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10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **FOR THE DISTRICT OF ARIZONA**
13 **PHOENIX DIVISION**
14

15 **Quốc Huy Nguyễn,**

Case No.

16 *Petitioner,*

17 v.

**PETITION FOR A WRIT OF HABEAS
CORPUS AND INJUNCTIVE RELIEF**

18 **Gregory J. Archambeault, in his official**
19 *capacity as Field Office Director, San Diego*
20 *Field Office, U.S. Immigration and Customs*
21 *Enforcement,*

22 **David R. Rivas, in his official capacity as**
23 *Warden, San Luis Regional Detention Center,*

24 **United States Department of Homeland**
25 **Security,**

26 **United States Immigration and Customs**
27 **Enforcement,**

28 *Respondents.*

INTRODUCTION

1. This case challenges the unlawful detention of Quốc Huy Nguyễn (“Petitioner” or “Mr. Nguyễn”), who is currently in the custody of United States Immigration and Customs Enforcement (“ICE”) at the San Luis Regional Detention Center, Arizona. Petitioner poses neither a flight risk nor a danger to the community. On or about July 16, 2025, ICE detained Mr.

PETITION FOR A WRIT OF HABEAS CORPUS AND INJUNCTIVE RELIEF - 1

1 Nguyễn without notice or opportunity to be heard in violation of 8 C.F.R. § 241.4 and 8 C.F.R. §
2 241.13. These regulations govern revocations and the return to custody for those under orders of
3 supervision (“OSUP”).

4
5 2. For close to twenty three years, Petitioner has fully abided by the terms of an
6 OSUP, including attending regularly scheduled check-ins with ICE.

7 3. Respondents’ punitive detention of Petitioner violates the Due Process Clause of
8 the Fifth Amendment of the U.S. Constitution, the Immigration and Nationality Act and
9 implementing regulations, and the Administrative Procedure Act.

10
11 4. Petitioner respectfully requests this Court to issue an order directing Respondents
12 to immediately release him and restore his conditions of supervised release. *See Van Tran v. Noem*,
13 25-cv-2334-JES-MSB, 2025 U.S. Dist. LEXIS 191834, 7-8 (S.D. Cal. September 29, 2025).

14
15 **PARTIES**

16 5. Petitioner, Mr. Quốc Huy Nguyễn, has lived in the United States since May 15,
17 1992. Prior to Petitioner’s detention on or about July 16, 2025, he was residing in Los Angeles,
18 California, with his United States citizen spouse and their seventeen year old son. Petitioner is
19 currently detained at the San Luis Regional Detention Center in Arizona.

20 6. Respondent, Gregory J. Archambeault, is sued in his official capacity as the ICE
21 Field Office Director for San Diego, where he oversees the San Luis Regional Detention Center.

22
23 7. Respondent, David R. Rivas, is sued in his official capacity as Warden of the San
24 Luis Regional Detention Center in Arizona, where Petitioner is currently detained.

25 8. Respondent, United States Department of Homeland Security (“DHS”), is a
26 federal agency headquartered in Washington, D.C. and the parent agency of United States
27 Immigration and Customs Enforcement.

1 19. Prior to his detention, ICE did not provide Petitioner with advance notice that his
2 order of supervision was revoked.

3 20. ICE previously provided Petitioner with notice that the agency would provide him
4 with an opportunity to prepare and orderly depart the United States.
5

6 21. There were no circumstances indicating that Petitioner now posed a flight risk or
7 danger to the community.

8 22. For the last twenty three years, Petitioner understood from a release notification
9 accompanying the order of supervision that ICE would give “the opportunity to prepare for an
10 orderly departure” after securing Petitioner’s travel documents.
11

12 23. Upon information and belief, the official responsible for revoking Petitioner’s
13 order of supervision did not first refer the case to the ICE Executive Associate Director, did not
14 make findings that revocation was in the public interest and that circumstances did not reasonably
15 permit referral to the Executive Associate Director, and had not been delegated authority to
16 revoke an order of supervision.
17

18 24. Upon arrest, ICE transferred Petitioner to the Otay Mesa Detention Center until
19 August 15, 2025, when ICE transferred him to the San Luis Regional Detention Center.

20 **B. Repatriation To Vietnam**

21 25. Before a Vietnamese immigrant without a passport or other travel document can
22 be repatriated, Vietnam must issue a passport or other travel document in response to a request
23 from ICE. *See Trinh v. Homan*, 466 F. Supp. 3d 1077, 1083 (C.D. Cal. 2020).

24 26. Between the end of the Vietnam War and 2008, Vietnam refused to repatriate any
25 Vietnamese immigrant who had been ordered removed from the U.S. *See id.*
26
27
28

1 27. In 2008, Vietnam agreed to consider repatriation requests for Vietnamese
2 immigrants who had arrived in the U.S. after July 12, 1995, but not those who arrived before July
3 12, 1995. *See id.*

4 28. Between 2017 and 2019, ICE requested travel documents for pre-1995 Vietnamese
5 immigrants 251 times; Vietnam granted those requests only 18 times. *Id.* at 1087-88.

