Kevin A. Gregg (State Bar No.: 294522)
kgregg@kktplaw.com
Kurzban, Kurzban, Tetzeli & Pratt P.A.
131 Madeira Avenue
Coral Gables, Florida 33134
Tel. (305) 444-0060
Fax (305) 444-3503

Attorney for Petitioner

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

JUNYE MA,

Petitioner,

v.

CHRISTOPHER LAROSE, Senior Warden, Otay Mesa Detention Center; PATRICK DIVVER, Director, San Diego Field Office, U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; PAMELA BONDI, Attorney General of the United States; KRISTI NOEM, Secretary of Homeland Security, in their official capacities,

Respondents.

Case No.: 25-cv-2428-BEN-KSC

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Petitioner Junye Ma is a twenty-eight-year-old native and citizen of China who has lived in the United States since 2013, when he was admitted with his father. Mr. Ma is married to a U.S. citizen, and is in the process of adjusting his status to lawful permanent resident ("LPR"). Mr. Ma is a respected academic and researcher on issues relating to the LGBT community, and is currently pursuing a Ph.D. in a joint program at University of California San Diego and San Diego State University. He has no criminal record.

2. In 2018, Mr. Ma was detained by U.S. Immigration and Customs Enforcement ("ICE") because his father's application to adjust to LPR status was denied. An Immigration Judge ("IJ") released Mr. Ma on bond after two months, and in 2019, an IJ granted him withholding of removal to China based on a finding that, more likely than not, he would suffer persecution there. The IJ did not identify any other possible country of removal.

3. Significantly, Mr. Ma is no longer subject to an order of removal as an IJ granted his motion to reopen proceedings on September 25, 2025, enabling Mr. Ma to pursue adjustment of status through the pending petition filed by his U.S. citizen spouse.

4. Prior to his re-detention, Mr. Ma had maintained compliance with an Order of Supervision ("OSUP") issued by ICE, and appeared regularly for his ICE appointments over many years.

5. Despite his lack of criminal history and diligent compliance with the conditions of his release, ICE took Mr. Ma into immigration custody without warning or coherent explanation at a routine ICE check-in at the San Diego Field Office on September 4, 2025.

6. ICE's revocation of Mr. Ma's release, and its continued detention of Mr. Ma, violate Mr. Ma's liberty interest and constitutional right to due process, as well as ICE's own regulations.

7. By statute and regulation, ICE has the authority to re-detain a noncitizen on an OSUP only under specific circumstances. That authority, however, is circumscribed by the Due Process Clause because it is well-established that individuals released from detention have a liberty interest in their freedom. In turn, to protect that interest, due process required that Mr. Ma be given notice and a hearing *prior* to any re-detention. Mr. Ma was given no such process.

8. Moreover, ICE may revoke release on an OSUP only if "changed circumstances" create "a significant likelihood" of removal in the "reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). But removal to China was not foreseeable: an IJ granted Mr. Ma withholding of removal on account of his sexual

orientation, and he thus could not be lawfully returned there. Any re-detention for the purpose of removing Mr. Ma to China would have been unlawful.

9. Similarly, after the reopening of Mr. Ma's proceedings, the order granting bond by the immigration judge remains in effect, and Mr. Ma's release on bond cannot be revoked unless Mr. Ma is afforded a pre-deprivation hearing before an immigration judge where ICE is required to establish a material change in circumstances to warrant revocation of bond. No such hearing has been requested nor has ICE presented any changed circumstances, material or otherwise, to warrant re-detention.

10. With China legally unavailable, Mr. Ma also fears ICE will eventually target him under its accelerated policy and practice of removing individuals to third countries—a practice that has led to deportees being sent to under-developed countries, imprisoned upon arrival in abhorrent conditions, and in some cases, ultimately re-routed to the country from which the noncitizen received U.S. protection. And in at least one case, ICE has itself unlawfully removed a withholding of removal recipient to the *exact* country from which an IJ previously withheld the noncitizen's removal.

11. ICE has conducted these removals without adhering to the required statutory, regulatory, and constitutional procedures required. The government's past conduct of deporting individuals to countries with documented human rights abuses,

including abuse against LGBT advocates like Mr. Ma, and without a meaningful notice and opportunity to present a fear-based claim against removal to that country, places Mr. Ma at great risk of persecution or torture.

12. To vindicate Mr. Ma's liberty interest and due process rights, the Court should grant this petition for writ of habeas corpus and order Mr. Ma's release.

JURISDICTION

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

15. 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. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

18. Petitioner Junye Ma is a Chinese national, previously admitted to the United States on a tourist visa on July 12, 2013 as a child. An immigration judge granted him withholding of removal to China, and has now reopened removal proceedings so he may pursue adjustment of status based on his marriage to a U.S. citizen. He is currently detained by ICE at the Otay Mesa Detention Center in San Diego, California, and is therefore under the direct control of Respondents and their agents.

19. Respondent CHRISTOPHER LAROSE is sued in his official capacity as the Senior Warden of the Otay Mesa Detention Center. He has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. Respondent Larose is a legal custodian of Petitioner.

20. Respondent PATRICK DIVVER is sued in his official capacity as Director of Enforcement and Removal Operations of ICE's San Diego Field Office. Respondent Divver is a legal custodian of Petitioner and has authority to release him.

21. Respondent TODD LYONS is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons directs and oversees ICE's Enforcement and Removal Operations, the component agency responsible for Petitioner's detention. Respondent Lyons is a legal custodian of Petitioner and has authority to release him.

22. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

23. Respondent PAMELA BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner.

LEGAL BACKGROUND

Constraints on Post-Final Order of Removal Detention

24. Following a final order of removal, ICE is directed by statute to detain an individual for ninety days to effectuate removal. 8 U.S.C. § 1231(a)(2). This ninety day "removal period" generally commences as soon as a removal order becomes administratively final. *Id.* § 1231(a)(1)(A); § 1231(a)(1)(B).

25. If ICE fails to remove an individual during the removal period, ICE must release the individual under conditions of supervision, including periodic reporting. 8 U.S.C. § 1231(a)(3) ("If the alien . . . is not removed within the removal period, the alien, pending removal, shall be subject to supervision.").

26. Only limited exceptions to this rule exist. Specifically, ICE "may" detain an individual beyond ninety days if the individual was ordered removed on criminal grounds, or is determined to pose a danger or flight risk. 8 U.S.C. § 1231(a)(6).

27. ICE's authority to detain an individual beyond the removal period is also constrained by the constitutional requirement that detention "bear a reasonable relationship to the purpose for which the individual [was] committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Because detention after entry of a final order is to effectuate removal, detention bears no reasonable relation to its purpose if removal cannot be effectuated. *Id.* at 697.

28. 8 C.F.R. § 241.4 sets forth the custody review process. This mandated process, known as the post-order custody review, requires ICE to conduct "90-day

custody reviews" prior to the expiration of the ninety-day removal period and to consider release of individuals who pose no danger or flight risk. 8 C.F.R. § 241.4(e)-(f). In conducting such reviews, ICE must consider the noncitizen's "ties to the United States such as the number of close relatives residing here lawfully;" whether the noncitizen "is a significant flight risk;" and "any other information that is probative of whether" the noncitizen is likely to "adjust to life in the community," pose a danger to themselves or others, or "violate the conditions of his or her release from immigration custody pending removal from the United States." *Id.*

29. Detention violates the Due Process Clause unless it is "reasonably related" to the government's purpose, which is to prevent danger or flight risk. *See Zadvydas*, 533 U.S. at 700 ("[I]f removal is reasonably foreseeable, the habeas court should consider the risk of the alien's committing further crimes as a factor potentially justifying confinement within that reasonable removal period"); *id.* at 699 (purpose of detention is "assuring the alien's presence at the moment of removal" and discussing twin justifications of detention as preventing flight and protecting the community).

30. As such, a petitioner must be released from custody where he does not pose a danger or flight risk that warrants post-final order detention, regardless of whether his removal can be effectuated within a reasonable period. This is especially

so where ICE already released a petitioner on bond based on previous determinations by an IJ as to his not being a danger or a flight risk.

31. Individuals with final orders who are released after a post-order custody review are subject to Orders of Supervision, known as "OSUPs." 8 C.F.R. § 241.4(j). After an individual has been released on an OSUP, ICE cannot revoke the order without cause or adequate legal process. 8 C.F.R. § 241.13(i)(2)-(3).

Constraints On Re-detention After Release on Bond

32. For noncitizens in removal proceedings, 8 U.S.C. § 1226(b) provides that "[t]he Attorney General at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien."

33. The promulgated regulation, 8 C.F.R. § 236.1(c)(9), explains: "[w]hen an alien, who, having been arrested and taken into custody, has been released, such release may be revoked at any time in the discretion of the District Director . . ., in which event the alien may be taken into physical custody and detained."

34. BIA precedent binds ICE in removal proceedings. The BIA has held that "where a previous bond determination has been made by an immigration judge, no change should be made by a District Director absent a change of circumstance." *Matter of Sugay*, 17 I. & N. Dec. 637, 640 (B.I.A. 1981) (addressing 8 C.F.R. § 242.2(c), now located at 8 C.F.R. § 236.1(c)(9)).

35. After *Matter of Sugay*, ICE has applied the "changed circumstances" criteria as a matter of policy. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) ("According to government counsel, DHS has incorporated [Matter of Sugay] into its practice, requiring a showing of changed circumstances . . . where the prior bond determination was made by an immigration judge . . . .").

Protections Under Withholding of Removal

36. Removal to a country where a noncitizen faces persecution is prohibited "if the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

37. When an IJ grants withholding of removal, the IJ issues a removal order and simultaneously withholds that order with respect to the country or countries for which the noncitizen has demonstrated a sufficient risk of persecution. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531-32 (2021).

38. A noncitizen with a final withholding grant cannot be removed to the country from which they demonstrated a sufficient likelihood of persecution. *See* 8 U.S.C. § 1231(b)(3)(A). While ICE is authorized to remove noncitizens who were granted withholding to alternative countries, *see* 8 U.S.C. § 1231(b); 8 C.F.R.

§ 1208.16(f), the removal statute imposes restrictive criteria for identifying appropriate countries. 8 U.S.C. § 1231(b)(2)(D)-(E).

Adjustment of Status for Immediate Relatives of U.S. Citizens

39. U.S. citizens and lawful permanent residents may file a visa petition for a spouse. This petition is filed with USCIS on Form I-130.

40. The spouse of a U.S. citizen can apply to become a resident (or "adjust status") even if they are presently without lawful status, provided they are present in the United States pursuant to a procedurally valid admission. *See* 8 U.S.C. § 1255(a).

41. Once the noncitizen files an application to adjust to LPR status, the noncitizen is considered to be in a "period of stay authorized" and is allowed to remain in the United States while a "properly filed" adjustment of status application is pending.

