FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
MAR 24 2026
JEFFREY P. COLWELL
CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. _____
(To be supplied by the court)

Raul Armando Oquendo Ibañez, Applicant,

v. Pamela Bondi Attorney General
Robert Hagan DHS
Todd Lyon DHS.
Ivan Baltazar CEO, Group. AIPC., Respondent.
(Name of warden, superintendent, jailer, or other custodian)

(Note: If you are attacking the validity of a state conviction or sentence and not the execution of your sentence, you must file an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. If you are attacking the validity of a judgment entered in a federal court, you must file a motion pursuant to 28 U.S.C. § 2255 in the federal court that entered the judgment.)

APPLICATION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

A. APPLICANT INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

Raúl Armando Oquendo Ibañez, [redacted]
(Applicant's name, prisoner identification number, and complete mailing address)

3130 N. Oakland Street Aurora, CO 80010

Indicate whether you are a prisoner or other confined person as follows: (check one)

___ Pretrial detainee
___ Civilly committed detainee
_X_ Immigration detainee
___ Convicted and sentenced state prisoner
___ Convicted and sentenced federal prisoner
___ Other: (*Please explain*) _____

B. RESPONDENT INFORMATION

Please see Suplement A.
(Respondent's name and complete mailing address)

C. STATEMENT OF CLAIMS

State clearly and concisely every claim you are asserting in this action. For each claim, specify the right that allegedly has been violated and all facts that support your claim. If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "C. STATEMENT OF CLAIMS."

CLAIM ONE: Please see suplement B.

Supporting facts: Please see suplement C.

D. PRIOR APPLICATIONS

Have you ever filed a lawsuit, other than this lawsuit, in any federal court in which you raised or could have raised the claim(s) raised in this action? __ Yes X No (*check one*).

If your answer is "Yes," complete this section of the form. If you have filed more than one prior application, use additional paper to provide the requested information for each prior application. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "D. PRIOR APPLICATIONS."

Name and location of court: _____

Case number: _____

Type of proceeding: _____

List the claim(s) raised: _____

Date and result: (Attach a copy of the decision if available) _____

Result on appeal, if appealed: _____

E. ADMINISTRATIVE REMEDIES

WARNING: You must exhaust administrative and/or state remedies before filing an action in federal court pursuant to 28 U.S.C. § 2241. Your case may be dismissed if you have not exhausted administrative and/or state remedies. If additional space is needed to explain exhaustion, use extra paper to do so. Please indicate that additional paper is attached and label the additional pages regarding exhaustion as "E. ADMINISTRATIVE REMEDIES."

Explain the steps you have taken to exhaust administrative and/or state remedies:

please see Suplement D. E. Administrative Remedies.

F. REQUEST FOR RELIEF

State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "F. REQUEST FOR RELIEF."

please see Suplement E.
Request for relief.

G. APPLICANT'S SIGNATURE

I declare under penalty of perjury that I am the applicant in this action, that I have read this application, and that the information in this application is true and correct. *See* 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this application: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the application otherwise complies with the requirements of Rule 11.

(Applicant's signature)

03-20-26
(Date)

(Form Revised December 2017)

SUPPLEMENT A

B. RESPONDENT INFORMATION

1. **Pamela Bondi**

   Atrorney Generral

   US Department of Justice

   950 Pennsylvania Avenue, NW Washington, DC 20530-0001

2. **Juan Baltazar**

   Warden

   GEO Group, INC

   3130 N Oakland Street Aurora, CO ~~80010~~ 80010

3. **Todd Lyon**

   Department of Homeland Security, Immigration and Custom Enforcement

   Office of Chief Counsel

   12445 E. Caley Avenue

   centennial, CO 80111-6432

4. **Robert Hagan**

   Department of Homeland Security, Immigration and Custom Enforcement

   Office of Chief Counsel (In Court)

   3130 N Oakland Street Aurora, CO ~~80010~~ 80010

SUPPLEMENT B

C. STATEMENT OF CLAIM

CLAIM ONE

My detention has bean unconstitutionally extended in violation of the fifth amendment of the Constitution of United States of America.

