UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUSIANA

Ali Irfan, *Petitioner*, v. Kristi Noem, *Secretary, U.S. Dept. of Homeland Security*, Todd Lyons, *Acting Director, U.S. Immigration and Customs Enforcement*, Brian Acuna, *New Orleans Field Office Acting Director, U.S. Immigration and Customs Enforcement*, Rodney S. Scott, *Commissioner of U.S. Customs and Border Protection*, Pamela Bondi, *Attorney General, U.S. Dept. of Justice,* Bryan Patterson, *Warden, Pine Prairie Correctional Facility* *Respondents.*	Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Ali Irfan was born in Pakistan on [redacted] 1970. In April 2008, an immigration court found that Petitioner would more likely than not be persecuted if he were sent to Pakistan. The immigration court therefore granted Petitioner withholding of removal, which prohibits Respondents from removing him to Pakistan. Should Respondents wish to remove Petitioner to Pakistan, the law sets forth specific procedures by which they can reopen the case and seek to set aside the grant of withholding of removal. Should Respondents wish to remove Petitioner to any other country, they would first need to provide him with notice and the

opportunity to apply for protection as to *that* country as well. Until they do either of these things, they cannot remove Petitioner from the United States. Nonetheless, Respondents have arrested Petitioner without observance of any legal procedures whatsoever, ripping him away from his family. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

2. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 2201, the Declaratory Judgment Act; and 28 U.S.C. § 1331, Federal Question Jurisdiction. In addition, the individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

3. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act, and the Court's inherent equitable powers, as well as issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

4. Venue lies in this District because Petitioner is currently detained in the custody of U.S. Immigration and Custom Enforcement (ICE) in Pine Prairie Detention Center in Pine Prairie, La.; and each Respondent is an officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

5. Petitioner Ali Irfan is a native of Pakistan, who resides in Maryland. He is currently detained by Respondents in Pine Prairie Correctional Facility, LA.

6. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

7. Respondent Todd Lyons is the Acting Director of ICE. He is the head of the federal agency responsible for all immigration enforcement in the United States.

8. Respondent Rodney S. Scott is the Commissioner of U.S. Customs and Border Protection. He is the head of the agency responsible for Petitioner's arrest on July 23, 2025.

9. Respondent Brian Acuna is the Acting Director of the New Orleans ICE Field Office. He is the head of the ICE office is unlawfully detaining Petitioner. He is the immediate legal and physical custodian of Petitioner.

10. Respondent Bryan Patterson is the warden of the Pine Prairie Correctional Facility, located within this division of this District Court. He is the immediate physical custodian of Petitioner.

11. Respondent Pamela Bondi is the Attorney General of the United States. The immigration judges who decide removal cases and applications for relief from removal do so as her designees.

12. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

13. An immigration court grants withholding of removal on two separate bases: either the statute, 8 U.S.C. § 1231(b)(3), or the Convention Against Torture ("CAT").

14. Statutory withholding of removal prohibits the government from removing a noncitizen to a country where it is more likely than not that the individual would be persecuted on account of race, religion, nationality, membership in a particular social group, or political opinion. *See* 8 U.S.C. § 1231(b)(3); 8 C.F.R. § 1208.16(b). This form of relief is mandatory if the applicant meets his burden, and (unlike asylum) does not lead to permanent residency.

15. To qualify for statutory withholding of removal, the noncitizen bears the burden of proving that it is more likely than not that they would face persecution if returned to their country of origin. 8 U.S.C. § 1231(b)(3). The government may not remove an individual with a valid withholding order to that country unless the order is formally terminated following the procedures set forth in the regulations. *See* 8 C.F.R. § 1208.24(f).

16. If a noncitizen is granted withholding of removal, "DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated." *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions lie.

17. Federal regulations provide a procedure by which a grant of withholding of removal issued by an immigration judge may be terminated: DHS must move to reopen the removal proceedings before the immigration judge and must prove, by a preponderance of the evidence, that the individual would no longer face persecution. 8 C.F.R. § 1208.24(f). Only after termination may removal proceed.

18. However, withholding of removal is a country-specific form of relief. Should the government wish to remove an individual with a grant of withholding of removal to some other country, it must first provide that individual with notice and an opportunity to apply for withholding of removal as to that country as well, if appropriate. 8 U.S.C. § 1231(b)(3)(A). *Guzman Chavez v. Hott*, 940 F.3d 867, 880 (4th Cir. 2019) ("And precisely because withholding of removal is country-specific, as the government says, if a noncitizen who has been granted withholding as to one country faces removal to an alternative country, then she must be given notice and an opportunity to request withholding of removal to that particular country."), *rev'd on other grounds Johnson v. Guzman Chavez*, 594 U.S. 523 (2021). *See also Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999); *Kossov v. INS*, 132 F.3d 405, 408-09 (7th Cir. 1998); *El Himri v.*

Ashcroft, 378 F.3d 932, 938 (9th Cir. 2004); *cf. Protsenko v. U.S. Att'y Gen.*, 149 F. App'x 947, 953 (11th Cir. 2005) (per curiam) (permitting removal to third country only where individuals received "ample notice and an opportunity to be heard").

