for reconsideration under Rule 60(b)(2), (6) or, in the alternative, Rule 59.

litigation. *See Compass Tech., Inc. v. Tseng Labs., Inc.*, 71 F.3d 1125, 1130 (3d Cir. 1995) (citing *Bohus v. Beloff*, 950 F.2d 919, 930 (3d Cir. 1991)); *Macario v. Pratt & Whitney Canada, Inc.*, Civ. A. No. 90-3906, 1994 U.S. Dist. LEXIS 5272, at *6–7 (E.D. Pa. Apr. 25, 1994). Under Rule 60(b)(6) a court may grant relief from a final judgement for "any other reason that justifies relief." Fed. R. Civ. P. 60(b)(6).

A motion for reconsideration under Rule 59(e) should be granted if it is necessary to correct a clear error of law or fact or to prevent a manifest injustice, to present newly discovered evidence, or where there has been a significant change in the law since the court originally ruled on the issue. *Max's Seafood Cafe ex rel. Lou-Ann, Inc. v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999); *see also N. River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995). "[S]everal courts have applied the Black's Law Dictionary definition, which states that 'manifest injustice' is an error in the trial court that is direct, obvious, and observable . . . ." *In re Green Goblin, Inc.*, 2012 WL 1971143, at *1 (Bankr. E.D. Pa. May 31, 2012) (quoting *In re Roemmele*, 466 B.R. 706 (Bankr. E.D. Pa. 2012)).

FACTUAL AND PROCEDURAL HISTORY

In [redacted],

[4] Petitioner did not have copies of his Reasonable Fear Interview or Asylum Application, which was conducted and filled out while he was in ICE custody in detained removal proceedings in El Paso, Texas. Though counsel worked diligently to procure them, it was difficult as Petitioner did not remember the name of any of the volunteers or attorneys who assisted him previously and he was not represented in his underlying proceedings; he instead appeared *pro se* before the Immigration Court and received *pro se* assistance from a nonprofit organization in arguing his case on the merits from detention. Counsel filed a Freedom of Information Act Request on behalf of Petitioner, which remains pending. On April 16, 2026, counsel managed to obtain copies of Mr.

where they [redacted]. *Id.* Respondents detained him at the border. *Id.* On September 20, 2023, an immigration judge granted Mr. Rondon Reyes protection under the Convention Against Torture ("CAT"). ECF No. 8-9, IJ Order (granting relief under the CAT).[5] ICE released Mr. Rondon Reyes on the same day, presumably because third country removal was not available. ECF No. 8-10, OSUP. Mr. Rondon Reyes complied with his order of supervision.

On December 6, 2025, Mr. Rondon Reyes was arrested and charged with various criminal offenses. *See* ECF No. 1, Petition; ECF No. 8, Response. On February 27, 2026, ICE arrested Mr. Rondon Reyes on his way to court. ECF No. 1; *see also* Ex. B (Letter from the Philadelphia District Attorney's Office). Mr. Rondon Reyes filed his initial habeas petition on March 2, 2026. ECF No. 1. Respondents filed their response on March 16, 2026. ECF No. 8. On April 09, 2026, this Court denied Mr. Rondon Reyes' petition for a writ of habeas corpus. ECF No. 14, Memorandum; ECF No. 15, Order. This Court found that the revocation of Mr. Rondon Reyes' OSUP comported with due process. ECF Nos. 14; 15.

After receiving this decision, on April 13, 2026, Mr. Rondon Reyes' attorney contacted ICE to inquire as to the plan for third country removal, *see* Ex. A, which Respondents had indicated

---

Rondon Reyes' immigration documents from the border organization, Las Americas, who provided him *pro se* assistance.

