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Counsel for Petitioner
Ricardo Manuel Obando Vargas

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

RICARDO MANUEL OBANDO VARGAS, [redacted]

Petitioner,

v.

TODD BLANCHE, in his official capacity as Acting Attorney General,

MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security,

U.S. DEPARTMENT OF HOMELAND SECURITY,

CHRISTOPHER CHESTNUT, in his official capacity as Warden of California City Immigration Processing Center,

SERGIO ALBARRAN, in his official capacity as ICE Field Office Director,

Case No.

VERIFIED PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

IMMIGRATION HABEAS CASE

ORAL ARGUMENT REQUESTED

Respondents.

FACTUAL AND PROCEDURAL BACKGROUND

1. Ricardo Manuel Obando Vargas (Petitioner), by and through his undersigned counsel, hereby files this petition for a writ of habeas corpus arguing that his continued detention is unconstitutional, as there is no significant likelihood of removal in the reasonably foreseeable future.

2. Petitioner is a citizen of Nicaragua. He first arrived in the United States as a child in or around 1986. *See* Exhibit A. He previously applied for asylum and adjustment of status under the Nicaraguan Adjustment and Central American Relief Act (NACARA) and his applications for relief were denied by United States Citizenship and Immigration Services.

3. On August 15, 2022, he was issued a Notice to Appear and charged with removability for his unlawful entry into the United States and for a 2021 Florida possession of a controlled substance offense. *See* Exhibit A. He was detained during proceedings, which took place at Miami Krome Immigration Court.

4. On January 25, 2023, an immigration judge ordered him removed and granted his application for withholding of removal under 8 U.S.C. § 1231(b)(3). *See* Exhibit B. Petitioner was released the same day from

Immigration and Customs Enforcement (ICE) custody and was placed on order of supervision (OSUP).

5. Petitioner was re-detained at an ICE check-in on January 5, 2026, in Miami, Florida. He was initially detained at Florida Soft Side South and previously filed a habeas petition through other counsel in the Middle District of Florida on February 6, 2026. In that petition, he argued that ICE violated the Immigration and Nationality Act (INA) and the Administrative Procedures Act (APA) in revoking his OSUP. He also argued that his prolonged detention violated his due process rights. *See* case 2:26-cv-00265. Judge Kyle Dudek denied the petition without prejudice, first finding that ICE had complied with the applicable regulations allowing for revocation of his supervised release and that because he had only been detained for a couple of months, he could not prevail on a prolonged detention claim. *See* case 2:26-cv-00265 at Dkt 12 ("Obando-Vargas has not established that his current detention is unlawful. But he may return to challenge his revocation if his continued detention becomes unconstitutionally prolonged.").

6. Petitioner was subsequently transferred to California City Immigration Processing Center on approximately June 14, 2026. When he arrived at California City, his employment authorization document, driver's license, passport, cell phone, and ICE documents were missing from his property

transferred from Florida. Petitioner now files this new petition with this Court,[1] arguing that his detention of six months has become prolonged under *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

7. Petitioner argues that his detention has become prolonged and that ICE will be unable to remove him in the reasonably foreseeable future because Respondents cannot lawfully remove him to Nicaragua, given his grant of withholding, and despite previously being advised that Respondents were attempting to remove him to Mexico, he has now been detained for six months and Respondents have been unable to remove him to that country.

8. Petitioner was advised that ICE would be conducting a custody review on June 5, 2026 and submitted evidence in support of his release; however, he has not received any further notification or information about this alleged review.

9. Petitioner has strong family ties in the United States including his U.S. citizen son, father, mother, and two siblings. Prior to detention, he was gainfully employed by the same employer, [redacted] in Hallandale Beach, Florida, for fifteen years and submits letters of support from family members and friends who attest to his good character. *See*

[1] Given that Petitioner is now detained in the custody of ICE in the Eastern District, this Court and not the Middle District of Florida is the proper venue for this habeas.

Exhibit C–E. His son, Christopher Obando, has enlisted in the armed forces and will report for basic training in November. *See* Exhibit F.

PARTIES

10. Petitioner Ricardo Manuel Obando Vargas is a citizen of Nicaragua, who is currently in the custody of ICE at the California City Immigration Processing Center, in California City.

11. Respondent Todd Blanche, the Acting Attorney General, is the highest-ranking official within the Department of Justice (DOJ). Respondent Blanche has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act (INA) has not been amended to reflect the designation of the Secretary of the Department of Homeland Security (DHS) as the administrator and enforcer of immigration laws, Respondent Blanche is sued in his official capacity to the extent that 8 U.S.C. § 1102 gives him authority over immigration law.

