

1 Nicolette Glazer Esq. (CSBN 209713)
2 nicolette@glazerandglazer.com
3 LAW OFFICES OF LARRY R GLAZER
4 2121 Avenue of the Stars East #800
5 Century City, California 90067
6 T:310-407-5353
7 F:310-407-5354
8
9

10 ATTORNEY FOR PETITIONER
11
12
13
14

15 UNITED STATES DISTRICT COURT
16 FOR THE CENTRAL DISTRICT OF CALIFORNIA
17

18 IBRAHIM MOHAMMED HELAL
19

20
21 Plaintiff and Petitioner,
22

23 vs.
24

25 JAMES JANECKA, Warden of the Adelanto
26 Detention Center; DANIEL T TOVAR,
27 Director of the Los Angeles Field Office,
28 United States Immigration and Customs
Enforcement; PAM BONDI, Attorney
General, United States Department of Justice;
KRISTI NOEM, Secretary, United States
Department of Homeland Security; TODD
LYONS, Acting Director of United States
Immigration and Customs Enforcement; and
DOES 1-5

Defendants-Respondents

Case No.:

**VERIFIED PETITION FOR
WRITS OF HABEAS CORPUS
AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**AND REQUEST FOR
TEMPORARY RESTRAINING
ORDER**

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 1

INTRODUCTION

1
2
3 1. This case challenges the unlawful and punitive detention of Mr. Ibrahim
4 Mohammad Helal (hereinafter “Petitioner” or “Mr. Helal”), who is currently in the
5 custody of Immigration and Customs Enforcement (“ICE”) at the Adelanto Detention
6 Center, Adelanto, California. Petitioner is neither a flight risk nor a danger to the
7 community. But on or about 25 September 2025 ICE detained him without notice or
8 opportunity to be heard, on the decision of an individual without authority to do so,
9 without findings required by law, and in violation of agency rules and published
10 regulations.
11

12
13 2. Unless the Court orders his immediate release, Petitioner will continue to be
14 subjected to unlawful and punitive detention and denial of needed medical care.
15

16
17 3. Plaintiff-Petitioner, also challenge the Government’s practice of refusing to
18 accord reasonable accommodation or modification of policies and practices in
19 violation of the Rehabilitation Act.
20

21
22 4. Plaintiff-Petitioner further challenge the legality of 8 C.F.R. §241.4(l) and
23 Respondents’ uniform policy and practice of subjecting noncitizens to arrests,
24 detention, and removal without providing due notice of condition of release violation,
25 an opportunity to be heard and provide explanation prior to deprivation of liberty.
26

27
28 5. Plaintiff-Petitioner is not challenging or seeking judicial review of the initiation
of removal proceedings, the way his removal proceedings were or are conducted, or the
denial of immigration relief by the EOIR or USCIS.

1 6. Through their uniform practices Respondents violate the rights of Petitioner
2
3 under the due process and equal protection guarantees of the U.S. Constitution, the
4
5 INA and its regulations, the Administrative Procedure Act, and the Rehabilitation Act
6

7 **JURISDICTION AND VENUE**
8

9 7. This action arises under the Constitution of the United States; the Immigration
10
11 and Nationality Act, 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration
12
13 Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208,
14
15 110 Stat. 1570 [hereinafter ‘INA’]; and Administrative Procedure Act, 5 U.S.C. §§ 701
16
17 *et seq* [hereinafter “APA”].

18
19 8. This Court has further jurisdiction under 28 U.S.C. § 2241, 2243, art. I § 9,
20
21 cl. 2 of the United States Constitution (“Suspension Clause”), and 28 U.S.C. §
22
23 1331, as Petitioner is presently in custody under color of the authority of the
24
25 United States based on the service of a Notice to Appear, and such custody is in
26
27 violation of the Constitution, laws, or treaties of the United States.

28 9. This Court also may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. §
702, and the All Writs Act, 28 U.S.C. § 1651.

10. This court has further remedial authority pursuant to the Declaratory
Judgment Act, 28 U.S.C. § 2201 et seq..

11. The use of the Writ of Habeas Corpus to challenge detention by ICE is not
foreclosed by the REAL ID Act. The REAL ID Act of 2005, Pub. L. 109-13, 119
Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A),
(B), (C) and § 242(g), only deprives the district court of habeas jurisdiction to

1 review orders of removal, not challenges to detention or the denial of constitutional
2 rights. *See INS v. St. Cyr*, 533 U.S. 289, 364-65 (2001) (“The writ of habeas corpus
3 has always been available to review the legality of executive detention.”).
4

5
6
7 12. This Court could enjoin federal officials pursuant to *Ex Parte Young*, 209
8 U.S. 123 (1908). *See Philadelphia Co. v. Stimson*, 223 U.S. 605, 619-21 (1912)
9 (applying *Ex Parte Young* to federal official); *Goltra v. Weeks*, 271 U.S. 536, 545
10 (1926) (same).
11
12

13
14
15 13. Plaintiff-Petitioner has exhausted all administrative remedies to the extent
16 available and required by law.
17

18
19 14. Venue properly lies within the Central District of California, because each
20 named Defendant-Respondent is present in this district and a substantial part of the
21 events or omissions giving rise to this action occurred and continue to occur in this
22 District. *See 28 U.S.C. §1391(b)*. Petitioner, Ibrahim Halel is currently detained
23 within this district to wit, the Adelanto Detention Facility located at 10400 Rancho
24 Road, Adelanto, CA 92301. Accordingly, the “restraint complained of” is
25 occurring within the Court’s territorial jurisdiction. *See 28 U.S.C. § 2241(a)*
26
27
28