[5] Although Mr. Rondon Reyes has previously entered and been removed from the United States, his most recent entry was to apply for fear-based protection in the United States. As Professor Sarah Paoletti explains in her expert affidavit, at Ex. E, "Congress explicitly intended to implement its international law obligations under the Convention Against Torture through the FARRA." Ex. E. By regulation, "an immigration officer must both explain that United States law protects those who fear persecution or torture and ask each person detained various mandatory fear questions." *Id.* Mr. Rondon Reyes was subject to this mandatory screening and passed his reasonable fear interview, *see* Ex. D, and then an immigration judge granted him protection under the CAT. *See* Ex. 8-9, Decision. This protection ensures the United States comply with international law and implementing procedures to prevent refoulment to countries that would commit torture. Ex. E.

was "reasonably foreseeable." ECF 14 at 9; ECF 8 at 11. However, on April 15, 2026, Deportation Officer Istvan Hosszu responded and explained that "[he] do[es] not know what third country has been designated at this time" and he "do[es] not have a travel document to any third country at this time." Ex. A. Officer Hosszu further explained that "Mr. Rondon can assist in his removal by providing [ICE] with a travel document to what ever country he wishes to go to and one that is willing to issue him one." *Id.* Unfortunately, Mr. Rondon Reyes is not a citizen or national of any country other than the Dominican Republic—a country for which his deportation is prohibited under United States law because he was found to be at risk of torture there. *See* ECF No. 8-9 (granting deferral of removal under the Convention Against Torture to Mr. Rondon Reyes); *see also* Ex. E ("[T]he United States is bound to ensure the right to *non-refoulement*, consistent with its obligations under customary international law.).

On April 21, 2026, the District Attorney's Office in Philadelphia provided a letter explaining that "[i]n general, when federal immigration officers arrest and detain a Defendant with a pending criminal matter(s) before the Philadelphia Municipal or Common Pleas Court, it is the practice of [the office] to file a writ with ICE to have them returned to Philadelphia for the remainder of their criminal matter(s)." Ex. B. However, in each instance, the office "undertake[s] a complete review of the case to assess the Defendant's history and the likelihood of a successful prosecution, including the evidence against the Defendant, before filing the writ." *Id.* After conducting this review in Mr. Rondon Reyes' case, it was determined that filing a writ "was not appropriate." *Id.* Mr. Rondon Reyes' medical records "presented evidentiary concerns for the DAO, weighing heavily in favor of withdrawing the charges/not pursuing a writ for the Defendant." *Id.*

As detailed in Mr. Rondon Reyes' medical records from the Federal Detention Center in Philadelphia, Pennsylvania, he suffers from atrial fibrillation, heart disease, hyperlipidemia, and type 2 diabetes mellitus. *See* Ex. C, Medical Records. Since his detention by ICE on February 27, 2026, Petitioner has been transported to Jefferson Hospital on at least one occasions for medical treatment due to his debilitating conditions. *Id.* On March 24, 2026, Mr. Rondon Reyes was transported to Jefferson Hospital due to chest pain and shortness of breath as substernal radiating to his bilateral shoulders. *Id.* These symptoms were due to "conditions in his prison and inconsistent access to his medications." *Id.* These symptoms were recurring every two to three days. *Id.*

ARGUMENT

I. The New Evidence Makes Clear that Petitioner's Removal to a Third Country Was Not Reasonably Foreseeable at the Time of his Re-Detention on February 27, 2026 and Is Not Reasonably Foreseeable Today.

This Court found that "Petitioner's re-detention is not unlawful or unreasonable given that ICE is in the process of identifying an appropriate third country for Petitioner's removal, in accordance with his removal order and deferral from removal to the Dominican Republic." ECF 14 at 9. This Court relied on Respondents' assertion in its response, dated March 16, 2026, that the "ICE has initiated the third country removal process," ECF 14 at 9 (citing ECF 8 at 22), to justify that Petitioner's detention was not unlawful. However, ICE's communications with counsel on April 16, 2026, flatly dispute this assertion, rendering it (at worst) untrue, or (at best) significantly delayed. Neither comports with the law. Respondents took Mr. Rondon Reyes back into custody on February 27, 2026 when they knowingly could not remove him and had no plans to do so. Now, two months into his re-detention, ICE continues to represent that it has no plan to remove Mr. Rondon Reyes. Even if ICE did identify a third country for removal that would issue travel documents for Mr. Rondon Reyes, he is legally entitled to procedural protections to

