

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY**

Gladis Chavez-Pineda,

Plaintiff-Petitioner,

v.

Jason **WOOSLEY**, Grayson County Jailer; Samuel
OLSON, Field Office Director for U.S. Immigration
and Customs Enforcement; **Kristi NOEM**, in her
official capacity as Secretary, U.S. Department of
Homeland Security,

Defendants-Respondents.

Case No. 4:25-cv-00049-RGJ

**AMENDED VERIFIED PETITION
FOR WRIT OF HABEAS CORPUS**

PRELIMINARY STATEMENT

1. Petitioner, Gladis Chavez-Pineda (“Petitioner” or “Mrs. Chavez-Pineda”), is a 47 year old woman who has resided in the United States since her entry on June 15, 2015. On June 4, 2025, Mrs. Chavez-Pineda was detained by Defendants-Respondents (“Respondents”) Immigration and Customs Enforcement (“ICE”) when she appeared, as instructed, for a check-in and despite her full and complete compliance with all orders from the immigration authorities. She has always complied with all requirements of release.
2. Petitioner resides—or did reside, before her detention—with her minor daughter, A. C-P-, who was in her custody and care.
3. As directed by ICE, Petitioner arrived for her check-in with ICE contractors, who oversee the supervision of noncitizens. As detailed below, her supervised release was revoked and she was detained by ICE. Her legal counsel were not permitted to defend against re-detention.

4. The power of the government to detain and deport immigrants is not without limitations. To the contrary, the power of government to act is delineated by a specific set of statutes and federal regulations, and subject to the limitations of the United States Constitution.
5. To the extent that ICE revoked Mrs. Chavez-Pineda's supervised release without prior notice or opportunity to be heard, it was in violation of statute, regulations, and the U.S. Constitution. At the time of her unnoticed detention by ICE, Petitioner was in full and complete compliance with her release and ICE did not and could not allege any change in circumstances altering the original assessment of her danger to the community and risk of flight.
6. To comport with due process, immigration detention must bear a reasonable relationship to its two regulatory purposes: ensuring the appearance of noncitizens at future hearings and preventing danger to the community pending the completion of removal. *See Zadvydas v. Davis*, 533 U.S. 690, 691 (2001). Here, despite no changed circumstances regarding either flight risk or public safety, ICE nevertheless detained Petitioner without notice or a hearing, and without permitting her counsel to participate. *See Rombot v. Souza*, 296 F. Supp. 3d 383, 388-89 (D. Mass. 2017) (finding a due process violation and explaining that ICE "never asserted that Rombot is a danger to the community or a flight risk, or that he violated the conditions of his Order of Supervision.... The Supreme Court has recognized that a 'alien may no doubt be returned to custody upon a violation of [supervision] conditions,' but it has never given ICE a carte blanche to re-incarcerate someone without basic due process protection.") (quoting *Zadvydas*, 533 U.S. at 700).
7. Each day that Mrs. Chavez-Pineda remains in detention, she suffers irreparable harm from being separated from her family and her community; and in particular from being prevented from actively directing the upbringing of her minor daughter A. C.-P.

PARTIES

8. Gladis Chavez-Pineda is a 47-year-old mother and an active and instrumental member of her community, who has lived in the United States since 2015. She is currently detained at Grayson County Jail.
9. Respondent Samuel Olson is named in his official capacity as the Field Officer Director for U.S. Immigration and Customs Enforcement within the United States Department of Homeland Security (“DHS”). In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations and is an immediate custodian of Petitioner.
10. Jason Woosley is the Grayson County Jailer, where Mrs. Chavez-Pineda is currently detained. He is named in his official capacity. He is an immediate custodian of the Petitioner.
11. Respondent, Kristi Noem, is named in her official capacity as the Secretary, U.S. Department of Homeland Security. In this capacity, she is responsible for overseeing ICE’s day-to-day operations, leading approximately 20,000 ICE employees, including Respondent Olson.

