**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF MICHIGAN**

DINU RELU RASCOL,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; MICHAEL L. WHITE, in his official capacity St. Clair County Sheriff;TODD LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; MARKWAYNE MULLIN, in his official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, in his official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 26-13534

Hon.

**SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND EMERGENCY MOTION FOR TRO AND PRELIMINARY INJUNCTION**

I. THIS IS A PROPER HABEAS CORPUS CASE

1. Petitioner is in physical custody. He challenges the legality of that custody under 28 U.S.C. § 2241 because Respondents are using the custody to effect an imminent removal that violates clear statutory, regulatory, and constitutional limits. Habeas corpus is the traditional and proper vehicle for such a challenge. *Zadvydas v. Davis,* 533 U.S. 678, 688–90 (2001); *INS v. St. Cyr,* 533 U.S. 289, 305–08 (2001). The threatened third-country removal without process is not a collateral attack on a final order; it is a challenge to the lawfulness of the government's current exercise of custody authority.

II. LIKELIHOOD OF SUCCESS ON THE MERITS

A. Third-Country Removal Without Process Is Unlawful

2. INA § 241(b)(3)(A) prohibits removal to any country where life or freedom would be threatened on a protected ground. In *Matter of A-S-M-,* 28 I&N Dec. 282, 285–87 (BIA 2021), the Board held that once DHS indicates it may remove an individual to a particular country under § 241(b)(2), the individual is entitled to seek withholding and CAT protection as to that country in withholding-only proceedings, even if the country was never previously designated.

3. 8 C.F.R. § 1208.16(f) confirms that third-country removal is not unconstrained. DHS has provided no written notice and no meaningful opportunity, with adequate time to prepare and present a defense, for Petitioner to raise a fear claim as to Rwanda. This is a clear violation of the governing framework.

B. The Completely Warrantless Home Arrest Supports the Unlawfulness of Custody

4. The Fourth Amendment prohibits nonconsensual entry into a private home to effect an arrest without a judicial warrant, absent valid consent or true exigency. *Payton v. New York,* 445 U.S. 573 (1980). ICE had neither a judicial warrant nor an administrative warrant. The telephone ruse rendered any consent invalid. Custody that began with a Fourth Amendment violation, and that is now being used to effect an imminent unlawful third-country removal, is unlawful under § 2241.

III. IRREPARABLE HARM

5. Removal to Rwanda without process will place Petitioner outside the Court's jurisdiction and expose him to the precise harms that § 241(b)(3) and CAT exist to prevent. That injury is irreparable.

IV. BALANCE OF EQUITIES AND PUBLIC INTEREST

6. Petitioner has complied with supervision for 9 years and poses no danger or flight risk. He has 2 U.S. citizen children and a U.S. citizen common law spouse. He has no pending criminal charges. The only interest asserted by the government is the desire to effect a third-country removal without the process required by its own governing authorities. The public interest strongly favors compliance with the INA, the regulations, and BIA precedent.

V. CONCLUSION

7. The Court should grant the writ, issue the temporary restraining order and preliminary injunction, and enjoin any removal to Rwanda or any other third country until Petitioner receives written notice and a meaningful opportunity, with adequate time to prepare and present a defense, to seek protection as to Rwanda.

Dated September 17, 2026

Respectfully submitted,

/s/ Alberto Delgado

Alberto J. Delgado (P74169)
Law Office of Richard Kessler, PC
4145 Kalamazoo SE
Grand Rapids, MI 49508
(616) 235-4577
Counsel for Petitioner