challenge that third-country removal. Because Mr. Rondon Reyes' detention was not reasonably foreseeable when ICE revoked his OSUP, and is not reasonably foreseeable now, he is entitled to immediate release. *See Dudamel v. Jamison*, No. 26-361, 2026 WL 498612, at *7 (E.D. Pa. Feb. 23, 2026) (finding that it would "strain credulity to find that Petitioner's re-detention bears any connection to either or both of those purposes [ensuring appearance for hearings and removal or protecting the public from noncitizens who present a danger]"); *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 323 (3d Cir. 2020) ("The traditional function of the writ of *habeas corpus* is to secure release from unlawful executive detention." (citing *Munaf*, 553 U.S. at 693)).

A. The Order of Supervision Regulations Incorporate the *Zadvydas* Framework

Under 8 U.S.C. § 1231, ICE has two basic options once the removal period has expired: (1) it may continue to detain the noncitizen under § 1231(a)(6), subject to the constitutional limits recognized in *Zadvydas v. Davis*, or (2) it may release the noncitizen "subject to supervision under the regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3); *Vo v. Lyons*, 1:25-cv-533, 2026 WL 323133, at *3 (D.N.H. Jan. 27, 2026). *Zadvydas* addressed the first option—the constitutional limits on the government's power to continue to hold a noncitizen when removal is not reasonably foreseeable. 533 U.S. 678, 689–701 (2001); *Vo*, 2026 WL 323133, at *3.

In *Zadvydas v. Davis*, the Supreme Court established six months as a presumptively reasonable period of detention pursuant to Section 1231(a)(6), but made clear that the presumption is rebuttable where "a set of particular circumstances amounts to a detention . . . beyond[] a period reasonably necessary to secure removal." 533 U.S. at 699. The Supreme Court provided the following guidance to district courts regarding "whether the detention in question exceeds a period reasonably necessary to secure removal[:]"

> [T]he *habeas* court ... should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the [noncitizen's] presence at the moment

> of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute. In that case, of course, the [noncitizen's] release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances, and the [noncitizen] may no doubt be returned to custody upon a violation of those conditions. And if removal is reasonably foreseeable, the *habeas* court should consider the risk of the [noncitizen's] committing further crimes as a factor potentially justifying confinement within that reasonable removal period.

Id. at 699–700. However, the Court in *Zadvydas* considered the idea of an individual who had remained in custody post-order.

Unlike in *Zadvydas*, the issue presented here is not whether ICE may lawfully *continue* to detain Mr. Rondon Reyes in the first instance; instead it is about whether ICE acted *lawfully* when it *revoked* Mr. Rondon Reyes' supervised release and returned him to custody on February 27, 2026. *Vo*, 2026 WL 323133, at *3. This question turns on whether his removal—more than two years after ICE previously released him—is reasonably foreseeable.

B. Noncitizens Released on an OSUP Maintain a Protected Liberty Interest in Their Continued Release and Re-Detention Implicates Due Process.

Noncitizens released under an OSUP maintain a protected liberty interest in their continued release. *See Bulle v. Wesling*, 26-cv-019, 2026 WL 183840, at *2 (D.R.I. Jan. 23, 2026); *Villanueva*, 801 F. Supp. 3d at 704 (discussing *Zadvydas*, 533 U.S. 678; *Young v. Harper*, 520 U.S. 143 (1997); *Morrissey v. Brewer*, 408 U.S. 471 (1972)). Because of this protected liberty interest, any attempt to redetain an individual who has been released pursuant to an OSUP necessarily implicates the individual's constitutionally protected liberty interests. *Villanueva*, 801 F. Supp. 3d at 704. Accordingly, the Court must consider whether Mr. Rondon Reyes' removal was "reasonably foreseeable" when Respondents re-detained him to assess whether his due process rights were violated. Despite the government's representations that "ICE has the ability and means to effectuate [his] removal," ECF No. 8-12, removal to a third country was not reasonably

foreseeable when Respondents revoked his OSUP and new evidence confirms that it is not reasonably foreseeable now.

i. This is not a premature *Zadvydas* challenge.