15. No petition for habeas corpus has previously been filed in any court to
review this Plaintiff-Petitioner’ case.

PARTIES

16. Plaintiff-Petitioner Ibrahim Helal is a 39-year-old national and citizen of
Egypt who was arrested by ICE on or about 25 September 2025 without providing

1 him a prior notice of violation of condition of release, an opportunity to be heard,
2
3 and/or to be represented by counsel.
4

5 17. Mr. Helal entered the United States without inspection on or about 3 August
6
7 2023 and was release on own recognizance order by ICE on or about 17 August
8
9 2023. He suffers from diabetes and chronic venous insufficiency.
10

11 18. The U.S. Department of Homeland Security ("DHS") is a cabinet
12
13 department of the United States federal government with the primary mission of
14
15 securing the United States.
16
17

18 19. ICE is an agency within DHS with the primary mission of arresting,
19
20 detaining, and removing non-citizens physically present within the territory of the
21
22 United States. ICE is also responsible for the custody and care of all detained non-
23
24 citizens awaiting resolution of their immigration cases or removal after a final
25
26 order of removal had been entered.
27

28 20. Defendant Kristi Noem is the Secretary for DHS. In this capacity, Ms. Noem
has responsibility for the administration of immigration laws pursuant to 8 U.S.C.
§1103(a), has authority over ICE and its field offices, and has authority to order the
release of Plaintiff-Petitioner. At all times relevant to this Complaint,
Defendant Noem was acting within the scope and course of her position as the
Secretary for DHS. Defendant Noem is sued in her official capacity.

21. Defendant-Respondent Todd Lyons is the Acting Director and Senior
Official Performing the Duties of the Director of ICE. Defendant Lyons is

1 responsible for the implementation of all ICE's policies, practices, and procedures,
2 including those relating to detention of non-citizens. Defendant Lyons is a legal
3 and immediate custodian of Plaintiff. At all times relevant to this Complaint,
4 Defendant Lyons was acting within the scope and course of his position as an ICE
5 official. He is sued in his official capacity.
6

7 22. Defendant-Respondent Danie Tovar is the Acting Director of the Los
8 Angeles Field Office of ICE, which has immediate custody of Plaintiff-Petitioner.
9 He is sued in his official capacity.
10

11 23. Defendant James Janecka is the warden of the Adelanto Detention Facility in
12 San Bernardino County, where Plaintiff-Petitioner is currently detained. Defendant
13 Janecka is the immediate, physical custodian of Plaintiff. He is named in his
14 official capacity.
15

16 24. The true names or capacities, whether individual, corporate, associate or
17 otherwise, of the Defendants-Respondents named herein as Does 1 through 5 are
18 unknown to Plaintiff-Petitioner, who therefore sues said Respondents by such
19 fictitious names, and Plaintiff will amend this Complaint to show their true names
20 and capacities when ascertained. Does 1 through 5 are the immediate, physical
21 custodians of Plaintiff
22

23 **FACTS RELEVANT TO ALL CAUSES OF ACTIONS**

24 **A. Petitioner's Immigration History**

25 25. Plaintiff-Petitioner Ibrahim Helal is a 39-year-old national and citizen of
26 Egypt. Mr. Helal entered the United States without inspection on or about 3 August
27

28
VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 6

1 2023. He was apprehended by Border Patrol shortly thereafter. Upon examination
2
3 on or about 17 August 2023 Respondents found that Petitioner was not a flight risk
4
5 or danger to the community and placed him on an order of supervision and own
6
7 recognizance, *Form I-220A*. See Exhibit A.
8
9

10 26. He suffers from diabetes and chronic venous insufficiency. See Exhibit B &
11
12 C.
13

14 27. Upon settling in Southern California Petitioner filed a timely affirmative
15
16 application for asylum and withholding or removal with the USCIS. See Exhibit D.
17
18 The application remains pending.
19
20

21 28. Since ICE released Petitioner on an order of supervision in 2023, Petitioner
22
23 has complied with all conditions of the order, including periodic check-ins with
24
25 ICE. No circumstances have changed that make Petitioner a flight risk or danger to
26
27 the community.
28

29. Throughout the time Petitioner was on supervised release he was told and
understood that ICE would give non-citizens in his circumstances “the opportunity
to prepare for an orderly departure” after securing Petitioner’s travel documents.

30. But at a regularly ICE scheduled check-in on 25 September 2025 ICE
suddenly revoked Petitioner’s order of supervision and arrested him on the spot.

The deportation officer who “revoked” the order on supervised release provided no

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 7

1 reason for the revocation nor did it allow Petitioner to contact his counsel of
2
3 record, or to provide a response and rebut.
4

5 31. Based on information and belief the officer who revoked Petitioner's order
6
7 of supervision and own recognizance was not the Executive Associate Director if
8
9 ICE and did not have a lawfully delegated authority to revoke orders of
10
11 supervision; did not first refer the case to the ICE Executive Associate Director,
12
13 did not make findings that revocation was in the public interest and that
14
15 circumstances did not reasonably permit referral to the Executive Associate
16
17 Director.
18
19
20

21 32. Upon arrest, ICE transferred Petitioner to the Adelanto Detention facility
22
23 where he is currently detained.
24
25

26 33. On 25 September 2025 Respondent served Petitioner with a Notice to
27
28 Appear, Exhibit E, and initiated section 240 proceedings against Petitioner which
remain pending.

