



## JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, 110 Stat. 1570. This court has jurisdiction under 28 U.S.C. § 2241, art. I § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court 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.

5. 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, 2025), 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 review orders of removal, not challenges to detention. *Kellici v. Gonzales*, 472 F.3d 416, 419-20 (6th Cir. 2006) (citing *Hernandez v. Gonzales*, 424 F.3d 42, 42-43 (1st Cir. 2005)); accord *INS v. St. Cyr*, 533 U.S. 289, 364-365 (2001) (“The writ of habeas corpus has always been available to review the legality of executive detention.”).

6. Petitioner has exhausted his administrative remedies to the extent required by law. Under 28 U.S.C. § 2241, there is no statutory requirement for exhaustion of administrative remedies. However, exhaustion may be judicially required as a prudential matter unless specific exceptions apply. Courts may waive the prudential exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of administrative proceedings would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d

685, 688 (9th Cir. 1981)). Precisely 1,205 days ago, on June 29, 2022, an Immigration Judge in Pearsall, Texas ordered Petitioner's removal. Subsequently, on October 26, 2022, ICE issued Form I-220B, an Order of Release on Supervision to Petitioner, pursuant to 8 U.S.C. § 1231(a)(3). Accordingly, Petitioner is in compliance with all administrative requirements tied to his removal and release, and further exhaustion would be futile.

#### VENUE

7. Venue is proper in the United States District Court for the Southern District of Ohio, pursuant to 28 U.S.C. § 1391(e), because Petitioner is currently detained in the Butler County Correctional Complex in Hamilton, Ohio. See also *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (“The plain language of the habeas statute ... confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.”).

#### PARTIES

8. Petitioner, Momohu Karaga, is a national and citizen of The Gambia. Petitioner entered the United States in 2022, after fleeing his country to save his life. Petitioner is currently detained at Butler County Correctional Complex. Petitioner has been in the custody of ICE since October 1, 2025.

9. Respondent, Robert K. Lynch, is the Field Office Director of the ICE Detroit Field Office. ICE is the arm of DHS responsible for detention and removal of aliens under immigration laws. Respondent has legal custody of Petitioner. The ICE Field Office Director for the district in which the noncitizen is detained is the immediate custodian and proper respondent in a habeas action. *Roman v. Ashcroft*, 340 F.3d 314, 322.

10. Respondent is sued in his official capacity.

### STATEMENT OF FACTS

11. Petitioner, Momohu Karaga, is a 22-year-old national and citizen of The Gambia who entered the United States in 2022. Petitioner submitted an application for asylum and withholding of removal to remain in this country based on his fear of returning to The Gambia.

12. The Immigration Judge ordered Petitioner's removal 1,205 days ago, on June 29, 2022.


13. On October 26, 2022, ICE issued Form I-220B, Order of Release on Supervision (OSUP). Petitioner has fully complied with the conditions of his OSUP by regularly attending ICE check-in appointments.

14. On or around October 1, 2025, Respondent Robert K. Lynch and his agents arrested Petitioner during a routine ICE check-in appointment.

15. Petitioner has now been in ICE detention in Butler County Correctional Complex since October 1, 2025. Respondent continues to detain Petitioner even though it is clear that Respondent cannot remove him.

16. Exactly 1,205 days have passed since Respondent was issued a final order of removal. To date, ICE has not been able to effectuate Petitioner's removal from the United States.

17. Petitioner is not a danger to the community or a flight risk. He does not have any pending criminal cases and pays taxes to the United States.

18. Petitioner has deep roots in his community. His wife, Ms. Aishat Sisoho, is a United States citizen. Petitioner's child,  Karaga, is only two months old and is also a United States Citizen.

19. Prior to his arrest, Petitioner was the sole provider for his family. His continued detention deprives his wife and child of his companionship and income. Specifically, Petitioner's

wife and child rely on him entirely for rent, utilities, and groceries. Petitioner's wife is not employed and does not receive government benefits.