SUPPLEMENT C

STATEMENT OF CLAIMS

SUPPORTING FACTS

MEMORANDUM OF LAW IN SUPPORT OF PETITION OF WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

Name: Raul Armando Oquendo Ibañes

Alien Registration No. [redacted]

Pro Se Petitioner-Detained

Detention Center: Aurora ICE Processing Center (AIPC)

Aurora, Colorado

Address: 3130 North, Oakland Street

Aurora, Colorado ~~80010~~ 80010

INTRODUCTION

1. My name is Raul Armando Oquendo Ibañes from now the Petitioner, present petitions to this Court for a Writ of Habeas Corpus to remedy Petitioner's indefinite detention by Respondents. Petitioner submits this Memorandum of Law in Support of the Petition for a Writ of Habeas Corpus.

2. As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), non citizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for six months. **Detention after a final order may be unlawful even when six months have not passed,** particularly if it is clear that the United States will not be able to effect a non-citizen's removal wich is the case of the Cubans in removal procedings.

3. **I am under custody over 180 days and my continued detention is unlawful, and I am unlikely to be removed in the reasonably foreseeable future. Therefore, My detention violates the statute and I am entitled to immediate release.** As the Supreme Court held in *Zadvydas v. Davis*, 533 U.S. 678 (2001), noncitizens cannot be detained indefinitely if the government is unable to carry out their removal. Instead, detention after a final order of removal is authorized only when removal is reasonably foreseeable. As a guide to courts, the Court in *Zadvydas* established a presumption that detention after a final order of removal was permissible for six months. Detention after a final order may be unlawful even when six months have not passed, particularly if it is clear that the United States will not be able to effect a noncitizens's removal. But after that six months

period, once a noncitizen provides "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." And the longer a noncitizen has been detained, the stronger the government's showing must be. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrate that there is a significant likelihood of removal in the reasonably foreseeable future.

4. My prolonged detention also violates the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention or other form of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas*, 533 U.S. at 690 (citing *Founcha v. Louisiana*, 504 U.S. 71, 80 (1992). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See, id.* (*citing Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner's prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner's detention violates Petitioner's right to due process.

5. Petitioner is entitled to release under the framework of *Zadvydas* unless the government promptly demonstrate that there is a significant likelihood of removal in the reasonably foreseeable future.

6. Petitioner respectfully request that the Court use its authority under 28 U.S.C. § 2243 To order the Respondents to file a return within three days, unless they can show good cause for additional time. See 20 U.S.C. § 2243 (stating that an Order to Show Cause why a petition for a Writ of Habeas Corpus should be denied is returnable "within three days unless for good cause additional time, not exceeding twenty days, is allowed").

7. In order to permit full judicial review of the claim herein and requested relief, Petitioner **respectfully requests that the Court orders Respondents not to transfer Petitioner outside the jurisdiction of this Court pending considerations of this petition.**

STATEMENTS OF FACTS

8. Petitioner was born in: Cuba.

9. Petitioner entered the United States on or about: December 27, 2017.

10. An Immigration Judge ordered Petitioner removed from the United States on or about: July 24, 2025.

11. Regarding Appeals:

On July 24, 2025. My Claim for Asylum Withholding of removal and protection Under the Convention Against Torture were denied. Consequently on august 24, 2025, petitioner presented and appeal to the Board of Immigration Appeal and had their answer on march 12, 2026 denying the petition and ordering remove from the country. Sins then I am detain in the same location (Aurora ICE processing Center).

12. I Have cooperated fully with all of ICE's efforts to remove me. Petitioner has cooperated with ICE in the following ways: On march 3, 2025, I was schedule for an initial master calendar hearing before an Immigration Judge, That hearing was administratively

Reschedule to march 21, 2025, however it did not take place because of time shortage and was reschedule again this happen twice because of the same reason. On march 29,2025 finally I had my First master hearing where the Immigration judge presented my immigration charges and pointed that I was an alien subject to be deported. However because of my previews interview of credible fear, I was recommended to present petition of Asylum, withholding of Removal and protection under the Convention against Torture. Thereafter an Individual Merit Hearing was Schedule on July 24, 2025.

My Claim for Asylum Withholding of removal and protection Under the Convention against torture were denied. Consequently on august 24, 2025, I presented and appeal to the Board of Immigration Appeal. Sins then I am detain in the same location mentioned before and got finally answer from BIA denying the appeal, all this shows that i cooperated fully in all the proceedings in order to make possible fulfillment of all do process.