34. Petitioner is a person with disability and require medical care and
medication for pre-existing medical conditions which he is not in detention. See
Exhibit B & C.

1 35. Upon information and belief, at the time ICE revoked Petitioner's order of
2 supervision, the agency had not secured travel documents necessary for removal
3 from the United States.
4
5

6
7
8 36. The Petitioner was not allowed to post a bond and remains in custody.
9

10 37. The Respondents have refused to release Mr. Helal from custody.
11

12 38. There is no order of removal in effect against Petitioner.
13
14

15
16 **B. Medical Care in Immigration Detention Facilities**
17 **is Utterly insufficient**
18

19 39. Medical care in the detention system administered by DHS is jail-like,
20 decentralized, and highly dysfunctional. According to a 2016 report by the
21 Government Accountability Office, ICE lacks the tools to track and understand its
22 own system of medical care, from the actual cost of care to trends in off-site medical
23 care. See US Government Accountability Office, "Immigration
24
25
26
27
28

Detention: Additional Actions Needed to Strengthen Management and Oversight of
Detainee Medical Care," <http://gao.gov/products/GAO-16-231>.

40. Under the Trump administration the medical care has become even worst
with a trend towards reduction of per-diem rate paid to the facility per person
detained and for off-site costs, requested through the Medical Payment
Authorization Request (MedPAR) system. As a result, for-profit companies and
county governments receiving payments from ICE for holding immigrants in
detention have a financial incentive to reduce costs related to both on-site and off-

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 9

1 site care, with little risk of real penalties for providing medical care that does not
2
3 meet the applicable detention standards.
4

5 41. Many non-citizens in immigration detention routinely fail to receive the
6
7 medical care they need. Specifically,
8

9 A) Non-citizens do not receive a prompt physical examination on intake
10
11 and as such are not placed on life-saving prescription medication for
12
13 days and sometimes for weeks. This is particularly problematic for
14
15 individuals who suffer from comorbidities that require a treatment
16
17 plan that includes daily and sometimes hourly monitoring;
18

19 B) Non-citizens with chronic medical problems do not receive a medical
20
21 exam or lab tests while incarcerated;
22

23 C) Non-citizens do not receive mental health screening and those
24
25 suffering from bi-polar disorders, depression, anxiety, stress and similar
26
27 conditions are denied medication and monitoring;
28

D) Non-citizens are penalized for requesting or insisting to see a medical
provider;

E) When care is provided, DHS approved facilities rely primarily on
licensed vocational nurses or licensed practical nurses. Detainees with
chronical medical conditions can go months without seeing a doctor,
while others who require emergency care are not transferred to a hospital,
are denied off-site care, and are denied prescription medication and
monitoring in an apparent attempt to save costs.

1 F) Requests for care are routinely refused, ignored, and/or unreasonably
2 delayed;
3

4 G) The Facilities keep inadequate medical records and refuse to provide
5 medical records to detainees, their families, and counsel.
6
7

8
9 42. Individuals like Petitioner who suffer from chronic medical conditions are
10 thus unable to manage effectively their illness and fear aggravations and extreme
11 consequences that jeopardize their lives.
12

13 43. These conditions created by DHS's carelessness and/or disregard for
14 medical needs of detainees causes pain, suffering, and extreme emotional distress.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RELEVANT IMMIGRATION STATUTORY SCHEME

Immigration Detention

44. The INA governs the use of immigration detention both pre- and post-final order. Post-final-order immigration detention is governed by 8 U.S.C. § 1231(a); pre-final-order detention by 8 U.S.C. § 1226.

45. In 8 U.S.C. §§ 1226 and 1231 Congress created different, but interrelated, comprehensive frameworks for detaining criminal and non-criminal non-citizens.

46. Section 1226 authorizes the detention of non-citizens during removal proceedings: section 1226(a) controls non-criminal aliens' detentions, while section 1226(c) controls criminal aliens' detentions. *See 8 U.S.C. § 1226(a)&(c)*. Once a non-citizen's removal proceedings are completed ICE's detention authority is controlled by section 1231, which also distinguishes between non-criminal and criminal non-citizens. *See 8 U.S.C. § 1231*.

*Section 1226(a) and Non-Criminal Non-citizens
During Removal Proceedings*

47. The Attorney General has discretion to detain a non-criminal non-citizen "pending a decision on whether the alien is to be removed from the United States." *See 8 U.S.C. § 1226(a)*. The Attorney General may detain the non-citizen for the duration of the removal proceedings or release him on bond or conditional parole. *See 8 U.S.C. § 1226(a)(1)-(2)*.

1 48. In connection with § 1226(a), the DHS promulgated regulations setting out
2 the process by which a non-criminal non-citizen may obtain release. The
3 regulations provide that, in order to obtain bond or conditional parole, the “alien
4 must demonstrate to the satisfaction of the officer that such release would not pose
5 a danger to property or persons, and that the alien is likely to appear for any future
6 proceeding.” See 8 C.F.R. § 1236.1(c)(8).
7
8

9
10
11
12
13 *Section 1226(c) and Criminal Non-citizens*
14 *During Removal Proceedings*
15

16 49. Although the Attorney General has broad discretion to release non-criminal
17 non-citizens during the pendency of their removal proceedings, the INA limits the
18 Attorney General’s discretion in the case of criminal non-citizens. Specifically,
19 section 1226(c) mandates that “[t]he Attorney General shall take into custody any
20 alien who . . . is deportable by reason of having committed [certain specified
21 offenses].” See 8 U.S.C. § 1226(c)(1)(B).
22
23

24 50. Section 1226(c) provides that the Attorney General may release a criminal
25 non-citizen “only if” necessary for narrow witness protection purposes. See 8
26 U.S.C. § 1226(c)(2). Under § 1226(c), custody is mandatory for criminal non-
27 citizens throughout the entirety of their removal proceedings, and there is no
28 statutory possibility for release on bond.