STATEMENT OF FACTS

Mr. Ma's Background

42. Mr. Ma is a Chinese national who was last admitted to the United States on a tourist visa on July 12, 2013, shortly after his sixteenth birthday. *See* Exhibit A.

43. His father married a U.S. citizen, and Mr. Ma was listed as a derivative beneficiary on his father's application to adjust to LPR status. After years of marriage, Mr. Ma's father eventually returned to China, leaving Mr. Ma behind in the United States. Mr. Ma remained in the United States under color of law, and with

employment authorization, during the pendency of his father's adjustment of status process.

44. Since Mr. Ma's admission to the United States 12 years ago as a child, he has been a law-abiding individual, made the United States his home, married, demonstrated a deep commitment to his education, and has established significant ties in the United States. He completed high school in the United States and subsequently graduated from the State University of New York at Buffalo with bachelor's degrees in psychology and Japanese linguistics. He went on to earn a master's degree from Northwestern University in Clinical Psychology.

45. Mr. Ma is currently a doctoral candidate in a joint clinical psychology program at University of California San Diego and San Diego State University. He has focused his research on LGBT+ health and HIV prevention.

46. Throughout his academic career, Mr. Ma has received awards and scholarships, has multiple publications in his field of research, and has presented his research at conferences around the country addressing LGBT+ health issues. Mr. Ma's peer-reviewed research, advocacy, and gay identity is publicly accessible online.

47. As a result of his detention, Mr. Ma is prevented from continuing his doctoral research and living with his husband. He is also experience significant psychological difficulties.

Mr. Ma's Immigration History

Initial Removal Proceedings & Grant of Withholding of Removal

48. While attending the State University of New York at Buffalo, Mr. Ma was taken into custody by ICE in Batavia, New York, on October 17, 2018.

49. ICE placed Mr. Ma in removal proceedings on October 19, 2018, and charged Mr. Ma as subject to removal pursuant to 8 U.S.C. § 1227(a)(1)(B), as a noncitizen who remained in the United States for a period longer than authorized by their visa.

50. Mr. Ma sought release on immigration bond, which an immigration judge granted. Mr. Ma was thus released from ICE custody on December 12, 2018. His stepmother helped pay the bond.

51. An immigration judge issued a final order on Mr. Ma's removal case on October 7, 2019. The IJ found that Mr. Ma was removable as charged, but granted his application for withholding of removal to China based on the clear probability that Mr. Ma would be persecuted in China on account of his sexual orientation. *See* Exhibit B.

52. On information and belief, as part of that process, Petitioner and ICE entered into an agreement under which Mr. Ma withdrew his application for asylum in exchange for ICE waiving appeal of the IJ's grant of withholding, and ICE's

agreement not remove Mr. Ma to any country where he may be subjected to persecution as a gay man.

53. Neither ICE nor the immigration judge designated any alternative country for removal.

Mr. Ma is Placed on an Order of Supervision ("OSUP") and Complies with All Terms of the OSUP for Four Years

54. After the immigration granted withholding, ICE issued Mr. Ma an Order of Supervision ("OSUP") on April 13, 2021. The OSUP detailed the conditions of Mr. Ma's continued release from detention, including his obligation to appear at check-ins at an ICE Field Office. *See* Exhibit C.

55. Mr. Ma dutifully complied with the terms of the OSUP for four years, appearing at scheduled check-ins on September 7, 2021, June 4, 2024, and September 6, 2024, without incident, and complying with all other terms of the OSUP.

56. Mr. Ma has never violated any OSUP requirement or condition of release. *See* Exhibit C (Deportation Officer Raul Cumplido notating each of Mr. Ma's check-ins).

Mr. Ma Marries a Lawful Permanent Resident (Now a U.S. Citizen) Who Petitions for Mr. Ma

57. Mr. Ma married his partner, Carlos Araujo, on July 21, 2025. *See* Exhibit D. On August 20, 2025, Mr. Araujo filed a Form I-130 immigrant visa

petition on behalf of Mr. Ma. *See* Exhibit E. Mr. Araujo became a U.S. citizen on September 26, 2025. *See* Exhibit F.

58. On September 4, 2025, Mr. Ma arrived at the ICE Field Office in San Diego at 7:30am for his scheduled check-in. Mr. Ma was present with a legal representative, Andres P. Lemons, his husband, Carlos Araujo, and a friend, Daniel Kellogg. *See* Exhibit G (Declaration of Carlos Araujo & Daniel Kellogg).

59. At the check-in, Mr. Ma did not have the opportunity to meet with his assigned Deportation Officer. Instead, Mr. Ma was told that ICE had revoked his OSUP.

60. Two ICE officers who did not identify themselves (hereinafter "Officer 1" and "Officer 2") then handcuffed Mr. Ma and took him away from his husband. When Mr. Ma's legal representative asked why Mr. Ma was being handcuffed and arrested, Officer 1 simply referenced an unidentified "policy."

61. Despite being notified that Mr. Ma lacked any criminal record and was married to an LPR who would likely soon naturalize to U.S. citizenship, Officer 1 stated that such circumstances had no bearing on their decision to re-detain Mr. Ma.

62. At another point, an Officer indicated that ICE may seek to remove Mr. Ma to China.

63. The Notice of Revocation of Release ("NRR") provided to Mr. Ma, which was signed by a deportation officer, provides no clear explanation for the

revocation of Mr. Ma's release. *See* Exhibit H. The document states simply, in boilerplate fashion, that revocation was "based on a review of your official alien file and a determination that there are changed circumstances in your case."