The government may not "avoid the holding of *Zadvydas* and re-start the six month presumptively constitutional detention clock by simply releasing and then re-detaining a nonccitizen . . . ." *Villanueva*, 801 F. Supp. 3d at 702; *see, e.g.*, *Nguyen v. Scott*, No. 2:25-cv-01398, 796 F. Supp. 3d 703, 721–22 (W.D. Wash. Aug. 21, 2025) (rejecting the government's argument that the six-month period resets when the government re-detains a noncitizen); *Sied v. Nielsen*, No. 17-cv-06785-LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018); *Chen v. Holder*, No. 6:14-2530, 2015 WL 13236635, at *2 (W.D. La. Nov. 20, 2015) (rejecting the government's argument that a petition was premature under *Zadvydas* and noting that "[s]urely, under the reasoning of *Zadvydas*, a series of releases and re-detentions by the government, while technically not in violation of the presumptively reasonable jurisprudential six month removal period, in essence results in an indefinite period of detention, albeit executed in successive six month intervals") (cleaned up).

When the government re-detains an individual, who has been residing in the United States for years on an OSUP, Respondents bear the burden of showing that removal is likely in the reasonably foreseeable future. New evidence confirms that it is not. *See Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 n.2 (D. Mass. 2025) (finding the government bears the burden under its own regulation); *Lee v. Oddo*, No. CV 25-452J, 2026 WL 523154, at *3 (W.D. Pa. Feb. 25, 2026) (same); *Marquez-Amaya v. Thompson*, 5:25-vcv-1501, 2025 WL 3654327, at *6 (W.D. Tex. Dec. 15, 2025) ("Notably, ICE did not commence Petitioner's current detention because it had located a country willing to accept him. ICE detained him without any explanation, without a removal

plan, and without revoking his order of supervision."). Where the removal period has expired and Respondents have not shown that they have a travel document to effectuate removal, there is no significant likelihood of removal.[6] *See e.g.*, *Tran v. Scott*, No. 2:25-cv-01886, 2025 WL 2898638, at *4–5 (W.D. Wash. Oct. 12, 2025) (finding no significant likelihood of removal where travel document request was not submitted until after the petitioner was re-detained and had filed a habeas petition and where respondents failed to attach the travel document request to the supporting ICE declaration).

Mr. Rondon Reyes did not raise a premature *Zadvydas* challenge. Rather, he challenged the lawfulness of his re-detention after being released on an OSUP and remaining in compliance with the OSUP.[7] Reasonably foreseeable does not just mean, as is the case here, that ICE has a mere possibility or intention—at some point—to apply for travel documents for Mr. Rondon Reyes to a third country. *See Nguyen*, 796 F. Supp. 3d at 725 (concluding that the fact that "there is at least some possibility" of removal "is not the same as a significant likelihood that he will be accepted in the reasonably foreseeable future"); *Marquez-Amaya*, 2025 WL 3654327, at *6–7 (finding that there is no substantial likelihood that removal is reasonably foreseeable due to circumstances including a long period of unsupervised release under CAT, no removal plan in place at the time of detention, and no immigration proceedings related to a third country).

Courts have routinely found that noncitizens do not need to wait six months to raise an unlawful detention claim under *Zadvydas*, which recognized a "presumptively"—not categorically—reasonable period of detention. 533 U.S. at 699; *see, e.g.*, *Villanueva*, 801 F. Supp.

[6] As described in his Petition, ECF No. 1, Mr. Rondon Reyes' 90-day removal period expired on December 19, 2023.

[7] Petitioner does not agree with Respondents' characterization that he violated his OSUP due to his December 7, 2025 arrest, including because that offense has been withdrawn. *See infra* Part. II.

3d at 698 ("But nothing in *Zadvydas* precludes a challenge to detention before the presumptively constitutional time period has elapsed . . . The Court therefore rejects the government's contention that Villanueva must remain in detention for six months before the Court may consider whether his continued detention violates his due process rights."); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020) (the "six-month presumption is not a bright line" and *Zadvydas* "did not require a detainee to remain in detention for six months . . . before a habeas court could find that the detention is unconstitutional"); *Zavvar v. Scott*, 25-2104, 2025 WL 2592543, at *5 (D. Md. Sept. 8, 2025) (collecting cases).