51. Petitioner was never detained under the authority of section 1226(c) as he
has no criminal record of any kind.

1 52. When a non-citizen is released on bond or under supervision, the non-citizen
2 must periodically appear before an immigration officer, obey written restrictions,
3 and comply with other requirements provided for by regulation. See 8 U.S.C. §
4 1231(a)(3).

5
6
7
8
9 53. When a non-citizen is released on supervision ICE must issue and serve on
10 the individual a standardized form I-220 which imposes the conditions on release.
11 Petitioner has no criminal record, prior immigration record and has complied with
12 all conditions on release.
13
14

15
16
17 *Detention Pursuant to 8 U.S.C. § 1225(b)(2)*
18

19 54. Under § 1225(b)(2), “in the case of an alien who is an applicant for
20 admission, if the examining immigration officer determines that an alien seeking
21 admission is not clearly and beyond a doubt entitled to be admitted, the alien shall
22 be detained.” 8 U.S.C. § 1225(b)(2). By contrast, an alien arrested on a warrant
23 issued by the Attorney General “may” be detained but is also eligible for release on
24 bond. 8 U.S.C. § 1226(a). Courts have repeatedly held that § 1225 applies to
25 arriving aliens, while § 1226 governs detention of “aliens already in the country.”
26 *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018). Petitioner is not an arriving alien
27 under § 1225 and in fact Respondents charged Petitioner as an “alien present in the
28 United States who has not been admitted or paroled” rather than an “arriving
alien.” See Exhibit E (stating Petitioner is charged under INA 212(a)(6)(a),
codified at 8 U.S.C. § 1226(a)(6)(a)).

1 55. The Courts to have addressed the issue have found the Government
2 invocation of the mandatory detention provision under section 1225 unlawful and
3 have ordered release of non-citizens held in detention based of such erroneous
4 reading of the Immigration and Nationality Act and application of § 1225(b) to
5 noncitizens who, like Petitioner, are not apprehended upon arrival in the United
6 States. *See Rodriguez Vasquez v. Bostock*, No. 3:25-CV-05240-TMC,---F.Supp.3d-
7 --, 2025 WL 1193850 (W.D.Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No.
8 1:25-CV- 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025)
9 granting habeas based on same ground); *Diaz Alartinez v. Hyde*, No. CV 25-
10 11613-BEM,---F.Supp. 3d---2025 WL 2084238, at *9 (D. Mass. July 24, 2025)
11 (ordering release where noncitizen was redetained based on ICE's assertion of
12 detention authority under§ 1225(b)).
13
14

15 *Supervised Release*

16 56. When a non-citizen is released on bond or under supervision, the non-citizen
17 must periodically appear before an immigration officer, obey written restrictions,
18 and comply with other requirements provided for by regulation. *See 8 U.S.C. §*
19 1231(a)(3).
20

21 57. When a non-citizen is released on supervision ICE must issue and serve on
22 the individual a standardized form I-220 which imposes the following conditions
23 on release:
24
25
26
27
28

- a) The non-citizen must appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal;
- b) Upon request, the non-citizen must appear for medical and psychiatric examination at the expense of the United States Government;
- c) The non-citizen must provide information under oath about his/her nationality, circumstances, habits, associations and activities and such other information as the agency considers appropriate;
- d) The non- non-citizen must notify the agency of all changes in residence and employment;
- e) The non-citizen must assist ICE in obtaining any necessary travel documents;
- f) Additional conditions tailored to the alien's criminal history.

58. Specifically, both the regulations and the standard form I-220 inform the non-citizens that any violation of the conditions imposed by ICE "will result in revocation of your employment authorization document" and that any violation of the conditions "may result in your being taken into Service custody and you being criminally prosecuted."

59. On information and belief Petitioner alleges that ICE now routinely takes into custody non-citizens previously released on bond or under supervision when they have not violated any condition of release and solely at the whim of the deportation officer.

1 60. On information and belief Petitioner alleges that since 27 January 2025 DHS
2 and DOJ encourage officers to disregard the provisions and statutory limitations
3 imposed by section 1226 and 1231 for political reasons and to boost the
4
5 administrations' rhetoric and animus against non-citizens ordered removed and/or
6
7 unlawfully present in the U.S..
8
9

10
11 *Due Process Governs Decisions to Revoke an Order of Supervision*
12

13 61. "The Due Process Clause applies to all persons within the United States,
14 including aliens, whether their presence here is lawful, unlawful, temporary, or
15
16 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified).
17
18 "Freedom from imprisonment—from government custody, detention, or other
19
20 forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.*
21
22 at 690 (2001).
23
24
25
26

27 62. Under substantive due process doctrine, a restraint on liberty like revocation
28 of a non-citizen's order of supervision is only permissible if it serves a "legitimate
nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The
Supreme Court has only recognized two legitimate objectives of immigration
detention: *preventing danger to the community or preventing flight prior to*
removal. See Zadvydas v. Davis, 533 U.S. 678, 690-92 (discussing constitutional
limitations on civil detention).