64. As authority for Mr. Ma's re-detention, the NRR cited "8 C.F.R. § 241.4/8 C.F.R. § 241.13."

65. The NRR indicates that an unidentified deportation officer, who had never met with or spoken with Mr. Ma, conducted the review and ordered the revocation. The officer's title is not listed under the signature line as required by the form, and no name is listed to identify the individual who signed the document and revoked Mr. Ma's OSUP.

66. ICE provided Mr. Ma no further explanation for its decision to revoke his OSUP and re-detain him.

67. According to a July 9, 2025 memorandum issued by Respondent Lyons, Acting Director of ICE, third-country removals can be effected as short as twenty-four hours after a noncitizen is provided a Notice of Removal to that country. *See* Exhibit I. In exigent circumstances, removal can occur as soon as six hours after the noncitizen is notified. *Id.*

68. In violation of the INA and regulations, the memorandum expressly requires ICE officers "to not affirmatively ask whether the alien is afraid of being removed to the country of removal." *Id.* (emphasis in original).

Subsequent Motion to Reopen

69. On September 11, 2025, Mr. Ma's immigration-court counsel filed a motion to reopen proceedings with the Buffalo Immigration Court to permit Mr. Ma to pursue adjustment of status through his spouse, who as of scheduled September 26, 2025, is a U.S. citizen. *See* Exhibit F.

70. The motion to reopen was also predicated on Mr. Ma having the opportunity to pursue a claim for asylum, which he had previously withdrawn in reliance on an agreement reached with ICE.

71. A motion to stay Mr. Ma's removal pending adjudication of the motion to reopen was filed concurrently, and granted.

Developments Since Initial Habeas Petition filed on September 16, 2025

72. In a September 25, 2025, order, IJ Ruehle granted Mr. Ma's motion to reopen proceedings. *See* Exhibit J. Mr. Ma is therefore no longer subject to an order of removal.

73. As noted, Mr. Araujo completed his naturalization process for U.S. citizenship on September 26, 2025. On September 29, 2025, Mr. Araujo notified USCIS of his naturalization to U.S. citizenship and requested that USCIS convert the Form I-130 filed on Mr. Ma's behalf to that of an immediate relative petition.

CAUSES OF ACTION

Count One – Unlawful Re-Detention Without Pre-Deprivation Hearing

74. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 through 73.

75. The Due Process Clause squarely protects Mr. Ma's liberty from arbitrary immigration detention: "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. Mr. Ma's detention and resulting loss of his liberty without adequate notice and opportunity to contest such deprivation violated his due process rights.

76. Under the test set forth in *Mathews v. Eldrige*, this Court must consider three factors in conducting its balancing test: "first, the private interest that will be affected by the official action; second, the risk if an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government's interest, including the function involved and the fiscal and administrative burdens that the additional or

substitute procedural requirements would entail." *Haygood*, 769 F.2d at 1357 (citing *Mathews v. Eldrige*, 424 U.S. 319, 335 (1976)).

77. The Supreme Court "has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process suffice. *Zinermon*, 494 U.S. at 985. Moreover, only where "one of the variables in the *Mathews [v. Eldrige]* equation—the value of pre-deprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing pre-deprivation process," can the Government avoid providing pre-deprivation process. *Id.*

78. At stake is one of the most profound individual interests recognized by our legal system: whether ICE may unilaterally nullify a prior release decision and take away his physical freedom, *i.e.*, Petitioner's "constitutionally protected interest in avoiding physical restraint." *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal quotation omitted).

79. By living freely for nearly seven years after his release, Mr. Ma developed a substantial liberty interest in avoiding re-incarceration. *Young v.*

Harper, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972).

80. Mr. Ma's consistent compliance with his supervision conditions underscores the legitimacy of that liberty interest. Mr. Ma continuously complied with all OSUP requirements by presenting himself at the ICE Field Office for his scheduled check-ins dating back to September 2021. At no time during any of his visits, or during the nearly seven-year period post-release from custody, did ICE attempt to re-arrest him. Rather, after each check-in, he was provided a new date and time to check-in.

81. The Supreme Court's cases involving parole for criminal offenders confirm that conditional liberty carries constitutional protection. In *Morrissey*, the Supreme Court examined the "nature of the interest" that a parolee has in "his continued liberty." 408 U.S. at 481-82. The Court noted that, "subject to the conditions of his parole, [a parolee] can be gainfully employed and is free to be with family and friends and to form the other enduring attachments of normal life." *Id.* at 482. The Court further noted that "the parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." *Id.* The Court explained that "the liberty of a parolee, although indeterminate, includes many of the core values of unqualified liberty and its termination inflicts a grievous loss on the parolee and often others." *Id.* In turn, "[b]y

whatever name, the liberty is valuable and must be seen within the protection of the [Fifth] Amendment." *Id.* at 482.

82. Like a parolee, Mr. Ma's release allowed him to build a normal life—one the government cannot revoke without due process. Just as in *Morrissey*, Petitioner's release "enables him to do a wide range of things open to persons" who have never been in custody or convicted of any crime, including to live at home, work with his community, and "be with family and friends and to form the other enduring attachments of normal life." *Morrissey*, 408 U.S. at 482.