C. Relief Is Warranted Because New Evidence Makes Clear that Petitioner's Removal Was Not Reasonably Foreseeable When Respondents Revoked His OSUP.

Following re-detention after release on an OSUP, the government bears the burden to show a significant likelihood that the noncitizen may be removed. *Hall v. Nessinger*, 2026 WL 18583, at *7 (D.R.I. Jan.2, 2026); *see also Hernandez Escalante v. Noem*, No. 9:25-cv-00182, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025); *Yan-Ling X. v. Lyons*, 1813 F. Supp. 3d 1157, 1162 (E.D. Ca. Nov. 7, 2025); *Roble v. Bondi*, No. 25-cv-3196 (LMP/LIB), 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025); *Abuelhawa v. Noem*, No. 4:25-cv-04128, 2025 WL 2937692, at *8 (S.D. Tex. Oct. 16, 2025). "Imposing the burden of proof on the [noncitizen] each time he is re-detained would lead to an unjust result and serious due process implications." *Escalante*, 2025 WL 2206113, at *3. Therefore, because this case involves ICE's authority to re-detain Mr. Rondon Reyes *after* the agency revoked his supervised release, the test is whether the government has shown that there is *now* a significant likelihood that Mr. Rondon Reyes will be removed in the reasonably foreseeable future. New evidence from ICE shows that there was no plan on March 2, 2026 when the OSUP was revoked, and there is no plan now. Thus, the government has not met this burden.

And even if the government came up with a plan *today*, Courts have held that post-hoc rationalizations are not sufficient to show the government complied with due process when it revoked an OSUP. *See Martinez v. Noem*, 26-cv-752, 2026 WL 559778, at *3 (S.D. Cal. Feb. 27, 2026) ("While it is possible that Petitioner may be removed to Cuba in the future, this post-hoc rationalization cannot form the basis of "changed circumstances" for the purpose of re-detention."); *Phakeokoth v. Noem*, No. 25-cv-2817, 2025 WL 3124341, at *5 (S.D. Cal. Nov. 7, 2025) (finding that changed circumstances did not exist at the time of petitioner's arrest because the government obtained travel documents weeks after his re-detention); *Truong v. Noem*, No. 25-cv-2597, 2025 WL 2988357, at *1–6 (S.D. Cal. Oct. 22, 2025) (same); *Vinh Duong v. Charles*, No. 25-cv-1375-SKO, 2025 WL 3187313, at *5–6 (E.D. Cal. Nov. 14, 2025) (same).

When there has been a long period of supervised release, no removal plan in place at the commencement of detention, a purported after-the-fact determination that the government can expeditiously remove the individual—with no immigration proceedings concerning third country removal—the circumstances demonstrate that removal is not reasonably foreseeable. *See Marquez-Amaya*, 2025 WL 3654327, at *7; *see also Puertas-Mendoza v. Bondi*, Case No. 5:25-CV-0890-XR, 2025 WL 3142089, at *2–4 (W.D. Tex. Oct. 22, 2025) (granting habeas petition on same grounds under substantially similar factual circumstances); *Villanueva*, 2025 WL 2774610, at *10 (granting habeas petition based on *Zadvydas* when detainee had withholding of removal, the Government had neither initiated proceedings to lift the order to withhold removal nor removed him for eight years following his order of removal, and there was no evidence that circumstances had changed to make removal reasonably foreseeable).