1 63. “Procedural due process imposes constraints on governmental decisions
2
3 which deprive individuals of liberty,” like the decision to revoke a non-citizen’s
4
5 order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation
6
7 modified). “The fundamental requirement of [procedural] due process is the
8
9 opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at
10
11 333 (citation modified).
12
13

14
15 *Statute and Regulation Govern Procedures for*
16 *Revoking an Order of Supervision*

17 64. A non-citizen with a final order of removal “who is not removed within the
18
19 [90-day] removal period . . . shall be subject to [an order of] supervision under
20
21 regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3) (titled
22
23 “Supervision after 90-day period”).
24
25

26 65. A non-citizen may only be detained past the 90-day removal period
27
28 following a removal order if found to be “a risk to the community or unlikely to
following a removal order if found to be “a risk to the community or unlikely to
comply with the order of removal” or if the order of removal was on specified
grounds. *Id.* § 1231(a)(6).

66. But even where initial detention past the 90-day removal period is
authorized, if “removal is not reasonably foreseeable, the court should hold
continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In
that case, of course, the alien’s release may and should be conditioned on any of

1 the various forms of supervised release that are appropriate in the circumstances . .

2
3 . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

4
5 67. Regulations purport to give additional reasons, beyond those listed at §
6
7 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be
8
9 re-detained past the removal period: “(1) the purposes of release have been served;
10
11 (2) the alien violates any condition of release; (3) it is appropriate to enforce a
12
13 removal order . . . ; or (4) the conduct of the alien, or any other circumstance,
14
15 indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2); *see*
16
17 *also id.* § 241.13(i) (permitting revocation of an order of supervision only if a
18
19 non-citizen “violates any of the conditions of release”). Because “[r]egulations
20
21 cannot circumvent the plain text of the statute[,]” courts question whether these
22
23 regulations are *ultra vires* of statutory authority. *See, e.g., You v. Nielsen*, 321 F.
24
25 Supp. 3d. 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. §
26
27 1231(a)(6), which authorizes detention past the removal period only if person is a
28
risk to the community, unlikely to comply with the order of removal, or was
ordered removed on specified grounds).

68. It is clear, however, that regulations permit only certain officials to revoke
an order of supervision: the ICE Executive Associate Director, a field office
director, or an official “delegated the function or authority . . . for a particular

1 geographic district, region, or area.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137,
2
3 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the
4
5 Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the
6
7 field office director or a delegated official intends to revoke an order of
8
9 supervision, they must first make findings that “revocation is in the public interest
10
11 and circumstances do not reasonably permit referral of the case to the Executive
12
13 Associate [Director].” 8 C.F.R. § 241.4(l)(2). And for a delegated official to have
14
15 authority to revoke an order of supervision, the delegation order must explicitly say
16
17 so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order
18
19 that “refers only to a limited set of powers under part 241 that do not include the
20
21 power to revoke release” insufficient to grant authority to revoke an order of
22
23 supervision).
24
25
26
27
28

69. Upon revocation of an order of supervision, ICE must give a non-citizen
notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. §
241.4(l)(1).

70. Respondents failed to comply with these regulations and instead revoked
Petitioner’s order of supervision and whim and/or to punish him.

71. Petitioner cannot be lawfully removed while he has a pending section 240
removal proceedings yet Respondents refuse to release Petitioner and re-instate his

1 on an order of supervision knowing that removal cannot be effect for months even
2
3 years in light of the severe backlog of cases.
4
5
6
7

8 COUNT ONE

9 Detention in Violation of the Fifth Amendment 10 (substantive due process) 11 Against all Defendants

12
13 72. Petitioner repeats and incorporates by reference all allegations in paragraphs
14
15 1 to 71 above.
16

17 73. The Fifth Amendment guarantees that no person shall be deprived of liberty
18
19 without due process of law. U.S. Const. Amend. V. “Freedom from
20
21 imprisonment—from government custody, detention, or other forms of physical
22
23 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*,
24
25 533 U.S. 678, 690 (2001).
26

27 74. “Government detention violates the Due Process Clause unless it is ordered
28
in a criminal proceeding with adequate procedural safeguards, or in certain special
and non-punitive circumstances ‘where a special justification, . . . outweighs the
individual’s constitutionally protected interest in avoiding physical restraint.’”
Zavala v. Ridge, 310 F. Supp. 2d 1071, 1076 (N.D. Cal. 2004) (quoting *Kansas v.*
Hendricks, 521 U.S. 346, 356 (1997)).

75. Respondents cannot show any “special justification” or compelling
governmental interest which would outweigh Petitioner’s constitutional liberty.

1 76. Respondents previously determined upon the examination of the
2 administrative record that Petitioner is not a danger or flight risk and imposed own
3 recognizance order of supervision.
4

5
6
7 77. The governmental interest in the continued detention of these least-
8 dangerous individuals does not and cannot outweigh the liberty interest at stake.
9

10
11 **COUNT TWO**

12 **Violation of the Fifth Amendment Right to Substantive Due Process**
13 **(Unlawful Punishment)**
14 **Against All Defendants**

15 78. Petitioner repeats and incorporates by reference all allegations in paragraphs
16 1 to 71 above.
17

18
19 79. The Fifth Amendment of the Constitution guarantees that civil detainees,
20 including all immigrant detainees, may not be subjected to punishment.
21

22 80. Respondents violate this substantive due process right when they
23 continuously fail to satisfy their affirmative duty to provide conditions of
24 reasonable health and safety to the people they hold in their custody and violate the
25 Constitution when they fail to provide for their basic human needs—*e.g.*, food,
26 clothing, shelter, hygiene, medical care, and reasonable safety. The federal
27 government also violates substantive due process when it subjects civil detainees to
28 cruel treatment and conditions of confinement that amount to punishment.