83. Noncitizens released from immigration custody have at least as strong a liberty interest as criminal parolees—if not stronger. Indeed, "[g]iven the civil context, a [noncitizen's] liberty interest is arguably greater than the interest of parolees in *Morrissey*." *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969-70 (N.D. Cal. 2019); *Rosado v. Figueroa*, No. CV 25-02157 PHX-DLR (CDB), 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) ("Although ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody, they have a protected liberty interest in remaining out of custody."). Petitioner retains a weighty liberty interest even though he was under conditional release prior to his re-arrest.

84. During his years of release, Mr. Ma built deep family, academic, and community ties while remaining law-abiding. After his release in 2018, Petitioner

received withholding of removal, got married, focused on his academic and research pursuits in promoting LGBT+ health, and established substantial community ties all while conducting himself in accordance with the law.

85. Because Mr. Ma has complied with ICE's reporting requirements, violated no release conditions, and faces no reasonably foreseeable removal or change in circumstances, due process required that he receive notice and a meaningful opportunity to contest his re-detention.

86. "Adequate or due, process depends upon the nature of the interest affected. The more important the interest and the greater effect of its impairment, the greater the procedural safeguards the [Government] must provide to satisfy due process." *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (*en banc*) (citing *Morrissey*, 408 U.S. at 481-82).

87. A pre-deprivation hearing here was not only feasible but essential to prevent an erroneous loss of liberty. ICE therefore had a constitutional obligation to provide Mr. Ma notice and a meaningful hearing before revoking his OSUP and re-incarcerating him. *See Morrissey*, 408 U.S. at 481-82; *Haygood*, 769 F.2d at 1355-56; *Jones*, 393 F.3d at 932; *Zinermon*, 494 U.S. at 985; *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (explaining that while ICE enjoys significant discretion to revoke a noncitizen's release, it "still must follow its own regulations[and] procedures" when it deprives a noncitizen of his liberty); *Guillermo M.R. v.*

Kaiser, --- F. Supp. 3d ---, 2025 WL 1983677, at *4 (N.D. Cal. July 17, 2025) (explaining, in the context of individual released from immigration detention during removal proceedings, that "individuals conditionally released from detention have a protected interest in their 'continued liberty'"). Under *Mathews*, the balance is not close: Mr. Ma's liberty interest far outweighs any Government burden, and due process demanded a hearing before ICE could lock him up again.

88. Courts nationwide have thus ordered release when ICE re-detains individuals without affording meaningful due process. *See Rosado*, 2025 WL 2337099, at *12; *M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 WL 2430267, at *8 (D. Or. Aug. 21, 2025); *Ortega*, 415 F. Supp. 3d at 969; *Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *Jorge M. F. v. Wilkinson*, No. 21-cv-01434, 2021 WL 783561, at *2 (N.D. Cal. Mar. 1, 2021).

89. As immigration detention is civil, it can have no punitive purpose. The government's only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.

90. Here, the government can make no showing that ICE has detained Petitioner due to his danger to the community, flight risk, or a change in the foreseeability of his removal to China, as his circumstances have not changed since his release from ICE custody in 2018 except that an immigration judge expressly

ordered that Mr. Ma cannot be removed to China based on his successful fear-based claim of persecution on account of his sexual orientation.

91. Mr. Ma has continued to appear before ICE for each and every appointment that has been scheduled. *See Morrissey*, 408 U.S. at 482 ("'It is not sophistic to attach greater importance to a person's justifiable reliance in maintaining his conditional freedom so long as he abides by the conditions on his release, than to his mere anticipation or hope of freedom'") (quoting United States *ex rel. Bey v. Connecticut Board of Parole*, 443 F.3d 1079, 1086 (2d Cir. 1971)).

92. As to flight risk, Petitioner's post-release conduct in the form of full compliance with his check-in requirements further confirms that he is not a flight risk and that he is likely to present himself at any future ICE appearances, as he always has done. The government's interest in detaining Petitioner at this time is therefore low.

93. Moreover, nothing has changed regarding the lack of foreseeability of his removal to China.

94. Release from custody until ICE assesses and demonstrates that Petitioner is a flight risk or danger to the community, or that his detention is not going to be indefinite, is far less costly and burdensome for the government than keeping him detained. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to the public of immigration detention are 'staggering': $158 each day

per detainee, amounting to a total daily cost of $6.5 million." *Hernandez*, 872 F.3d at 996.

95. Due process also requires consideration of alternatives to detention at any custody redetermination hearing that may occur. The primary purpose of immigration detention is to ensure removal if reasonably foreseeable. *Zadvydas*, 533 U.S. at 697.

96. Detention is not reasonably related to this purpose if, as here, removal is not actually foreseeable. Accordingly, alternatives to detention must be considered in determining whether Petitioner's re-incarceration is warranted.

97. The Constitution simply does not permit ICE to revoke years of lawful release, and re-incarcerate Mr. Ma without notice of the basis for the revocation of his OSUP and a pre-deprivation hearing where he can contest that revocation. This lack of process means that Mr. Ma's continued re-detention—made despite a grant of withholding, seven years of full compliance, strong ties to the United States, and no evidence of danger or flight risk, with no apparent consideration of those factors—violates Due Process.

Count Two – Re-detention Without Pre-Deprivation Hearing Violates Release on Bond

98. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 through 73.