Petitioner has been re-detained since February 27, 2026, a period of over two months, and Respondents still have not taken steps to remove him to a third country. Unlike in other OSUP

revocation cases, Respondents have not even submitted an affidavit or other documentation regarding their efforts to effectuate third country removal. *See, e.g.*, *Qu v. Mullin,* 5:26-cv-01302, 2026 WL 836681, at *5 (C.D. Ca. Mar. 26, 2026) (describing how Respondents' declaration is not clear as to the destination of any flight or whether travel documents have been obtained). The notes in the record that "HQ RIO was contacted" is not sufficient where ICE did not provide evidence about who it contacted, whether HQ RIO had applied for travel documents for Mr. Rondon Reyes, or whether HQ RIO had in fact been contacted at all. *See* ECF 8-12. New evidence confirms that ICE has not even designated a third country, let alone actually obtained travel documents. *See* Ex. A. Rather, Mr. Rondon Reyes remains in custody, where he suffers from the lack of accommodations due to his severe and life-threatening medical concerns, and no articulated plan by the government. The pace of Respondents' efforts to remove Mr. Rondon Reyes confirms that his removal is not "reasonably foreseeable."[8]

i. New evidence confirms that Mr. Rondon Reyes' removal is not reasonably foreseeable.

New evidence—namely an email from Mr. Rondon Reyes Deportation Officer, a representative of ICE—that ICE does not have travel documents for Mr. Rondon Reyes and no

[8] To comply with *Zadvydas*, DHS promulgated regulations that establish a series of processes to address the concerns discussed in that decision and to determine whether a noncitizen should be released from custody after the expiration of the 90-day removal period. *See* 8 C.F.R. §§ 241.4 and 241.13. These regulations provide for administrative custody reviews at 90 days, 180 days, and one year. 8 C.F.R. § 241.14(k). They do not provide for a bond hearing before an immigration judge. There is a long history of violations associated with the 90 and 180-day custody review interviews. *See e.g.*, *Jimenez v. Nielsen*, 334 F. Supp. 3d 370, 392 (D. Mass. 2018) ("Her release was part of a pattern of ICE releasing detainees who filed petitions for writs of habeas corpus, but continuing to detain other individuals without complying with § 241.4, even as ICE interprets it. Indeed, ICE has admitted that at least until May 2018, it frequently kept aliens in detention in violation of § 241.4."); *Jimenez v. Wolf*, No. cv 18-10225-MLW, 2019 WL 7169413, at *2-3 (D. Mass. Dec. 24, 2019) ("The October 2019 testimony of a high-ranking ICE official revealed that he and other ICE officials in Washington, D.C. had repeatedly violated ICE regulations with regard to 180-day reviews by failing to interview detainees.").

third country had been designated, confirms that Mr. Rondon Reyes' removal is not reasonably foreseeable.

First, Mr. Rondon Reyes has been granted deferral under the CAT to the Dominican Republic, which is the only country to which he has a claim to citizenship or legal status. "[D]eferral of removal originated with U.S. obligations under the UN Convention Against Torture to guarantee the right of non-refoulment of persons to a country where it is more likely than not that they will face torture." *See* Ex. E, Expert Declaration of Sarah Paoletti. Accordingly, the government cannot remove him to the Dominican Republic without returning to the immigration court to seek an order lifting the order for deferral under the CAT, *see* 8 C.F.R. § 1208.17(d), but the government has not initiated such proceedings and Respondents did not provide any evidence indicating that such proceedings are anticipated.

Second, any efforts to remove Mr. Rondon Reyes to a third country would likely be delayed by proceedings contesting his removal to the third country, in the event that one is ever designated.[9]

[9] In its Order from April 9, 2026, the Court relied on Respondents assurance that "when a potential third country has been identified for Petitioner's removal, he will be provided with notice and given an opportunity to contest removal to that country." ECF No. 14 at 9 (citing ECF No. 8 at 22). This has not happened. And while Mr. Rondon Reyes appreciates that Respondents have assured the Court that they will comply with these required due process protections, he justifiably doubts their assurances. As District Judge Murphy detailed in his decision in *D.V.D. v. Dep't of Homeland Sec.*, the "Government repeatedly violated, or attempted to violate, this Court's orders." 1:25-cv-10676, 2026 WL 521557, at *3-6, --- F. Supp. 3d --- (D. Mass. Feb. 25, 2026). For example, the government "removed at least six class members to El Salvador and Mexico without providing the process required under the temporary restraining order[;]" "a group of apparent class members were on the verge of being removed to Libya without having received notice of their removal or an opportunity to raise CAT claims, as required under the preliminary injunction[;]" "[t]he Court was given false information, upon which it relied, twice, to the detriment of a party at risk of serious and irreparable harm[;]" "Defendants placed at least six class members on a flight to South Sudan, 'a nascent, unstable country to which the United States [had] recently told its citizens not to travel because of "**crime**, **kidnapping**, and **armed conflict**," ' without any meaningful notice or opportunity to raise a CAT claim, in what could only be described as a 'flagrant,' willful violation of this Court's order." *Id.* (emphasis original).