12. Respondent Markwayne Mullin, the Secretary of the DHS, is the highest-ranking official within the DHS. Respondent Mullin, by and through his agency for the DHS, is responsible for the implementation of the INA, and for ensuring compliance with applicable federal law. He is also responsible

for the detention of non-citizens by ICE. Respondent Mullin is sued in his official capacity as an agent of the government of the United States.

13. The DHS is the agency responsible for detaining non-citizens, including Petitioners.

14. Christopher Chestnut, the warden of the California City Immigration Processing Center, is sued in his role as Petitioner's immediate custodian.

15. Respondent Sergio Albarran is the San Francisco Field Office of ICE's Enforcement and Removal Operations division. As such, he is the custodian of all persons held at the ICE facilities within the San Francisco Field Office, which includes the California City Immigration Processing Center. He is Petitioner's immediate custodian and is responsible for Petitioner's detention. He is sued in his official capacity.

JURISDICTION AND VENUE

16. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the Administrative Procedure Act (APA); habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (Declaratory Judgment Act); The Fourth and Fifth Amendments to the U.S. Constitution; and the common law. This action arises under the Due

Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

17. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

18. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the warden of the California City Immigration Processing Center, which is in the jurisdiction of the Eastern District of California; and there is no real property involved in this action.

19. Further, this Petition is not subject to the successive habeas bar under 28 U.S.C. § 2244 of the Anti-terrorism and Effective Death Penalty Act (AEDPA) of 1996, as the bar does not apply to ICE detainees. *See Barapind v. Reno*, 225 F.3d 1100, 1111 (9th Cir. 2000) (holding that AEDPA's gatekeeping provisions in § 2244 do not apply to "a § 2241 petition filed by an INS detainee"). Under the non-AEDPA standards, "a habeas court must

adjudicate even a successive habeas claim when required to do so by the 'ends of justice." *Schlup v. Delo*, 513 U.S. 298, 319–22 (1995). Further, Judge Dudek dismissed the first petition without prejudice advising Petitioner he could "return to challenge his revocation if his continued detention becomes unconstitutionally prolonged." *See* case 2:26-cv-00265 at Dkt 12. As Petitioner's current detention has now reached six months, he establishes that it has become unconstitutionally prolonged.

LEGAL BACKGROUND

20. "It is well established that the Fifth Amendment entitles [non-citizens] 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*, 533 U.S. at 690.

21. A non-citizen with a final order of removal also has the right to substantive due process and may not be indefinitely detained. As the Ninth Circuit explained, "[o]nce [a non-citizen] has a final removal order that is not subject to a judicial stay, detention authority shifts [from 8 U.S.C. § 1225(b)(2)] to 8 U.S.C. § 1231(a)." *Diaz v. Garland*, 53 F.4th 1189, 1197 (9th Cir. 2021 (citing *Jennings*, 583 U.S. at 298); *see also Noah Zhe v. Green*, 2017 WL

4407934, at *2 (D.N.J. Oct. 4, 2017) ("Post-removal immigration detention is governed by 8 U.S.C. § 1231, which creates a ninety-day removal period during which the government must detain [noncitizens] still awaiting removal.").

22. Pursuant to § 1231(a), "[w]hen [a noncitizen] has been found to be unlawfully present in the United States and a final order of removal has been entered, the Government ordinarily secures the [noncitizen's] removal during a subsequent 90-day statutory 'removal period,' during which time the [noncitizen] normally is held in custody." *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). During the 90-day removal period, the Government "shall detain" the non-citizen. 8 U.S.C. § 1231(a)(2)(A). Once the 90-day removal period ends, the government may continue to detain certain noncitizens. *Id.* § 1231(a)(6). "[A noncitizen] ordered removed who is inadmissible ..., removable[,]...or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period[.]" *Id.* However, the INA does not authorize "indefinite, perhaps permanent, detention" of noncitizens subject to final orders of removal. *Zadvydas*, 533 U.S. at 699. "A statute permitting indefinite detention of [a noncitizen] would raise a serious constitutional problem [under] ... [t]he Fifth Amendment's Due Process Clause." *Id.* at

690. Thus, "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

23. 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.* 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.