99. Noncitizens released from immigration custody on bond are entitled to due process prior to re-detention. In addition to Respondents' failure to give Mr. Ma the process to which he was entitled by revoking his release pursuant to OSUP without a pre-deprivation hearing, Respondents' continuation of the unlawful re-detention of Mr. Ma in his reopened removal proceedings is in violation of the immigration judge's 2018 order granting release on bond. *See*, *e.g.*, *Ortega*, 415 F. Supp. 3d at 969 ("Just as people on pre parole, parole, and probation status have a liberty interest, so too does Ortega have a liberty interest in remaining out of custody on bond."); *Pinchi v. Noem*, No. 5:25-CV-05632-PCP, 2025 WL 2084921, at *3 (N.D. Cal. July 24, 2025) ("Thus, even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody.").

100. Upon the reopening of his removal proceedings on September 25, 2025, the governing statute for Mr. Ma's detention reverted to 8 U.S.C. § 1226(a).

101. The reopening of proceedings rendered Mr. Ma in the position he was in prior to the grant of withholding of removal: a noncitizen in removal proceedings released on bond by the order of an immigration judge. The immigration judge's findings that Mr. Ma was not a danger to his community or a flight risk is therefore controlling. There is no indication that bond has been revoked and cancelled.

8 C.F.R. § 236.1(c)(9) ("If detained, unless a breach has occurred, any outstanding bond shall be revoked and canceled.").

102. Respondents have not requested a hearing before an immigration judge to demonstrate a material change in circumstances justifying Mr. Ma's bond revocation and re-detention—neither on September 4, 2025 (the date of his re-detention), during his weeks in detention, nor during the eight days since proceedings were reopened.

103. Courts, including the Ninth Circuit, have affirmed the need for DHS to establish changed circumstances to warrant re-detention of a noncitizen released on bond, *see Panosyan v. Mayorkas*, 854 F. App'x 787, 788 (9th Cir. 2021) ("Thus, absent changed circumstances . . . ICE cannot redetain Panosyan."), and DHS re-detains only "after a material change in circumstances." *Saravia*, 280 F. Supp. 3d at 1197; *see also Rosado*, 2025 WL 2337099, at *12 ("ICE has the authority to re-arrest a noncitizen and revoke their release pending the outcome of removal proceedings only when there has been a change in circumstances since the individual's initial release."); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC, 2025 WL 2637503, at *1 (N.D. Cal. Sept. 12, 2025) ("if an immigration judge has determined the noncitizen should be released, the DHS may not re-arrest that noncitizen absent a change in circumstance").

104. In *Sanchez v. Larose*, this Court recognized DHS's authority to revoke parole under 8 U.S.C. § 1226(b). *See* No. 25-CV-2396-JES-MMP, 2025 WL 2770629, at *3 (S.D. Cal. Sept. 26, 2025). Relying on *Matter of Sugay* however, the Court observed that this authority was not "unlimited" and DHS was required to establish changed circumstances prior to revoking parole. *See id.* ("The [BIA] has held that DHS may change the conditions of an alien's parole only when there is a sufficient change of circumstances to justify that change.") (citing *Matter of Sugay*, 17 I. & N. Dec. at 640). The Court concluded that the revocation without a pre-deprivation hearing in which DHS demonstrates changed circumstances constituted a due process violation. *See id.*

105. Absent a pre-deprivation hearing, particularly in light of the lack of any evidence whatsoever of material changed circumstances to alter the immigration judge's determination that Mr. Ma is not a danger to the community or a flight risk, Respondents' continued detention of Mr. Ma remains unlawful.

106. Indeed, the only material change in circumstances is Mr. Ma's new status as an immediate relative of a U.S. citizen who is eligible to adjust his status to that of an LPR, rendering the failure on the part of Respondents to conduct a pre-deprivation an even graver infringement on his due process rights. Had Respondents appeared before an immigration judge in seeking to re-detain Mr. Ma, the fact of his marriage to a U.S. citizen and pending efforts to adjust status, along with his lack of

criminal record since his release and the accumulated favorable equities, would have been significant factors in his favor to establish his continued freedom from custody.

Count Three - Violation of Regulations Governing Revocation of Release

107. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 through 73.

108. Petitioner was previously released by Respondents because having received withholding of removal to China, his removal was not foreseeable, he was not deemed a danger, and he did not pose a danger or flight risk.

109. As long as a noncitizen complies with the conditions of their release, Respondents have regulatory authority to revoke release only if circumstances have changed. 8 C.F.R. § 241.13(i)(2); 8 C.F.R. § 1231(a)(6).

110. Despite Mr. Ma's diligent compliance with the OSUP, Respondents revoked his release and re-detained him in a manner that violated ICE's own regulations.

111. 8 C.F.R. § 241.13(i) states a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). Upon revocation, the noncitizen will be notified of the reasons for revocation of his release, and an initial informal interview will be promptly conducted to afford the alien an opportunity to respond. 8 C.F.R.

§ 241.13(i)(3). "The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release." *Id.*

112. ICE failed to comply with these binding regulations prior to taking Mr. Ma into custody.

113. Indeed, 8 C.F.R § 241.4(d) requires that Petitioner be provided "[a] copy of any decision . . . to release or to detain an alien" and that decision must "set for the reasons for the continued detention."