19. Finally, for individuals with a removal order but who cannot be removed (because there is no country designated to which they can lawfully be removed, or because logistical or practical considerations prevent execution of an otherwise lawfully executable order), 8 U.S.C. §1231(a) permits the government to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. §1231(a)(1)(A).

20. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that the government shall release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be "released" if "subject to the terms of supervision" set forth in 8 U.S.C. § 1231(a)(3).

21. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas*, 533 U.S. at 701. "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (*quoting Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 ("But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.").

22. The purpose of detention during and beyond the removal period is to "secure[] the alien's removal." *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court "read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien's removal." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (*citing Zadvydas*, 533 U.S. at 699).

23. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." *See id.* at 689.

24. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

25. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701.

FACTS

26. Petitioner Ali Irfan was born on [redacted] 1970, in Pakistan, and has no claim to citizenship or legal immigration status in any other country.

27. On April 15, 2008, an immigration court ordered Petitioner removed to Pakistan, but also granted withholding of that removal under 8 U.S.C. § 1231(b)(3). *See* Ex. 1, Order of the Immigration Judge. The BIA appeal was dismissed on December 2, 2009. *See* Ex. 3, EOIR Automated Case Information. Petitioner was released on an Order of Supervision on October 24, 2011 – 684 days (approximately 22 months) later. *See* Ex. 2, Order of Supervision.

28. Petitioner, through counsel, filed a BIA Motion to Reopen on August 6, 2025, citing Petitioner's approved Form I-130 as the spouse of a U.S. citizen, which is still pending. *See* Ex. 3 and Ex. 4, Form I-130 Approval Notice. To date, Respondents have not taken any steps to reopen or rescind the grant of withholding of removal.

29. Since his release from immigration detention almost fourteen years ago, Petitioner has dutifully complied with the requirement of his Order of Supervision. Petitioner has no criminal arrests or convictions, and has not disobeyed any orders from immigration authorities. Petitioner had been given no reason to believe that he would be taken into custody, as he was in full compliance with his immigration case. Petitioner has built a respectable life in the United States by maintaining lawful employment in order to financially support himself and his family. *See* Ex. 6, Employment Authorization Document.

30. On July 23, 2025, Petitioner was detained by ICE at a border checkpoint after he accidentally took a wrong exit on a short family trip to Niagara Falls in Buffalo, New York. Petitioner was with his U.S. citizen wife and their two young children, and the family explained their plans and the accidental turn, but the border patrol agent refused to let them turn around. Petitioner was taken into custody and now remains detained at the ICE Pine Prairie Correctional Facility as of the time of filing this habeas corpus petition. *See* Ex. 5, ICE Detainee Locator screenshot.

31. To Petitioner's knowledge, ICE has not designated any third country for removal. Indeed, since Petitioner has no legal immigration status in any other country, there is no third country to which Respondents can remove him without that country ultimately removing him to Pakistan, where it has already been determined that he would face persecution. Such indirect removal—or chain refoulement—would violate the withholding of removal statute just as clearly as a direct removal to Pakistan. For this reason, Petitioner intends to submit a statement of fear regarding any proposed third-country removal and will request a Reasonable Fear Interview as appropriate.

32. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

33. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)

34. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-34.

35. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed.

36. Petitioner's order of removal became final when the BIA appeal was dismissed, on December 2, 2009. Petitioner's statutory removal period expired on March 2, 2010, and the *Zadvydas* presumptively reasonable period expired on May 31, 2010.

37. No significant likelihood of removal in the reasonably foreseeable future exists.

38. Under *Zadvydas*, the continued detention of someone like Petitioner is

unreasonable and not authorized by 8 U.S.C. § 1231.

SECOND CLAIM FOR RELIEF:
Due Process/Detention

39. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-34.

40. Petitioner's detention during the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner's removal proceedings will be reopened but have taken no steps to file such a motion, nor has any such motion been granted by an immigration judge.

41. In the alternative, Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have designated no such third country, nor do they have any factual basis to believe that such third-country removal will ever become practicable and legally permissible.

42. Respondent continues to detain Petitioner without evidence that they will be able to remove him imminently, to Pakistan or to any other country.