See Munoz-Saucedo v. Pittman, 789 F. Supp. 3d 387, 398–99 (D.N.J. June 24, 2025) (finding relevant to the reasonably foreseeable analysis the fact that "even if ICE identified a third country, Petitioner . . . would be entitled 'to seek fear-based relief from removal to that country,' which would require 'additional, lengthy proceedings'"); *Zavvar*, 2025 WL 2592543, at *8 ("The fact that Zavvar likely will have the opportunity to seek further relief from the Immigration Court, and then potentially file appeals from any adverse rulings, further demonstrates that removal is not likely in the reasonably foreseeable future.").

Third, contrary to Respondents' assertion in their Response brief, *see* ECF 8 at 12,[10] it appears that ICE has not designated nor obtained travel documents for Mr. Rondon Reyes' removal to *any* third country. Respondents detained Mr. Rondon Reyes on February 27, 2026, yet on April 16, 2026, when Mr. Rondon Reyes' deportation officer contacted his attorney, ICE did not yet have travel documents and no third country had been designated. Ex. A. This email confirms that although Respondents contend that ICE added Mr. Rondon Reyes to the third country list and that his removal is reasonably foreseeable, there is no actual plan to remove him in the immediate future. Instead, it appears that Respondents intend to detain him for six months—the period in which they seek to avoid judicial review—for no reason. This detention serves no legitimate purpose, and harms Mr. Rondon Reyes in light of his severe and life-threatening medical conditions, which are exacerbated in a carceral setting. "A habeas court 'should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal.'" *Nolasco Renderos v. Baker*, 814 F. Supp. 3d 598, 606 (D.

[10] Respondents argued that Mr. Rondon Reyes' claim that Respondents are not making reasonable efforts to obtain travel document is "not ripe for review by this court only seventeen days into Petitioner's detention." ECF No. 8 at 12 n.1. However, as explained in this brief, Respondents cannot skirt due process protections by restarting the six-month clock each time it revokes an OSUP and re-detains a noncitizen.

Md., 2026) (citing *Zadvydas*, 533 U.S. at 699). But if there is no reasonably foreseeable removal, there is no justification. While the Court was justified in relying on the annotations in Respondents submission at ECF No. 8, it is now clear, based on this new evidence, that Mr. Rondon Reyes' removal is not reasonably foreseeable. *See Hernandez Escalante*, 2025 WL 2206113, at *3–4 (finding "conclusory statements that [ICE] are taking steps to remove Petitioner" are insufficient to show a significant likelihood that removal will occur in the reasonably foreseeable future); *Sun v. Noem*, No. 3:25-cv-02433, 2025 WL 2800037, at *3 (S.D. Cal. Sept. 30, 2025) (same).

Finally, Mr. Rondon Reyes' detention is unnecessary to effectuate his removal to a third country. Respondents asserted that the "Removal and International Operations division (RIO) of ICE Headquarters has initiated the third country removal process and advised ICE to take Petitioner into custody to facilitate this process." ECF No. 8. Respondents failed to explain why Petitioner needed to be in custody—especially in light of his severe medical issues—to initiate this process, especially given his history of compliance. *Id.*

II. New Evidence Confirms that Mr. Rondon Reyes Did Not Violate His OSUP.

Finally, new evidence supports the conclusion that Mr. Rondon Reyes did not violate the terms of his release. This Court found that "even assuming, *arguendo*, that Petitioner did not violate the condition of his OSUP to not 'commit any crimes or be associated with any criminal activity' by way of his December 2025 arrest, Respondents had a lawful, alternative basis to revoke his OSUP. . . ." ECF No. 14 at 9. Should the Court agree that removal of Mr. Rondon Reyes is *not* reasonably foreseeable, Mr. Rondon Reyes also provides evidence regarding the reason his criminal charges were revoked to show that he did not violate his OSUP.