13. **Regarding Petitioner Detention**:

Petitioner entered United States of America on December 27, 2017, Immigration border control grant temporal Humanitarian Parole, because of this I was able to get work permit and Social Security at the end of the following 6 months.

My detention began on February 19, 2025, it is <u>now over one year,</u> sins that time I am detain in Aurora ICE Processing Center (AIPC) located in Colorado.

The condition of detention in the Facility were I am confined is similar if not worse than conditions in criminal detention facilities, prove of this I am citing here ICE detainee Handbook (pages 5-78). The ICE detainee handbook discusses disciplinary procedures, use of force and restrains, searches, restrictions on privacy, and limited recreation times.

I am alleging as well that the conditions of confinement in this detention center is affecting my mental and general body health, anxiety disorder, depression is common to me now, my blood sugar level is abnormally high, blood pressure is constantly high.

During this time in detention I observed several violent incidents all of them controlled violently by the GEO Security Staff. I was assaulted by other detainees in July 2025, I could not talk about this because of warnings and consequences.

I declare that I am not by any chance a risk to the community neither a risk of flyaway from the court, about this i declare that on November 2018, i was charged with driving under the influence of alcohol and sentenced to 18 months of probation, this was complied with all the mandatory hours of Alcohol and Drugs courses, Community Service and periodic Urine Checking, all was complied successfully approving the probation period, sins then I quit totally any consumption of alcohol, for this I am proud. Sins then had not have any further problems with the law and been more focused on my health, as well as the health of others around, as to keep others and my self from harm.

14. If release, Petitioner will be supported by family and friends in the United States. In particular: [redacted] **located at the address:** [redacted] **80221. I will be working as truck driver delivering services in Denver Colorado**

ARGUMENT

15. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA") §§ 101-507, 8 U.S.C. § 1101-1537, amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009-1570.

16. This Court has jurisdiction under 28 U.S.C. § 2241, The Suspension Clause, U.S. Const. Art. 1 § 9, cl 2, and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and Petitioner's custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas*, 566 U.S. 678. This Court may grant relief under 28 U.S.C. § 2241 (Habeas Corpus), 5 U.S.C. § 702 (establishing the right of review for a person suffering a legal wrong due to agency action), and 28 U.S.C. § 1651 (All Writs Act).

17. The Due Process Clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary or permanent." *Zadvydas*, 533 U.S. at 693. In *Zadvydas*, the Supreme Court emphasized, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical lies at the heart of the liberty that [the Due Process] Clause protects." 533 U.S. at 690 (citing Foucha v. Louisiana, 504 U.S. 71, 80 (1992). The Court noted, "[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem," *Id.; see also Plyer v. Doe, 457 U.S. 202, 210 (1982) (*"Aliens, even aliens whose presence in this country is unlawful, have long been recognized as "persons" guaranteed due process of law by the Fifth and Fourteenth Amendments").

18. Under 8 U.S.C. § 1231(a)(2), non citizens subject to final orders of removal "shall" be detained during the first 90 days—the "removal period"--and they "shall" be removed during that period under § 1231(a)(1). Under 8 U.S.C. § 1231(a)(6), the government "may" continue detention beyond the 90-days removal period if a noncitizen falls within certain broad categories of removability or is determined "to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

19. In *Zadvydas*, the Supreme Court construed 8 U.S.C. § 1231(a)(6) to authorize detention only where it is significantly likely that removal will occur in the reasonably foreseeable future, in order to avoid the serious due process concerns that would be presented by permitting detention for an indefinite period of time. *Zadvydas*, 533 U.S. at CITE. After a noncitizen meets his o her initial burden to show that no such likelihood of removal exists, the burden shifts to the government to "respond with evidence sufficient to rebut [the alien] showing, "*Id. A*t 701.

20. Courts have rejected conclusory claims by ICE agents which claim, without submitting concrete factual information about scheduled flights or repatriation agreements, that removal is imminent. "[A] theoretical possibility of eventually being removed does not satisfy the government's burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future." *Balza v. Barr, No. 6:20-CV-00866, 2020 WL 6143643, at *5 (W.D. La. Sept. 17, 2020) (*internal quotation and citation omitted). "[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, [a] Court certainly cannot conclude that [a] removal is likely to occur—or even that it might occur—in the reasonably foreseeable future." *Id. at* *5 (internal quotation marks and citation omitted). *See also, Gomez Barco v. Witte, No.* 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec.