JURISDICTION AND VENUE

12. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 (“The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.”). This Court also has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), the Immigration and Nationality Act (“INA”) and regulations thereunder; the Fifth Amendment of the United States Constitution; and the Administrative Procedure Act (“APA”), 5 U.S.C § 701.

13. Petitioner's current arrest and detention — constitutes a "severe restraint" on her individual liberty such that Petitioner is "in custody" of the Respondent in violation of the . . . laws of the United States. *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241.
14. Venue is proper in the U.S. District Court for the Eastern District of Kentucky because Mrs. Chavez-Pineda is currently being held within this District, or was held there at the time of the filing of this action. *See* 28 U.S.C. § 1391(e).

RELEVANT STATEMENT OF FACTS AND PROCEDURAL HISTORY

15. Gladis Chavez-Pineda was born on June 14, 1977, in Honduras. She came to the United States on June 15, 2015, fleeing her native country due to threats against her and her family.

Mrs. Chavez-Pineda's Application for Asylum.

16. The immigration statute does not permit someone who arrives in the United States to seek asylum unless they first pass a gatekeeper interview with an Asylum Officer. 8 U.S.C. § 1225(b)(1)(B). Mrs. Chavez-Pineda had an asylum office interview on July 16, 2015, and was found to have established a "credible fear" of returning to Honduras. She was therefore placed into removal proceedings on July 17, 2015. She was released from detention at that point.
17. During the following years, her case slowly proceeded through the immigration court system. On April 1, 2021, an Immigration Judge sitting in Chicago heard her case and found her credible, but denied Petitioner's asylum application, and ordered removal of Petitioner and her minor daughter, A.C.-P. After Petitioner's timely appeal, the Board of Immigration Appeals (BIA) dismissed her appeal on June 18, 2024. She filed a timely Petition for Review with the U.S. Court of Appeals for the Seventh Circuit; that appeal remains pending. *Chavez-Pineda v. Bondi*, No. 24-2224.

18. While this was pending, United States Citizenship and Immigration Services (USCIS) (another component of the Department of Homeland Security) granted A.C.-P.'s application for a Special Immigrant Juvenile visa (SIJ). On that basis, Petitioner and A.C.-P. sought reopening of their case at the BIA. On January 23, 2025, the BIA granted the motion as to A.C.-P., reopening and terminating removal proceedings against her. However, the BIA declined to reopen Petitioner's case. An appeal of that decision was also docketed with the Court of Appeals. *Chavez-Pineda v. Bondi*, No 25-1278.

19. Petitioner's appeals of the denial of asylum and reopening remain pending. The Court of Appeals recently set a briefing schedule, with her opening brief due on August 28, 2025.

Mrs. Chavez-Pineda detained without notice at an ICE "Check-in"

20. For nearly 10 years after release, Mrs. Chavez-Pineda was allowed to reside in the United States, pursuant to ICE supervision. She dutifully obeyed all ICE orders, and periodically had "check-ins" with ICE and with ICE contractors who supervise noncitizens who are released.

21. On June 4, 2025, she appeared with counsel pursuant to a request from ICE's contractor, BI. When she appeared, she was separated from counsel, who were not permitted to advocate on her behalf.

22. Ms. Chavez-Pineda was detained, and her authorized release was terminated by ICE. She was given no copies of any document.

23. Authority to revoke an order of supervision on the basis of potential removal is at 8 C.F.R. § 241.4(l)(2), which confers that authority on the Executive Associate Commissioner and, where "circumstances do not reasonably permit referral [to him]," on the "district director" if she or he finds that revocation "is in the public interest."