20. Petitioner's wife suffers from Adenomyosis, a medical condition which causes her to lose more blood than the average person while menstruating. The medical condition, which she was diagnosed of in 2023, requires her to be hospitalized at least once every month. Petitioner's wife does not have a driver's license and therefore, she relies on Petitioner to take her to her medical appointments with her obstetrician-gynecologist (OB/GYN).

21. Petitioner was also responsible for driving his wife and child to all pre-natal and post-natal appointments prior to his arrest. The well-being of Petitioner's United States citizen wife and child are impacted significantly in his absence. Their health and safety remain at risk during Petitioner's continued detention.

22. Respondent's decision to detain Petitioner is not legally justifiable and is capricious and arbitrary. There is no better time for the Court to consider the merits of Petitioner's request for release.

**CLAIMS FOR RELIEF**  
**COUNT ONE**  
**CONSTITUTIONAL CLAIM**  
**INTRODUCTION**

23. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

24. Petitioner's continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the United States Constitution.

25. "[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Freedom from imprisonment – from government custody, detention,

or other forms of physical restraint – lies at the heart of the liberty that Clause protects.” *Id.* at 690.

26. Under substantive due process doctrine, a restraint on liberty, like revocation 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 of civil detention).

27. Here, when ICE placed Petitioner on an order of supervision, ICE determined that he is neither a danger to the community nor a flight risk. When Respondent revoked the order of supervision by arresting Respondent on October 1, 2025, Petitioner had complied with every condition of the order. No change in circumstances warranted the order’s revocation.

28. Petitioner’s detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

29. Since Respondent had no legitimate, non-punitive objective in revoking Petitioner’s order of supervision, Petitioner’s detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

30. “Procedural due process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment.” *Mathews v. Eldridge*, 424 U.S. 319, 322 (1976). Courts employ the *Eldridge* test when an alien’s due process liberty interests are at stake. *Flores-Chavez v. Ashcroft*, 362 F.3d 1150, 1160-61 (9th Cir. 2004). The *Eldridge* test considers three factors: (1) the private interests that will be affected by the official action, (2) the risk of erroneous

deprivation of such interest through the procedures used, and the probable value of procedural safeguards, and (3) the government's interest, including fiscal and administrative burdens that the additional or substitute procedures would entail. *Mathews*, 424 U.S. at 332-335.

31. The first factor, the private interest at issue, favors Petitioner. The private interest affected by the government's action is profound—the loss of Petitioner's physical liberty. “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 [of the Fifth Amendment] protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690.

32. Additionally, Petitioner has a right to marry, which encompasses the right to live together with his spouse and to raise a family, *Meyer v Nebraska*, 262 U.S. 390, 399 (1923). There is a strong expectation that government will not deprive married individuals of their freedom to live together without strong reasons and without fair procedure. *Turner v. Safley*, 482 U. S. 78 –96 (1987) (noting various legal benefits of marriage).

33. Petitioner's right to live together with his United States citizen spouse and raise his United States citizen child is worthy of protection particularly because Petitioner is the sole provider for his family. Petitioner's wife and two-month-old child rely on him entirely for rent, utilities, and groceries as Petitioner's wife is not employed and does not receive government benefits.

34. Petitioner's wife suffers from Adenomyosis, a medical condition which causes her to lose more blood than the average person while menstruating. The medical condition requires her to be hospitalized at least once every month. Petitioner's wife does not have a driver's license and therefore, she relies on Petitioner to take her to her medical appointments with her obstetrician-gynecologist (OB/GYN).

35. Therefore, the continued violation of Petitioner's right to live together with his family deprives his wife and child of Petitioner's companionship and income, constituting undue hardship to two United States citizens. The wellbeing of Petitioner's United States citizen spouse and child are impacted significantly in petitioner's absence as their health and safety remain at risk during petitioner's continued detention.

36. The second factor, risk of erroneous deprivation of liberty through the procedures used and the probable value of additional procedural safeguards, also favors Petitioner. 8 U.S.C. § 1231 provides:

A non-citizen with a final order of removal "who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period"). A non-citizen may only be detained past the 90-day removal period 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).