16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not be able to secure necessary travel document, nothing that the ICE officer "clearly has no factual basis for his 'belief' that there is not foreseeable impediment of Petitioner's removal or that her removal is imminent," and that there was not foundation for the "expectation" that the COVID-19 related travel restrictions in place would soon be lifted); *Balza v. Barr,* No. 6:20-CV-00866,2020 WL 6064881 (W.D. La. Oct. 14, 2020) (same).[1] In granting Ms. Balza's release, the Court considered and rejected a conclusory declaration by a local ICE Assistant Field Officer that removal was imminent. *Id.* at *5. In *Alexis v. Smith*, the Petitioner, Mr. Alexis, had been in detention for almost a year and subject to a removal order for over a year. An ICE official testified to an informal agreement that permitted removals but acknowledged that there were far fewer removals to Haiti in the aftermath of the 2010 hurricane. The Haitian government had an issue with identity documents and it was unknown when that would be resolved. The magistrate did not credit ICE's vague statements that it was "endeavoring to rectify the issue" and conclude there was no end in sight for detention, and recommended release. The District Court Judge agreed and ordered release. ICE then released Mr. Alexis on an Order of Supervised release and moved to get the judgment vacated on mootness, which it was. However, this does not invalidate the reasoning and conclusions of the Magistrate Judge and District Court Judge on this subject, and this case is still informative and persuasive to the body of law on this subject. *Alexis v. Smith*, No. CIV.A. 11-0309, 2011

1 Other districts courts in the Fifth Circuit and Elsewhere have similarly granted Habeas relief when the noncitizen has shown that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g., Carreno v. Gillis*, No. 5:20-cv-44-KS-MTP, 2020 WL 8366735 (S.D. Miss. Dec. 16, 2020) (granting Habeas relief to petitioner detained for approximately sixteen months due to a lack of diplomatic relations with Venezuela); *Ali v. Dep't of Homeland Sec., 451 F, Supp. 3D 703 (S.D. Tex. 2020)* (granting Habeas relief to petitioner initially detained for three years, released and detained again for four months when petitioner could not be removed due to travel restrictions to Pakistan); *Saharifi v. Gillis*, No. 5:20-cv-5-DCB-MTP, 2020 WL 7379211 (S.D. Miss. Oct. 9, 2020) (granting Habeas relief to petitioner detained for seventeen months after Iranian officials failed to respond a travel document request for more than seven months).

WL 3924247 (W.D. La. Aug. 3, 2011) report and recommendations adopted. No. CIV.A 11-0309, 2011 WL 3954945 (W.D. La. Sept. 6, 2011), vacated, No. CV 11-0309, 2011 WL 13386020 (W.D. La. Sept. 15, 2011).

21. Courts in this Districts have—pursuant to *Zadvydas*—released individuals who have been detained for over six months. *See. e.g. Gomez Barco*, 2020 WL 7393786 (ordering released of an immigrant detained who was a native and citizen of Venezuela who was detained longer than six month because ICE had not been able to secure necessary travel documents); *Balza*, 2020 WL 6143643, at *5 (ordering release of petitioner and nothing that "[a]fter more than a year of detention, Petitioner's removal need not necessarily be imminent, but it cannot be speculative") (internal quotation marks omitted).

22. Under *Zadvydas*, courts have found that there is no significant likelihood of removal and granted relief where:

- No country will accept the petitioner. *See, e.g. Jabir v. Ashcroft*, No. 03-2480, 2004 WL 60318 (E.D. La. Jan. 8, 2004) (granting habeas relief to petitioner detained for more than fourteen months after numerous countries refused to repatriate the petitioner).[2]
- The Petitioner's country of origin refuses to issue a travel document, *See. e.g., Alexis v. Smith*, No. 11-0309, 2011 WL 3924247 (W.D. La. Aug. 3, 2011) (granting habeas release to petitioner detained for approximately one year due to the Haitian government rejecting the quality of identity documents provided); *Fermine v. Dir. Of Immigr. Custom Enf't*, No. 2:06-cv-1578, 2007 WL 2284606 (W.D. La. May 23, 2007) (granting habeas relief to petitioner detained for fifteen months due to Trinidad's