81. Respondents lack a constitutionally sufficient purpose for continued
detention of medically vulnerable individuals like Petitioner.

1 82. Petitioner's detention therefore does not bear a reasonable relationship to the
2
3 two regulatory purposes of immigration detention: preventing danger to the
4
5 community or flight prior to removal.
6

7 83. Because Respondents had no legitimate, non-punitive objective in revoking
8
9 Petitioner's order of supervision, Petitioner's detention violates substantive due
10
11 process under the Fifth Amendment to the U.S. Constitution.
12

13
14 **COUNT THREE**
15 **(Violation of the Rehabilitation Act – Failure to Provide Reasonable**
16 **Accommodation to Persons with Disabilities)**
17 **against All Defendants**
18

19
20 84. Petitioner repeats and incorporates by reference all allegations in paragraphs
21
22 1 to 71 above.
23

24 85. Section 504 of the Rehabilitation Act requires federal agencies to provide
25
26 "reasonable accommodations" to individuals with disabilities so they can fully
27
28 participate in benefits administered by these agencies. (29 U.S.C. § 794(a)).

86. DHS regulations implementing the Rehabilitation Act mandate that "[n]o
qualified individual with a disability in the United States, shall, by reason of his or
his disability, be excluded from participation in, be denied benefits of, or otherwise
be subjected to discrimination under any program or activity conducted by the
Department." (6 C.F.R. § 15.30; see also 29 U.S.C. § 794(a)).

87. The regulations implementing Section 504 prohibit entities receiving federal
financial assistance from utilizing "criteria or methods of administration (i) that
have the effect of subjecting qualified handicapped persons to discrimination on
VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 23

1 the basis of handicap, (ii) that have the purpose or effect of defeating or
2 substantially impairing the accomplishment of the objectives of the recipient's
3 program or activity with respect to handicapped persons." (34 C.F.R. §
4
5 104.4(b)(4).)
6
7

8
9 88. Petitioner suffers from diabetes and chronic venous insufficiency, and has a
10 prejudiced immune system. Petitioner's medical conditions qualify as disabilities
11 under the Rehabilitation Act and they affect his daily life functions such as walking,
12 stooping, bending, sleeping, and working.
13
14

15
16 89. Petitioner has been denied access to medical care, prescription medications,
17 sufficient hygiene materials, food appropriate for comorbidities, and preventive
18 care.
19
20

21
22 90. The removal proceedings as codified in the INA are a benefit or program
23 administered by Respondents and Petitioner is entitled to participate in the removal
24 process. The services, programs, and activities within the detention centers where
25 DHS detains non-citizens receive substantial federal financial assistance.
26
27

28
91. Medical care as promulgated and mandated by ICE National Detention
Standards (NDS) 2019 and/or the Performance-Based National Detention
Standards 2011 (amended 2016) is a benefit or program administered by
Respondents and Petitioner is entitled to participate and receive the benefits of said
program.

92. Petitioner's underlying medical conditions qualify as disabilities for
purposes of the Rehabilitation Act. (29 U.S.C. §705(2)(B); 42 U.S.C. § 12102).

1 93. By exposing Petitioner to a heightened risk of aggravation of pre-existing
2 conditions and refusing to provide medication, treatment, and proper food,
3 Respondents are preventing Petitioner from participating in the removal process,
4 activities and programs available to other in detention, and to access sufficient
5 medical care by reason of her disability.
6

7 94. By failing to provide Petitioner adequate medical care Respondents have the
8 purpose or effect of defeating or substantially impairing the accomplishment of the
9 objectives of removal proceedings and the services, programs, and activities within
10 the detention centers with respect to Petitioner.
11

12 95. The only available "reasonable accommodation" that would mitigate
13 Petitioner's disability is release from detention. Respondents have failed to
14 implement this reasonable accommodation, which would not be unduly
15 burdensome nor require a fundamental alteration in the removal process or the
16 programs and activities of the detention center.
17

18 96. Respondents have also denied "reasonable accommodation", and continue to
19 do, by refusing needed medical care and access to medication and proper nutrition.
20

21 97. Respondents' ongoing detention of Petitioner constitutes discrimination
22 because it is either disparate treatment of, or at the very least has a disparate impact
23 on, people with qualifying disabilities who are at severe risk of serious illness or
24 death.
25

26 98. For these reasons, Respondents' ongoing detention of Petitioner violates the
27 Rehabilitation Act.
28

COUNT THREE

Procedural Due Process Claim

Arrest and revocation of bond and/or orders of supervision without notice and opportunity to contest the revocation.

Against all Defendants

99. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 71 above.

100. Petitioner's arrest and/or continued detention is a violation of his Constitutional procedural due process rights.

101. Respondents have a policy and practice of revoking section 1226 and section 1231 releases and work authorizations without providing any process and without a finding that a violation of a condition for release had occurred. Once release on specified conditions has been granted, however, it cannot be taken away without adequate process. In the orders of supervision (standard Form 220) Respondents served on Petitioner and others, Respondents warned them that any violation of the conditions imposed by ICE "will result in revocation of your employment authorization document" and that any violation of the conditions of release "may result in your being taken into Service custody and you being criminally prosecuted."