24. ICE did not comply with those requirements. ICE apparently contends that Petitioner was never under supervision, so that supervision did not need to be revoked. By statute, her release after the removal order was pursuant to and subject to 8 U.S.C. § 1231(a)(3), which provides that when a noncitizen “does not leave or is not removed within the removal period, the alien, pending removal, *shall be subject to supervision* under regulations prescribed by the Attorney General.” That is true regardless of whether ICE issued her paperwork memorializing her release under supervision.
25. It is doubtful that the ICE agent who authorized her detention would have had authority to revoke her supervised release, absent a public interest finding, and after providing the process provided under regulation. *Ceesay v. Kurzdorfer*, __ F.Supp.3d __, 2025 WL 1284720, at *17 (W.D.N.Y. May 2, 2025). It appears that no ICE officer ever issued any supervision revocation, nor did ICE follow any other recognized legal framework for ordering detention.
26. Had ICE followed proper procedures, it would at minimum have considered whether Petitioner ought to be separated from her minor daughter. See Directive: 11064.4 Detention and Removal of Alien Parents and Legal Guardians of Minor Children, <https://www.ice.gov/node/68475>.

LEGAL FRAMEWORK

27. Respondents purported basis for detaining Mrs. Chavez-Pineda is 8 U.S.C. §1231. ICE’s authority to detain or release noncitizens after issuance of a removal order is governed by 8 U.S.C. § 1231(a)(3).
28. Federal regulations specify that ICE may only release individuals if “his or her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such alien’s removal.” 8 C.F.R. § 241.4(d); *see also id.* § 241.4(e)(6). These requirements—flight risk and danger—reflect constitutional constraints, since only

individuals who pose a flight risk or danger may be civilly detained. *See Zadvydas v. Davis*, 533 U.S. 690 (2001).

29. ICE determined that Mrs. Chavez-Pineda was neither a flight risk nor a danger when they granted her release. Since her release, Respondent's circumstances have not changed, and she has remained in full and complete compliance with all conditions imposed upon her.
30. The INA specifies circumstances upon which a person may be released from custody, but it does not provide for re-detention except impliedly for a violation of those terms.
31. The regulatory framework (8 C.F.R. § 241.4(l), as pertinent here) authorizes revocation of an individual's supervised release only in certain contexts. First, § 241.4(l)(1) permits revocation if the noncitizen has violated the conditions of release. That is not alleged to have occurred here. Second, revocation is permitted where one of four conditions is met: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2).
32. Revocations under § 241.4(l)(2) may be ordered by either the Executive Associate Commissioner or the local ICE "District Director." Revocation may be ordered by the District Director only upon a finding that revocation is in the public interest. *Id.*
33. 8 U.S.C. § 1231 authorizes the detention of individuals following a final order of removal only under specifically delineated circumstances. The third subclause of 8 U.S.C. § 1231(a)(3) provides that an individual who is not removed within a 90-day statutory removal period "*shall* be subject to supervision" (emphasis added) under specific terms, including requirements that he or she appear periodically before an immigration officer and obey any written restrictions.

See also 8 C.F.R. § 241.5 (specific conditions for release—involving but not limited to reporting requirements and travel document acquisition requirements—should an order of supervision be issued).

34. Mrs. Chavez-Pineda has, at minimum, a regulatory right to an explanation for the reasons of revocation as well as an interview to contest the basis for the revocation. At a minimum, ICE “has the duty to follow its own federal regulations.” *Haoud v. Ashcroft*, 350 F.3d 201, 205 (1st Cir. 2003) (quoting *Nelson v. I.N.S.*, 232 F.3d 258, 262 (1st Cir. 2000)). It has failed to do so here. Mrs. Chavez-Pineda’s attorney was not even allowed in the room during her check-in.
35. When the government fails to comply with its own federal regulations, as it did when it revoked her release in violation of its own procedures, the action should be found invalid. *See Rombot*, 296 F. Supp. 3d at 388.
36. The decision to detain Mrs. Chavez-Pineda may be reviewed by this Court and may be vacated if found to be “arbitrary, capricious, an abuse of discretion and not in accordance with the law.” 5 U.S.C. §§ 706(2)(A), (E). Absent this Court’s intervention, Mrs. Chavez-Pineda does not have any “remedy” to challenge the decision of Respondents. *See Torres-Jurado*, 2023 U.S. Dist. LEXIS 193725 at *14 (finding that “[a]lthough procedural requirements can seem like a mere formality, they promote ‘agency accountability’ and ensure that the parties—and where relevant, the public—can respond fully and in a timely manner to an agency’s exercise of authority.”) (citing *Bd. of Regents of State Colleges*, 140 S. Ct. 1891).
37. To comport with due process, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691 (2001).