2 *See also Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *4 (W.D.N.Y. Jan. 2, 2019) (ordering release of petitioner detained fourteen months after petitioner showed "that the countries with he has any affiliation will not accept him"), *Yusupov v. Love*, No. 4:CV-06-1804, 2007 WL 5063231 (M.D. Pa. Jan. 12, 2007); *Abel-Muhti v. Ashcroft*, 314 F. Supp. 2d 418 (M.D. Pa. 2004) (ordering release of petitioner detained approximately two years after refusal of several countries to accept petitioner).

refusal to issue travel documents); *Lijadu v. Gonzales*, No. 06-1208, 2006 WL 3933850 (W.D. La. Dec. 18, 2006) (granting habeas relief to petitioner detained nineteen months because Nigeria refused to issue travel documents due to petitioner's HIV status).[3]

- There is not removal agreement between the United States and a country. In this scenarios, courts have found that the lack of a normal agreement regarding repatriation, lack of diplomatic relationship, and lack of a functioning government support a finding that there is no significant likelihood of removal. *See, e.g. Negusse v. Gonzales*, No. 06-1382, 2007 WL 708615 (W.D. La. Mar. 1, 2007) (granting habeas relief to petitioner detained for approximately one year because the United States did not have a repatriation agreement with Ethiopia and Ethiopia would not issue travel documents because one of the petitioner's parents was not Ethiopian).[4]
- There is either no response from a country designated for removal or a significant delay in receiving a response. *See. e. g., Gonzales-Rondon v. Gillis*, 5:19-cv-109-DCB-MTP, 2020 WL 3428983 (S.D. *Miss. June 23, 2020) (granting habeas relief to petitioner detained thirteen months where there was no response from Venezuelan officials.*[5]

3 *See also Ka v. Bureau of Immigr. & Custom Enf't*, No. B-07-197, 2008 WL 11462867, at *8 (S.D. Tex. June 24, 2008) (ordering release of petitioner detained twelve months after Senegal "refuses to issue Ka a travel document because he d[id] not have proper identity documentation"); *Moreira v. Gonzales*, No. CIVA CV05-588 A, 2006 WL 3861972 (W.D. La. Nov. 2, 2006) (granting habeas relief to petitioner detained for three years because Cape Verde advised that it would not accept the petitioner for repatriation); *Khan v. Gonzales*, 481 F. Supp. 2d 638 (W.D. Tex. 2006).

4 *See also Gomez Barco*, 2020 WL 7393786, *Islam v. Kane*, No. CV-11-515-PHX-PGR (LOA), 2011 WL 4374226, at *3 (D. Ariz. Aug. 30, 2011) (ordering release of petitioner detained ten months where petitioner presented evidence that Bangladesh "is one of fifteen countries identified by ICE as least likely to issue travel documents"); *Carreno*, 2020 WL 8366735, *Simoza Rangel v. Gillis*, No. 5:19-cv-118-DCB-MTP, 2020 WL 7223258 (S.D. Miss. Sept. 2, 2020) (granting habeas relief to petitioner detained for sixteen months due to lack of diplomatic relation with Venezuela); *Abduelle v. Gonzales*, 422 F. Supp. 2d 774 (W.D. Tex. 2006) (concluding that the petitioner met the burden to show removal was not reasonably foreseeable after being detained for more than one year when an injunction restricted the government's ability to remove the petitioner to Somalia).

5 *See also Sharif*, 2020 WL 7379211; *Aung v. Barr*, No. 20-CV-681-LJV, 2020 WL4581465 (W.D.N.Y. Aug. 10, 2020); *Edwards v. Barr*, No. 4:20cv350-WS-MAF, 2020 WL 6747737 (N.D. Fla. Oct. 14, 2020); *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319 (W.D.N.Y. July 14, 2020); *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560 (W.D. Tex. Nov. 3, 2020); *Singh v. Whitaker*, 362 F. Supp. 3d 93 (W.D.N.Y. 2019); *Butt v. Holder*, No. CA 08-0672-CG-C, 2009 WL 1035354 (S.D. Ala. Mar. 19, 2009) (holding that petitioner met his initial burden where he was held in ICE custody for more than ten months after the issuance of his removal order with no indication from the Pakistan Embassy that travel documents would be issued); *Lawrikov v. Kollus*, No. CV-08-1403-PHX-GMS (LOA), 2009 WL 2905549 (D. Ariz. July 27, 2009); *Reid v. Crawfort*, No. 06-02436 PHX-JWS (MEA), 2007 WL 1063413 (D.