24. Further, "several cases [] have found that the removal period is cumulative for the purposes of *Zadvydas*." *Hamama v. Adducci*, No. 17-CV-11910, 2019 WL 2118784, at *3 (E.D. Mich. May 15, 2019) (citing *Sied v. Nielsen*, No. 17-CV-06785-LB, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018) (approving the approach, taken by "several courts" that "the six-month period does not reset when the government detains [a non-citizen] under 8 U.S.C. § 1231(a), releases him from detention, and then re-detains him again"); *Nhean v. Brott*, No. 17-28 (PAM/FLN), 2017 WL 2437268, at *2 (D. Minn. May 2, 2017) (report and recommendation) (holding that when the government detains [a non-citizen] for ninety days, releases him, and then re-detains him, the second detention "was presumptively reasonable for an additional ninety days (six months in total)," not an additional six months),

adopted, 2017 WL 2437246 (D. Minn. June 5, 2017); *Bailey v. Lynch*, No. CV 16-2600, 2016 WL 5791407, at *2 (D.N.J. Oct. 3, 2016) (holding that the six-month *Zadvydas* period "does not restart simply because [a non-citizen] who has previously been released is taken back into custody"); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE), 2003 WL 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases [a non-citizen] and then revokes the release based on changed circumstances, "the revocation would merely restart the 90-day removal period, not necessarily the presumptively reasonable six-month detention period under *Zadvydas*").

25. In addition, multiple courts have also found that the six-month period detailed in *Zadvydas* is subject to a rebuttable presumption and that claims of prolonged detention can be brought prior to six months. *See Tumasov v. Doe 1*, No. 26CV590-LL-DEB, 2026 WL 458146, at *3 (S.D. Cal. Feb. 18, 2026) ("Therefore, Petitioner's 90-day post-removal period has passed, and if Petitioner can demonstrate that there is no significant likelihood of removal in the reasonably foreseeable future, Petitioner is eligible for release under supervision."); *Trinh v. Homan*, 466 F. Supp. 3d 1077, 1092 (C.D. Cal. 2020) ("At no point did the *Zadvydas* Court preclude a noncitizen from challenging their detention before the end of the presumptively reasonable six-month period."); *Hoang Trinh v. Homan*, 333 F. Supp. 3d 984, 994 (C.D.

Cal. 2018) ("The Supreme Court in *Zadvydas* outlined a 'guide' for approaching these detention challenges ... not a prohibition on claims challenging detention less than six months.") (quoting *Zadvydas*, 533 U.S. at 700–01); *Uzzhina v. Chestnut*, No. 1:25-cv-01594-DAD-SCR, 2025 WL 3458787, at *3 n.3 (E.D. Cal. Dec. 2, 2025) ("The fact that a noncitizen has been held in-custody less than six months does not foreclose a claim that his or her detention is unlawful under *Zadvydas*."); *Medina v. Noem*, 794 F. Supp. 3d 365, 375 (D. Md. 2025) (noting that "what *Zadvydas* did make clear was that it was adopting a presumption—not a conclusive bar to adjudication of whether continued detention is authorized that lifts only after six months have elapsed"); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020) ("This six-month presumption is not a bright line, however, and *Zadvydas* did not automatically authorize all detention until it reaches constitutional limits."); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL 2592543, at *5 (D. Md. Sept. 8, 2025) (finding detention can be less than six months because any other interpretation means that "the Government would be permitted to detain noncitizens ordered removed for up to six months even when their removal is impossible.")

FIRST CAUSE OF ACTION

VIOLATION OF THE FIFTH AMENDMENT TO THE UNITED STATES CONSTITUTION (SUBSTANTIVE DUE PROCESS –INDEFINITE DETENTION)

26. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-25.

27. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law." U.S. Const. amend. V. "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*, 533 U.S. at 690.

28. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

29. "[A]n individual's private interest in 'freedom from prolonged detention' is 'unquestionably substantial.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1207 (9th Cir. 2022) (quoting *Singh v. Holder*, 638 F.3d 1196, 1208 (9th Cir. 2011) (assuming the petitioner's detention qualified as prolonged because it was longer than six months). "At some point [civil] detention can become

excessively prolonged, and therefore punitive, resulting in a due process violation." *United States v. Torres*, 995 F.3d 695, 708 (9th Cir. 2021). This can be true even if the detention will necessarily end." *Id.* at 709–10. In addition, "[i]f conditions of civil confinement are equivalent to or more restrictive than criminal detention or civil post-commitment detention, they are presumptively punitive. . ." *Doe v. Becerra*, 732 F. Supp. 3d 1071, 1080 (N.D. Cal. 2024).