38. Procedural due process constrains governmental decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause of the Fifth Amendment. Because Mrs. Chavez-Pineda's detention on June 4, 2025, lacked the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, her continued detention is unlawful. *See Mathews*, 424 U.S. at 332 (1976); *see also Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972) (reliance on informal policies and practices may establish a legitimate claim of entitlement to a constitutionally protected interest). Infringing upon a protected interest triggers a right to a hearing before that right is deprived. *See Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972).

39. The revocation of Mrs. Chavez-Pineda's release does not satisfy the minimum requirements of due process, because that revocation is not the product of any individualized review and alleges no relevant change in circumstances altering the original assessment of her risk of flight. *See Rombot*, 296 F. Supp. 3d at 388. *See also, Torres-Jurado v. Biden*, 2023 U.S. Dist. LEXIS 193725 at *12 (S.D.N.Y. Oct. 29, 2023) (stating that "due process, at a minimum" requires the government to afford meaningful notice and an opportunity to be heard and that the opportunity must be meaningful) (citing to *Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)).

CLAIMS FOR RELIEF

COUNT I:

MRS. CHAVEZ-PINEDA'S ORDER OF SUPERVISION HAS NOT BEEN VALIDLY RESCINDED

40. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

41. Under the terms of this statute and the governing regulations, Petitioner's release order has not been validly rescinded or terminated.
42. It appears from documentation provided in this litigation that no local ICE official purported to revoke Petitioner's release under supervision.
43. Petitioner thus was not afforded the process required under the regulations governing revocation of supervised release.
44. Nor did ICE officers purport to consider whether, or determine that, Petitioner's detention was in the public interest. It thus appears that ICE officials did not consider the countervailing equities and reasons why her detention was not in the public interest.
45. Her re-detention was therefore unlawful.

COUNT II:

**MRS. CHAVEZ-PINEDA'S DETENTION VIOLATES THE FIFTH AMENDMENT'S
DUE PROCESS CLAUSE BECAUSE IT BEARS NO REASONABLE
RELATIONSHIP TO ANY LEGITIMATE PURPOSE**

46. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
47. To comport with due process, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691.
48. Petitioner is neither a danger nor a flight risk. The detention of Petitioner is arbitrary on its face.
49. Mrs. Chavez-Pineda has dutifully complied with every condition of her release and no change in circumstances exists to warrant the revocation of her supervised release.

50. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, her continued detention is unlawful.

COUNT III:

**MRS. CHAVEZ-PINEDA'S RE-DETENTION BY RESPONDENTS VIOLATES THE
APA AND THE ACCARDI DOCTRINE**

51. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
52. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." *United States ex rel. Accardi Shaughnessy*, 347 U.S. 260, 266, 268 (1954). The *Accardi* doctrine also obligates agencies to comply with procedures it outlines in its internal manuals. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (finding that an agency is obligated to comply with procedural rules outlined in its internal manual).
53. To the extent that Respondents have revoked Mrs. Chavez-Pineda's supervised release without notice or an opportunity to be heard, they violated the statute and the applicable regulations—8 C.F.R. §§ 241.4(l) and 241.13(i)—by failing to provide her with a particularized notice of the reason(s) of the revocation of her release or an opportunity to respond to the allegations contained therein.
54. Her detention is therefore unlawful.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- a. Exercise jurisdiction over this matter;

b. Declare that Mrs. Chavez-Pineda's detention violates the INA, pertinent regulations and the Due Process Clause of the Fifth Amendment; and

c. Order such other relief as this Court may deem just and proper.

Respectfully Submitted:

Date: July 9, 2025

s/ Daniel J. Canon

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner's legal team the events described in this Verified Petition for Writ of Habeas Corpus and Complaint and Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus and Complaint are true and correct to the best of my knowledge.

s/ Charles Roth

Charles Roth
COUNSEL FOR PETITIONER

July 9, 2025