37. In *Zadvydas v. Davis*, 533 U.S. 678, 699-700, it was held that 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 the various forms of supervised release that are appropriate in the circumstances . . . ."

38. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained past the removal period: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(1)(2); *see also id.* § 241.13(i) (permitting revocation of an

order of supervision only if a non-citizen “violates any of the conditions of release”). Because “[r]egulations cannot circumvent the plain text of the statute [.]” courts question whether these regulations are ultra vires of statutory authority. *See, e.g., You v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal period only if person is a risk to the community, unlikely to comply with the order of removal, or was ordered removed on specified grounds).

39. Moreover, it is also clear 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 geographic district, region, or area.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intend to revoke an order of supervision, they must first make findings that “revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director].” 8 C.F.R. § 241.4(l)(2). And for a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order that “refers only to a limited set of powers under part 241 that do not include the power to revoke release” insufficient to grant authority to revoke an order of supervision).
40. Additionally, 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).

41. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations also specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondent violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondent to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.
42. The third factor, the government's interest, also favors Petitioner. This includes an assessment of the fiscal and administrative burdens that the provision of additional or substitute procedures by the government would entail. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondent to comply with law, requiring Respondent to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.
43. For these reasons, revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

**COUNT TWO  
STATUTORY CLAIM**

44. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

45. Petitioner's continued detention violates the Immigration and Nationality Act.

46. The removal period begins on the date the order of removal becomes administratively final and lasts for 90 days. INA §§ 241(a)(1)(A), (B)(i).

47. Once the removal period begins, DHS has 90 days to obtain travel documents and execute the final order of removal. If the individual is not removed by the end of the 90-day removal period, then they shall be released subject to supervision. 8 U.S.C. § 1231(a)(3); INA § 241(a)(3).

48. Section 1231(a)(6) authorizes DHS to hold individuals beyond the 90-day removal period in certain circumstances if determined to be unlikely to comply with the order of removal, found to be a risk to the community, or likely to be removed in the reasonably foreseeable future.

49. In *Zadyvdas v. Davis*, the Supreme Court held:

“In our view, [8 U.S.C. § 1231(a)(6)], read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. *It does not permit indefinite detention.* A statute permitting indefinite detention of an alien would raise a serious constitutional problem. The Fifth Amendment's Due Process Clause forbids the Government to deprive any person of liberty without due process of law. Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadyvdas v. Davis*, 533 U.S. 678, 689-90 (2001) (internal quotations omitted) (emphasis added).

50. The Immigration Judge issued a removal order 1,205 days ago. Although Petitioner complied with Respondent's efforts to obtain travel documents from The Gambia, Respondent was unable to execute the final order of removal within 90 days. Thus, Respondent released Petitioner pursuant to 8 U.S.C. § 1231(a)(3).

51. Since the issuance of his Order of Supervision, Petitioner has fully complied with the conditions of supervision. Petitioner does not have pending criminal cases. In addition to

being a taxpayer, Petitioner has strong connections within his community and immense responsibility for his wife and two-month-old child as the sole breadwinner of his home.

52. For the foregoing reasons, Petitioner's continued detention is in violation of INA § 241(a), 8 U.S.C. § 1231(a).

### **COUNT THREE**

53. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412.

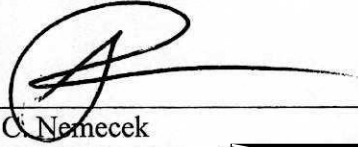
### **PRAYER FOR RELIEF**

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

1. Assume jurisdiction over this matter;
2. Declare that the actions of Respondent violate the statutory/constitutional/regulatory provisions that form the basis for the claims for relief;
3. Issue an order directing Respondent to show cause why the writ should not be granted;
4. Issue a writ of habeas corpus ordering Respondent to release Petitioner on his own recognizance;
5. Order Respondent to refrain from transferring Petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while Petitioner remains in Respondent's custody;
6. Award Petitioner reasonable costs and attorney's fees; and,
7. Grant any other relief that this Honorable Court deems just and proper.

DATED: 10/16/2025

Respectfully submitted,



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