As described *supra*, Mr. Rondon Reyes suffers from a host of serious and life-threatening medical conditions including: atrial fibrillation, heart disease, hyperlipidemia, and type 2 diabetes mellitus. *See* Ex. D. Mr. Rondon Reyes experienced significant medical complications on

December 7, 2025, the day of his arrest, which gave rise to the criminal charges that have since been withdrawn. As the District Attorney's Office stated in its letter, "[h]ospital records show that Mr. [Rondon Reyes] was treated for diabetes, high blood pressure and plaque buildup in the main artery. He complained of chest pain and confusion." Ex. B. This letter confirms that Mr. Rondon Reyes did not "commit a crime" in violation of his OSUP. Moreover, to the extent that Respondents contend that they can revoke an OSUP any time someone is "associated with criminal activity"—even if that activity leads to acquittal, false arrest, or withdrawn charges—this raises serious due process concerns. In a related context, judges in this district have found that subjecting a noncitizen to mandatory, prolonged detention, simply based on a dismissed or withdrawn charge, would not comport with due process. *See e.g.*, *Barnett Maisch v. Jamison*, 2:26-cv-02498, (E.D. Pa. Apr. 28, 2026) (finding that the Laken Riley Act does not apply to an individual who is currently charged with a criminal offense); *Temurmalik Noisrov v. Rife*, No. 26-1534, 2026 WL 916602, at *5–8 (E.D. Pa. Apr. 1, 2026) (finding that to hold that the Laken Riley Act would apply to withdrawn charges would raise serious issues of due process). The new evidence here, which explains the reason for the withdrawal of the charges against Mr. Rondon Reyes, provides necessary context to the purported violation of his OSUP, and the extent to which the government is using detention to punish him, without justification, rather than ensure his detention is reasonably related to "assuring the [noncitizen's] presence at the moment of removal." *Zadvydas*, 533 U.S. at 680. This is impermissible under the law. *See id.* (finding that reasonableness should be measured in terms of the statute's basic purpose of assuring the person's presence at the moment of removal); *Dudamel*, 2026 WL 498612, at *7 ("Therefore, the Court finds that Petitioner's continued detention is foreseeable as unreasonable and is not authorized by Section 1231(a)(6). As such, it amounts to a violation of Petitioner's substantive due process rights.).

CONCLUSION

For all the foregoing reasons, and reasons set forth in Mr. Rondon Reyes' petition, ECF No. 1 and Reply, ECF No. 12, Petitioner requests that this Court reopen his petition for a writ of habeas corpus and order his immediate release subject to the terms of his previous release. In the alternative, Mr. Rondon Reyes requests that this Court reopen his petition for a writ of habeas corpus and allow for discovery and fact finding regarding whether Mr. Rondon Reyes' removal is reasonably foreseeable.

Dated: May 7, 2026

Respectfully submitted,

/s/Mikaela Wolf-Sorokin
Mikaela Wolf-Sorokin (PA ID 335725)
Lilah Thompson (PA ID 324718)
DEFENDER ASSOCIATION OF PHILADELPHIA
1441 Sansom Street
Philadelphia, PA 19102
Tel: 267-765-6789
E: MLWolfSorokin@philadefender.org

Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Memorandum of Law in Support of Petitioner's Motion for Reconsideration and all attachments, except Exhibit C, using the CM/ECF system.

Dated: May 7, 2026

Respectfully submitted,

/s/Mikaela Wolf-Sorokin
Mikaela Wolf-Sorokin (PA ID 335725)
DEFENDER ASSOCIATION OF PHILADELPHIA
1441 Sansom Street
Philadelphia, PA 19102
Tel: 267-765-6789
E: MLWolfSorokin@philadefender.org