30. Petitioner has now been detained since January 5, 2026, a period of six months. This is unreasonable under *Zadvydas*, as Respondents cannot remove him to Nicaragua and have been unsuccessful in obtaining travel documents to remove him to Mexico, or another third country during his lengthy detention period.

31. Respondents' detention of Petitioner is, therefore, unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment. *See Montoya Diaz v. Warden, California City Corr. Ctr.*, No. 1:26-CV-03171-DJC-SCR, 2026 WL 1453985, at *3 (E.D. Cal. May 22, 2026), *report and recommendation adopted*, No. 1:26-CV-03171-DJC-SCR, 2026 WL 1512159 (E.D. Cal. May 29, 2026) ("there is no significant likelihood of his removal in the reasonably foreseeable future because he was granted withholding of removal to Nicaragua. . . [and] there is

no countervailing evidence in the record to demonstrate a significant likelihood of petitioner's removal to Mexico in the reasonably foreseeable future."); *see also Abdirahman v. Noem*, Case No.: 3:26-cv-00177-RBM-AHG, 2026 WL 311509, at *2 (S.D. Cal. Feb. 5, 2026) (holding petitioner satisfied his burden under *Zadvydas* because he was granted withholding of removal to his country of origin and established that "ICE has not been able to remove [him] to a third country for over 7 months") (internal citation omitted); *Giorgi v. Chestnut*, No. 1:26-CV-02170-DJC-SCR, 2026 WL 1158572, at *4 (E.D. Cal. Apr. 29, 2026), *report and recommendation adopted sub nom. Kavtaradze v. Chestnut*, No. 1:26-CV-02170-DJC-SCR, 2026 WL 1275285 (E.D. Cal. May 8, 2026) ("there is nothing in the record to suggest any likelihood that petitioner will be deported in the reasonably foreseeable future.").

SECOND CAUSE OF ACTION

VIOLATION OF 8 U.S.C. § 1231(a)

32. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-24.

33. As applicable to Petitioner, the U.S.C. § 1231(a) mandatory detention period passed in April 5, 2023, as no appeal was taken and the IJ's order became

final on January 5, 2023. *See* Exhibit B. The statute only authorizes detention "beyond the removal period" for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also* Zadvydas, 533 U.S. at 699 ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute."). Because Petitioner's removal is not reasonably foreseeable, as argued above, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

THIRD CAUSE OF ACTION

UNCONSTITUTIONAL DENIAL OF PROCEDURAL DUE PROCESS

34. Petitioner re-alleges and incorporates each allegation contained in paragraphs 1-24.

35. Under the Due Process clause of the Fifth Amendment, a non-citizen is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner has been denied that opportunity. ICE does not make decisions concerning a non-citizen's custody status in a neutral and impartial manner. *See* 8 C.F.R. § 241.13 (explaining that ICE reviews a detainee's custody status and that "There is no administrative appeal from the HQPDU decision denying a request from an alien under this section."). The failure of Respondents to provide a neutral decision-maker to review Petitioner's continued detention violates his right to procedural Due Process.

36. Further, Respondents have failed to acknowledge or act upon Petitioner's administrative request for release in a timely manner. Despite submitting evidence in support of his release, Petitioner has received no further information and did not receive an initial response to his request for release as required within ten business days under 8 C.F.R. § 241.13(e). Respondents have also not scheduled an interview with Respondent under 8 C.F.R. § 241.13(e)(5). There is no administrative mechanism in place for Petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody;
3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
4. Order Respondents to release Petitioner from detention because they lack any individualized evidence that removal of Petitioner will occur in the reasonably foreseeable future;

5. Enjoin Respondents from revoking Petitioner's release unless they have individualized evidence that his removal is reasonably foreseeable;
6. Enjoin Respondents from revoking Petitioner's release without providing him a determination by an impartial adjudicator that his detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release and/or supervision, at which hearing Respondents will bear the burden of proof of demonstrating that Petitioner is a flight risk or a danger to the community;
7. Order Respondents to return all of Petitioner's personal property, including, but not limited to, his employment authorization document, driver's license, cellular telephone, and immigration-related paperwork;
8. Award Petitioner her costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any further basis justified under law;
9. Grant such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 10th day of July, 2026

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TABLE OF EXHIBITS

Exhibit A: Notice to Appear

Exhibit B: Grant of Withholding

Exhibit C: Proof of Family Ties

Exhibit D: Proof of Employment

Exhibit E: Letters of Support

Exhibit F: Enlistment Paperwork for Christopher Obando