114. Short of the wholly boilerplate language in the NRR (asserting "changed circumstances" without explaining what those circumstances were), no such decision was provided to Mr. Ma, and no meaningful reasoning was given such that he would be able to contest his revocation. ICE therefore violated the terms of 8 C.F.R. § 241.4(d). *See Santamaria Orellana v. Baker*, No. 25-cv-01788, 2025 WL 2444087, at *6-8 (D. Md. Aug. 25, 2025) (holding that ICE violated 8 C.F.R. § 241.4(d) by failing to provide noncitizen whose order of supervision was revoked with a notice or any written record as to the basis for the revocation of his release, which in turn violated his due process rights); *Perez-Escobar v. Moniz*, No. 25-CV-11781-PBS, 2025 WL 2084102, at *2 (D. Mass. July 24, 2025) ("ICE's conclusory explanation for revoking Petitioner's release did not offer him adequate notice of the

basis for the revocation decision such that he could meaningfully respond at the post-detention "informal interview.").

115. Respondents also violated the procedural protections afforded by 8 C.F.R. § 241.13(i) by failing to meaningfully "afford [Mr. Ma] an opportunity to respond to the reasons for revocation stated in the notification." *Id.*

116. Here, the NRR's boilerplate reference to unidentified and unelaborated "changed circumstances" does not "reflect a determination by DHS that there is a significant likelihood that Petitioner can be removed from the United States in the reasonably foreseeable future, the standard under 8 C.F.R. § 241.13(i)(3), much less states the reasons for such a determination." *See Rokhfirooz v. Larose,* No.: 25-cv-2053-RSH-VET, 2025 U.S. Dist. LEXIS 180605, at *8 (S.D. Cal. Sept. 15, 2025) (holding re-detention on unlawful in light of ICE's failure to comply with 8 C.F.R. § 241.13).

117. Respondents also have not provided Petitioner with an initial interview or an opportunity to respond to the basis for the revocation. 8 C.F.R. § 241.13(i)(3) ("The Service *will* conduct an initial informal interview promptly after his or her return to Service custody….") (emphasis added); *see Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding that the petitioner was likely to succeed on a claim that his re-detainment was unlawful because "there is no indication that an informal interview was provided to

Petitioner"); *Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *21 (W.D.N.Y. May 2, 2025) (finding that the petitioner was not afforded even minimal due process protections when ICE failed to provide petitioner with an informal interview upon his re-detainment).

118. Respondents have also failed to comply with regulations binding on the agency because, on information and belief, the individual who terminated Petitioner's OSUP lacked the regulatory authority to do so.

119. Even where proper notification is provided, revocation of release authority resides with two (and only two) individuals within ICE: (a) the Executive Associate Commissioner; and (b) a district director where "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." 8 C.F.R. § 241.4(*l*)(2).

120. To the extent custody determinations may be conducted by other ICE employees, at a minimum, it can only occur where the specific individual is "designated in writing by the Executive Associate Commissioner, the Director of the Detention and Removal Field Office, or the district director . . . ." 8 C.F.R. § 241.4(c)(4).

121. The NRR provided to Mr. Ma does not identify the name or title of the revoking officer, making it impossible for ICE to demonstrate compliance with 8 C.F.R. § 241.4. *See* Exhibit H.

122. Government agencies are required to follow their own regulations. *United States ex rel. Accordi v. Shaughnessy*, 347 US. 260, 268 (1954); *Nat'l Ass'n of Home Builders v. Norton*, 340 F.3d 835, 852 (9th Cir. 2003).

123. Revocations of OSUP in contravention of binding regulations are unlawful, and cannot stand. *See Ceesay*, 2025 WL 1284720, at *21 (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); *Santamaria Orellana*, 2025 WL 2444087, at *6-8 (holding that ICE violated requirement that decision to revoke release be made by specified individuals where there was no evidence that officials designated by paragraph (l)(2) made the decision to revoke petitioner's release); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *8 (S.D.N.Y. Aug. 26, 2025) (where there is no documentation identifying the official revoking the petitioner's release, "there is no evidence that the officials designated by paragraph 241.4(l)(2) made the decision to revoke Petitioner's release prior to his detention").

Count Four - Violation of Due Process

124. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 through 73.

125. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)).

126. The government's detention of Petitioner is wholly unjustified. The government has not demonstrated that Petitioner—a noncitizen previously detained and released from immigration custody with no criminal history here or anywhere else in the world—needs to be detained, nor that there is any justifiable reason to strip him of his constitutionally protected liberty interest. *See Zadvydas,* 533 U.S. at 690.

127. Here, the immigration judge's order granting withholding of removal precluded any removal to China—the only country designated for removal at Petitioner's removal proceedings. Accordingly, at the time of his re-detention, Mr. Ma could not be removed to China without the lifting of the order providing for withholding of removal. 8 C.F.R. § 1208.24(f). Thus, Mr. Ma's removal was not reasonably foreseeable and his continued detention is unconstitutional. *Cf. Nadarajah v. Gonzales*, 443 F.3d 1069, 1081 (9th Cir. 2006) (recognizing that a grant of CAT withholding of removal to a noncitizen "is a powerful indication of the improbability of his foreseeable removal, by any objective measure").

128. There is, moreover, no credible argument that Petitioner cannot be safely released back to his family and community while awaiting the adjudication of his pending motion to reopen to pursue adjustment of status. He has appeared at all ICE check-in appointments pursuant to his OSUP. He has no criminal record and has substantial ties to the United States, including his U.S. citizen husband, his ongoing pursuit of his Ph.D, and significant community ties.

129. Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Zadvydas*, 533 U.S. at 690 (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, there is every indication that his "detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons." *Demore v. Kim,* 538 U.S. 510, 532-33 (2003) (Kennedy, J., concurring).