- ICE fails to take action to secure travel documents for a prolonged period. *See, e.g. Senor,* 401 F. Supp. 3d at 430-31 (granting habeas relief after ICE initially requested travel documents but where "there [wa]s no identification from the record that anyone ha[d] taken any further action in the eight months since that time. . .to facilitate Senor's receipt of the necessary travel documents").[6]

22. As the length of detention grows, the period of time that would be considered the "reasonably foreseeable future" shrinks. *See e.g., Zadvydas,* 533 U.S. at 701 (stating that as the length of time in detention grows "what counts as the 'reasonably foreseeable future' conversely would be to shrink"); *Senor,* 401 F. Supp. 3d at 430 ("'[T]he passage of time combined with 'the' government [being] no closer to . . . repatriating [a detainee] than they were once they first took him into custody' [is] sufficient to meet that 'initial burden."'); *Lawrikow,* 2009 WL 2905549, at *12.

23. Petitioner's continued detention is unlawful, and petitioner is unlikely to be removed in the reasonably foreseeable future. Therefore, Petitioner's detention violates the statute and s/he is entitled to immediate release.

24. Petitioner's detention also violates the Due Process Clause. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. Amend. V. "Freedom from imprisonment—from government custody, detention or other form of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas,* 533 U.S. at 690 (citing *Founcha v. Louisiana,* 504 U.S. 71, 80 (1992). Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See, id.* (*citing Jackson v. Indiana,* 406 U.S. 715, 738 (1972)). In the

Ariz. Jan. 31, 2007); *Gui v. Ridge,* No. 3CV031965, 2004 WL 1920719 (M.D. Pa. Aug. 13, 2004); *Shefqet v. Ashcroft,* No. 02C 7737, 2003 WL 1964290 (N.D. III. Apr. 28, 2003).

6 *See also Chun Yat Ma v. Asher,* No. C11-1797 MJP, 2012 WL 1432229, at *4 (W.D. Wash. Apr. 25, 2012) (ordering petitioner's release where the government failed "to provide any documentation of efforts. . . to effectuate removal . . . [for] nearly six months").

immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risk of flight and prevent danger to the community. *Id.* Petitioner's prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the primary statutory purpose of ensuring imminent removal. Thus, Petitioner's detention violates Petitioner's right to due process.

CONCLUSION

25. In conclusion, Petitioner's prolonged or indefinite detention violates the detention statute and is unconstitutional. Petitioner respectfully requests that this Court order Respondents to show cause why should not be granted and accordingly ordering Respondents to immediately release Petitioner from their custody.

Respectfully submitted.

Signature: _____

Name: Raul Armando Oquendo Ibañes

[redacted]

Detention Center: Aurora ICE Processing Center (AIPC)_

SUPPLEMENT D

E ADMINISTRATIVE REMEDIES

I have applied to all administrative remedies than was available to me including but not limited to the fallowing

1. Attended all court hearing including the delays caused by the court during the process .

2. Presented request for Asylum, withholding of removal and protection under convention against torture.

3. Appeal to the Board of Immigration Appeal (BIA), the decision of the Immigration Judge denying my petition of protection.

4. I intended to request for bound hearing but I was inform that the court did not have jurisdiction to precede with this.

SUPPLEMENT E

F. REQUEST FOR RELIEF

1. Petitioner respectfully requests that this Court order Respondents to show cause why should not be granted, and set a hearing on this Petition, and **grant the Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from their custody.**

2. In order to permit full judicial review of the claim herein and requested relief, Petitioner respectfully requests that the **Court orders Respondents a Temporary Restraint and not to transfer Petitioner outside the jurisdiction of this Court pending considerations of this petition.**