102. As a matter of standard policy and practice, however, Respondents revoke bonds and supervised release and take targets into custody without any violation of enumerated conditions and without a notice or the opportunity to respond and be heard. This policy and practice violate procedural due process because it fails to provide the release recipients with notice, a reasoned explanation for the

1 revocation decision, and an opportunity to respond, present arguments and
2
3 evidence to demonstrate that the individual continues to be eligible for and
4
5 warrants the continuation of his or her grant of section 1226 release. Respondents'
6
7 policy and uniform practice also fail to provide for reinstatement in cases where
8
9 the revocation decision was in error.

10
11 103. Petitioner's private interests affected by Respondents' actions are profound –
12
13 his physical liberty. The risk of erroneous deprivation of liberty is high, because
14
15 Petitioner is neither a flight risk nor a danger to the community. In fact, he was
16
17 found eligible and had previously been released from ICE custody for over two
18
19 years.

20
21 104. The government's interest in Petitioner's arrest and punitive administrative
22
23 detention is minimal.

24
25 105. The deprivation of Petitioner's liberty interests far outweighs the
26
27 government's interest in arrests and continued detention after release under section
28
1226 had been granted as authorized by the INA and while they are actively
pursuing their path towards lawful status in pending removal proceedings before
the immigration court.

106. The burden on the Government for the additional process requested by
Petitioner, to wit, a notice of condition violation and/or revocation of release, an
opportunity to respond, and be heard would be minimal.

107. Non-citizens granted bond or orders of supervision who are arrested at their
check-in ICE appointment or during targeted enforcement action have no other

1 judicial venue to challenge the revocation of their orders of release or the legality
2
3 of their arrests.
4

5 108. Not affording them a judicial forum to challenge the revocations and/or the
6
7 legality of their arrests though this habeas corpus proceedings would also violate
8
9 the Suspension Clause of the U.S. Constitution.
10

11 109. Respondents' revocation of Petitioner's order of supervision was contrary to
12
13 the agency's constitutional power under the Fifth Amendment's Due Process
14
15 Clause, as explained above.
16

17 110. The revocation was also not in accordance with the INA and implementing
18
19 regulations governing who may lawfully revoke an order of supervision and under
20
21 what circumstances, as cited and discussed above.
22

23 111. Petitioner's order of supervision was not revoked by the ICE Executive
24
25 Associate Director. The officer who revoked the order did not first make findings
26
27 that revocation was in the public interest and that circumstances did not reasonably
28
permit referral to the Executive Associate Director. Nor had the officer been
properly delegated authority to revoke an order of supervision.

112. Before revoking the order, Respondents did not make findings that Petitioner
is dangerous or unlikely to comply with a removal order, as required by statute.

113. Nor did the Respondents give Petitioner notice of the reasons for revocation
and opportunity to be heard.

COUNT FOUR
VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 28

(RIGHT TO COUNSEL AND TO A FULL AND FAIR HEARING)

Against all Defendants

114. Petitioner repeats and incorporates by reference all allegations in paragraphs 1 to 71 above.

115. The Due Process Clause of the Fifth Amendment guarantees the right to the effective assistance of counsel during removal proceedings at no cost to the government and to a full and fair hearing.

116. At all relevant times to this Complaint Petitioner was represented by counsel in removal proceedings and before the ICE and USCIS.

117. Respondents knew that Petitioner was represented by counsel but Respondents revoked his release –despite a pending affirmative application for asylum -- and took him into custody without allowing him the opportunity to respond, present evidence before a neutral decision maker, and to be represented by counsel **before** the deprivation of their liberty.

118. Respondents' policies, practices, and omissions of indiscriminate arrests, frequent transfers between facilities without updates, and detention in places away from the person's residence, family, counsel, and community have further created substantial barriers to Petitioner's efforts to access retained counsel and prepare his claims, including but not limited no free phone calls, no private unmonitored legal calls, no procedure to receive documents from counsel via fax or email, or send documents to their attorneys.

1 119. Petitioner has a substantial interest in avoiding prolonged detention.
2

3 120. Petitioner has suffered and will imminently suffer irreparable injury as a
4
5 result of Respondents' policies, practices, and omissions and are entitled to
6
7 injunctive relief to avoid any further injury.
8

9
10 **COUNT FIVE**

11 **Statutory APA Violation Claim**
12 **Uniform Practice of Revocation of releases**
13 **Without prior notice, opportunity to respond, and to**
14 **be represented by counsel**
15 **Against all Defendants**
16

17 121. Petitioner repeats and incorporates by reference all allegations in paragraphs
18
19 1 to 71 above.

20
21 122. The Administrative Procedure Act (APA) forbids agency action that is (A)
22
23 arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with
24
25 law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in
26
27 excess of statutory jurisdiction, authority, or limitations, or short of statutory right;
28
or (D) without observance of procedure required by law. 5 U.S.C. § 706(2)(A). A
court reviewing agency action "must assess ... whether the decision was based on
a consideration of the relevant factors and whether there has been a clear error of
judgment"; it must "examin[e] the reasons for agency decisions— or, as the case
may be, the absence of such reasons." *Judulang v. Holder*, 565 U.S. 42, 53 (2011)
(quotations omitted).