43. Rather, the evidence indicates that removal is not likely in the reasonably foreseeable future. On September 10, 2024, Respondent DHS issued Petitioner an Employment Authorization Document. *See* Ex. 5. Pursuant to 8 U.S.C. § 1231(a)(7), "No alien ordered removed shall be eligible to receive authorization to be employed in the United States unless the Attorney General makes a specific finding that—(A) the alien cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien, or (B) the removal of the alien is otherwise impracticable or contrary to the public interest." Accordingly, within the past year, Respondents still understood that removal was either impossible or impracticable.

44. Respondents' detention of Petitioner no longer bears any reasonable relation to a

legitimate government purpose, and thus violates the Due Process Clause.

THIRD CLAIM FOR RELIEF:
Habeas Corpus, 28 U.S.C. § 2241

45. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-34.

46. The writ of habeas corpus is available to any individual who is held in custody of the federal government in violation of the Constitution or laws or treaties of the United States.

47. Respondents presently have no legal basis to detain Petitioner in immigration custody, and the writ of habeas corpus should issue.

48. In the alternative, as set forth above, Respondents intend to remove Petitioner to a third country which will in turn remove Petitioner back to Pakistan without adequate notice and opportunity to be heard, thus violating this law.

FOURTH CLAIM FOR RELIEF:
Violation of Regulations/*Accardi* doctrine

49. Petitioner incorporates the foregoing paragraphs 1-34 by reference.

50. First, Petitioner's order of supervision was revoked in violation of the substantive and procedural requirements of 8 C.F.R. § 241.4(*l*), and was revoked by an individual who lacked the authority to do so under that regulation.

51. Section 241.4 is a regulation designed to protect the due process rights of noncitizens like Petitioner and – as this regulation pertains to continued detention, conditions for release, and revocation of release – it directly impacts Petitioner's individual liberty interest.

52. Second, Petitioner was arrested by an officer of CBP without a warrant, however 8 C.F.R. § 287.8(c)(2)(ii) requires the immigration officer to obtain a warrant unless there is "reason to believe that the person is likely to escape before a warrant can be obtained." There is no evidence that such a determination was made at the time of Petitioner's arrest; rather, fourteen years of

successful reporting under an order of supervision is direct evidence to the contrary. As this subsection pertains to the authority to execute an arrest, it directly impacts Petitioner's liberty interest.

53. Third, even if Petitioner's warrantless arrest complied with general enforcement procedures, the arresting officer is required to comply with the procedures for a warrantless arrests under 8 C.F.R. § 287.3. *See* § 287.8(c)(2)(iv). Section 287.3 lays out who has the authority to examine the individual under warrantless arrest, which is *not* the arresting officer unless an exception applies. *See* § 287.3(a). Next, there must be a determination what process should be afforded to the individual. *Id.* § 287.3(b). The individual must then be afforded notice, both of the reasons for his arrest and the process he is due. *Id.* § 287.3(c). Last, barring one exception not applicable here, a custody determination must be made regarding the individual within 48 hours of the arrest. *Id.* § 287.3(d). At the time of his arrest, upon information and belief, Petitioner only interacted with the arresting officer. He has not been provided notice of the reasons for his arrest or process he is now due. And is not clear if a custody determination has been made, including consideration of release on "recognizance," as he was on his order of supervision. As section 287.3 pertains to arrest procedures, access to immigration process, and custody determinations, it directly impacts Petitioner's individual liberty interest.

54. Accordingly, these violations of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

55. Under the *Accardi* doctrine, "when an agency fails to follow its own procedures or regulations, that agency's actions are generally invalid." *Nader v. Blair*, 549 F.3d 953, 962 (4th Cir. 2008), *citing United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Several federal district courts have held that where ICE revokes an Order of Supervision without following

the procedures set forth in these regulations, such revocation violates due process and the post-removal-period statute. *See Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *20-*21 (W.D.N.Y. May 2, 2025) (finding violations of statute, regulations, and due process where ICE revoked Order of Supervision and detained noncitizen without advance notice and opportunity to be heard); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (same).

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b) Preliminarily and permanently enjoining Respondents from removing Petitioner to Pakistan unless and until his order of Withholding of Removal is terminated, including all appeals;

c) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country;

d) Preliminarily enjoining Respondents from removing Petitioner from the State of Louisiana pending the outcome of this litigation;

e) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith;

f) Restoring Petitioner to his prior Order of Supervision; and

g) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

Dated: September 12, 2025

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**Pro Hac Vice Application forthcoming*

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Index of Exhibits

Ex. 1) Order of the Immigration Judge.

Ex. 2) ICE Order of Supervision.

Ex. 3) EOIR Automated Case Information.

Ex. 4) USCIS Form I-130 Approval Notice.

Ex. 5) ICE Detainee Locator screenshot.

Ex. 6) DHS 2024 Employment Authorization Document.

Ex. 7) Declaration of Iram Naz.