130. ICE, moreover, has not indicated that facilitation of removal to a third country is ongoing—particularly as no third country was designated as country for removal in the order of removal entered by the immigration judge. Nor is it constitutionally permissible for ICE to detain Mr. Ma, and only *then* begin the process of attempting to identify a third country which will accept him.

131. Petitioner has a protected due process interest in his ability to obtain adjustment of status as the spouse of a U.S. citizen, as well as any other relief from

removal that may be available to him, and is currently doing so before an immigration judge.

132. Mr. Ma's spouse is now a U.S. citizen, thus rendering Mr. Ma the immediate relative of a U.S. citizen. Indeed, a Form I-130 petition for Mr. Ma is already pending. As an immediate relative, Mr. Ma—who was lawfully admitted to the United States on July 12, 2013 on a tourist visa—is not subject to the bar for having overstayed or otherwise failed to maintain, lawful status. *See* 8 U.S.C. § 1255(c)(2).

133. Due process protections apply to a person in the United States seeking to obtain lawful permanent resident status. Thus, lawfully admitted noncitizens—even if removable—are entitled to greater procedural safeguards than those deemed arriving aliens. *See Zadvydas*, 533 U.S. at 693-94; *Landon v. Plasencia*, 459 U.S. 21 (1982).

134. Detention undertaken in furtherance of removing Petitioner to China or a third country without allowing him to avail himself of the procedures created by the INA and its regulations will violate due process and all binding statutes and regulations.

135. In short, Mr. Ma's detention cannot be justified under law or the Constitution. At the time of his re-detention, he could not be removed to China in light of the withholding of removal grant, ICE has identified no third country to

which removal may be effectuated, and he poses no risk of flight or danger. What remains is the raw deprivation of liberty without process—exactly what the Due Process Clause forbids.

Count Five – Constitutionally Inadequate Procedures Regarding Third Country Removal

136. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 through 73.

137. The Government's current policy and procedures to effectuate third country removal is violative of Mr. Ma's due process rights, and any imminent third country removal fails to comport with the statutory obligations set forth by Congress in the INA and is unlawful.

138. Congress provided that all countries to which DHS seeks to deport a noncitizen are subject to the withholding statute. *See* 8 U.S.C. § 1231(b)(3) (referencing 8 U.S.C. §§ 1231(b)(1) and (b)(2)). Under the INA, Respondents have a clear and non-discretionary duty to execute final orders of removal only to the designated country of removal. The statute explicitly states that a noncitizen "shall remove the [noncitizen] to the country the [noncitizen] . . . designates." 8 U.S.C. § 1231(b)(2)(A)(ii). And even where a noncitizen does not designate the country of removal, the statute further mandates that DHS "shall remove the alien to a country of which the alien is a subject, national, or citizen." 8 U.S.C. § 1231(b)(2)(D); *see*

also generally Jama v. ICE, 543 U.S. 335, 341 (2005). The regulations support this interpretation. *See* 8 C.F.R. § 1240.11(c)(1)(i); *id.* § 1240.10(f).

139. The opportunity to present a fear-based claim prior to deportation to a country where a person fears persecution or torture is also a fundamental due process protection under the Due Process Clause of the Fifth Amendment and implements the United States' obligations under international law. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019) ("DHS may designate a removal country outside of removal proceedings but . . . it must provide due process and comply with 8 U.S.C. § 1231(b) when doing so"); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.").

140. As the Supreme Court has explained, such language "generally indicates a command that admits of no discretion on the part of the person instructed to carry out the directive," *Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007) (quoting *Ass'n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C. Cir. 1994)); *see also* Black's Law Dictionary (11th ed. 2019) ("Shall" means "[h]as a duty to; more broadly, is required to . . . . This is the mandatory sense that drafters typically intend and that courts

typically uphold."); *United States v. Monsanto*, 491 U.S. 600, 607 (1989) (finding that "shall" language in a statute was unambiguously mandatory).

141. Thus, prior to any third country removal, ICE must provide Petitioner with sufficient notice and an opportunity to respond and apply for fear-based relief as to that country, in compliance with the INA, due process, and the binding international treaty: The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A requirement recognized by the immigration judge in granting the motion to reopen.

142. Current ICE policy, however, does not adhere to the government's federal, statutory, and treaty obligations. ICE seeks to removal individuals with no more than six hours' notice upon informing the noncitizen of the third country to which he or she is to be removed, and ICE directs its officers to "not affirmatively" inquire if the noncitizen has a fear of persecution or torture in said third country.

143. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to apply for withholding of removal relief and protection under the Convention Against Torture would violate his due process rights. The only remedy of this violation is for this Court to order that he not be summarily removed to any third country unless and until he is provided constitutionally adequate procedures.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

a. Assume jurisdiction over this matter.

b. Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings.

c. Declare that Petitioner's detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

d. Declare that the revocation of Petitioner's release failed to comply with agency regulations.

e. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.

f. Enjoin Petitioner's removal from the United States pending a final decision on this habeas action.

g. Enjoin Petitioner's removal from the United States to a third country without meaningful notice and opportunity to fully present a fear-based claim.

h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law.

i. Grant such other relief as this Court may deem just and proper.

Dated: October 3, 2025

Respectfully submitted,

/s/ Kevin A. Gregg

Kevin A. Gregg, Esq.
kgregg@kktplaw.com
State Bar No.: 294522

KURZBAN KURZBAN TETZELI & PRATT, P.A.
131 Madeira Avenue
Coral Gables, Florida 33134
Tel. No. (305) 444-0060
Fax No. (305) 444-3503
Attorney for Petitioner