123. Respondents' practice of terminating and/or revoking releases
and employment authorizations without notice, a reasoned explanation, an

1 opportunity to be heard, or a reinstatement procedure is arbitrary, capricious, and
2
3 contrary to law, thus in violation of the APA because a discretionary release under
4
5 1226(a) on conditions of supervision once granted cannot be terminated without
6
7 first providing a meaningful process.
8

9 124. Respondents' practice of terminating or revoking a supervised release and
10
11 employment authorization and taking the recipient into custody when no condition
12
13 of supervised released had been violated is contrary to law and thus, in violation of
14
15 the APA for multiple reasons, including that such an revocation and arrest fails to
16
17 provide a reasoned basis for the adverse action; denied the beneficiary the right to
18
19 be represented by counsel and to be heard before a neutral decision maker prior to
20
21 the liberty deprivation, and the practice entrusts the revocation decision entirely on
22
23 the arbitrary decision of an ICE officer and his/her whim.

24
25 125. The revocation was also not in accordance with the INA and implementing
26
27 regulations governing who may lawfully revoke an order of supervision and under
28
what circumstances, as cited and discussed above.

126. Petitioner's order of supervision was not revoked by the ICE Executive
Associate Director. The officer who revoked the order did not first make findings
that revocation was in the public interest and that circumstances did not reasonably
permit referral to the Executive Associate Director. Nor had the officer been
properly delegated authority to revoke an order of supervision.

127. Before revoking the order, Respondents did not make findings that Petitioner
is dangerous or unlikely to comply with a removal order, as required by statute.

1 128. Nor did the Respondents give Petitioner notice of the reasons for revocation
2 and opportunity to be heard.
3

4 129. The revocation should be held unlawful and set aside because it was
5 contrary to the agency's constitutional power and not in accordance with the INA
6 and implementing regulations, is *ultra vires*, and arbitrary and capricious.
7
8
9

10 **COUNT SIX**

11 **Non-Statutory Ultra Vires Action/Accardi Doctrine Violation**
12 **Against all Defendants**

13 130. Petitioner repeats and incorporates by reference all allegations in paragraphs
14 1 to 71 above.
15
16
17

18 131. There is no statute, constitutional provision, or other source of law that
19 authorizes Respondents to detain Petitioner under the circumstances of this case.
20
21
22

23 132. Petitioner has a non-statutory right of action to declare unlawful, set aside,
24 and enjoin Respondents' ultra vires actions.
25
26
27
28

133. Under the Accardi doctrine, Petitioner also has a right to set aside agency
action that violated agency procedures, rules, or instructions. *See United States ex*
rel. Accardi v. Shaughnessy, 347 U.S. 260 ("If petitioner can prove the allegation
[that agency failed to follow its rules in a hearing] he should receive a new
hearing").

134. Respondents violated agency regulations governing who and upon what
findings it may properly revoke an order of supervision when it revoked

1 Petitioner's order. "As a result, this Court cannot conclude that [the revoking
2
3 officer] had the authority to revoke release" and Petitioner "is entitled to release on
4
5 that basis alone." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (citing *Rombot v.*
6
7 *Moniz*, 296 F. Supp. 3d 386, 386-89); *see also, e.g., Zhu v. Genalo*, 2025 WL
8
9 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or.
10
11 Aug. 21, 2025) (releasing habeas petitioner where where revocation of an ICE
12
13 order of supervision was ordered by someone without regulatory authority to do
14
15 so).

16
17
18
19 135. Respondents also violated agency instructions in Petitioner's release
20
21 notification to give an opportunity to prepare for an orderly departure when they
22
23 revoked Petitioner's order without advance notice.
24
25

26 PRAYER FOR RELIEF

27 WHEREFORE, Petitioner prays that this Court grant the following relief:
28

- (1) Assume jurisdiction over this matter;
- (2) Issue a Writ of Habeas Corpus on the ground that Petitioner's continued detention violates the Due Process Clause and order Petitioner's immediate release;
- (3) In the alternative, issue injunctive relief ordering Respondents to immediately release Petitioners, on the ground that their continued detention violates Plaintiffs' constitutional due process rights;

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 33

- 1 (4) Issue a declaration that Respondents' continued detention in civil
2
3 immigration custody of individuals at increased risk for severe illness, and/or
4
5 underlying medical conditions that may increase the risk of serious illness or
6
7 death without proper access to medical care, violates the Due Process Clause
8
9 (5) Issue an injunction ordering Respondents not to arrest and detain Petitioner
10
11 without a proper finding that she has committed a violation of the conditions
12
13 of release;
14
15 (6) Issue an injunction ordering Respondents not revoke Petitioner's grant of
16
17 release without providing prior written notice, an opportunity to respond, and
18
19 be represented by counsel prior to deprivation of liberty when the individual
20
21 is not yet subject to a final order of removal;
22
23 (7) Issue an injunction prohibiting the transfer of Petitioner outside of the
24
25 jurisdictional limits of this Court;
26
27 (8) Enter a judgment declaring that Respondents' detention of Petitioner
28
is and will be unauthorized by statute and contrary to law;

(9) Award Petitioner reasonable costs and attorney fees.

Date: 10/07/2025

Verified and Submitted by

_____*s/ Nicolette Glazer Esq.*_____

Nicolette Glazer Esq.

LAW OFFICES OF LARRY R GLAZER

1875 Century Park East #700

Century City, CA 90067

T: 310-407-5353

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 34

F: 310-407-5354
nicolette@glazerandglazer.com
ATTORNEY FOR PETITIONER

VERIFIED PETITION FOR WRITS OF HABEAS CORPUS AND IMMEDIATE RELEASE
FROM ICE CUSTODY AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF AND REQUEST FOR TEMPORARY RESTRAINING ORDER - 35