6 29. In November 2020, the U.S. and Vietnam signed a Memorandum of
7 Understanding (“MOU”) that creates a process for deporting pre-1995 immigrants.
8

9 30. Section 4 of the MOU obliges the U.S. and Vietnam to consider specific factors
10 prior to deciding to remove a Vietnamese citizen, and prior to deciding to accept for repatriation
11 a Vietnamese citizen.

12 31. These factors are not publicly known, because the U.S. government redacted them
13 in Freedom of Information Act (“FOIA”) disclosures of the MOU, yet they appear to dictate
14 which categories of people may be deported to Vietnam.

15 32. Under Section 8 of the MOU, if a person meets the designated criteria, ICE is
16 expected to put together a documentation package for Vietnam to include, inter alia, a self-
17 declaration form of the individual to be removed (using a form attached to the MOU), copies of
18 identity and citizenship documents, and copies of the final order of removal and any criminal
19 records.

20 33. Between September 2021 to September 2023, Vietnam issued travel documents to
21 only four pre-1995 Vietnamese immigrants whom ICE sought to deport.

22 34. The process to secure a travel document from Vietnam for a pre-1995 immigrant
23 is multilayered and lengthy, requiring interviews and verification by authorities in Vietnam. The
24 only known change has been ICE’s policy and practice of deporting individuals to third countries.

25 35. On June 23 and July 3, 2025, the Supreme Court issued a stay of a national class-
26 wide preliminary injunction issued in *D.V.D. v. U.S. Department of Homeland Security*, No. CV
27 25-10676-BEM, 2025 WL 1142968, at *1, 3 (D. Mass. Apr. 18, 2025), pending appeal, which
28

1 requires ICE to follow the statutory and constitutional requirements before removing an
2 individual to a third country. *U.S. Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025)
3 (mem.); *id.*, No. 24A1153, 2025 WL 1832186 (U.S. July 3, 2025).

4 36. On July 9, 2025, ICE issued a new memo to staff, instructing that ICE may deport
5 a person to a third country not designated on the removal order, without any procedures for notice
6 or an opportunity to be heard, if the State Department confirms that it has received diplomatic
7 assurances that individuals will not be persecuted or tortured.
8

9 37. If no diplomatic assurances are received, the memo instructs officers to serve on
10 the individual a Notice of Removal that includes the intended country of removal.

11 38. It tells officers not to ask whether the individual is afraid of removal to that country,
12 and states that officers should “generally wait at least 24 hours following service of the Notice of
13 Removal before effectuating removal.”

14 39. But states that “[i]n exigent circumstances, [ICE] may execute a removal order six
15 (6) or more hours after service of the Notice of Removal as long as the [noncitizen] is provided
16 reasonable means and opportunity to speak with an attorney prior to removal.”

17 40. The memo further instructs that if the noncitizen “does not affirmatively state a
18 fear of persecution or torture if removed to the country of removal listed on the Notice of Removal
19 within 24 hours, [ICE] may proceed with removal to the country identified on the notice.” If the
20 noncitizen “does affirmatively state a fear if removed to the country of removal,” then ICE will
21 refer the case to U.S. Citizenship and Immigration Services (“USCIS”) for a screening for
22 eligibility for withholding of removal and protection under the Convention Against Torture.

23 41. “USCIS will generally screen within 24 hours.” *Id.*

24 42. If USCIS determines that the [noncitizen] does not meet the standard, the
25 individual will be removed. *Id.* If USCIS determines that they have met the standard, then the
26 policy directs ICE to either move to reopen removal proceedings “for the sole purpose of
27

1 determining eligibility for [withholding of removal protection] and [Convention Against Torture
2 ('CAT')] or designate another country for removal." *Id.*

3 LEGAL BACKGROUND

4 **A. Due Process Governs Decisions to Revoke an Order of Supervision**

5
6 43. "The Due Process Clause applies to all persons within the United States, including
7 aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v.*
8 *Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from
9 government custody, detention, or other forms of physical restraint—lies at the heart of the liberty
10 that Clause protects." *Id.* at 690 (2001).

11
12 44. Under substantive due process doctrine, revocation of a noncitizen's order of
13 supervision is a restraint on liberty that is permissible only permissible if it serves a "legitimate
14 nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has
15 only recognized two legitimate objectives of immigration detention; preventing danger to the
16 community or preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (discussing
17 constitutional limitations on civil detention).

18
19 45. "Procedural due process imposes constraints on governmental decisions which
20 deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision.
21 *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental
22 requirement of [procedural] due process is the opportunity to be heard at a meaningful time and
23 in a meaningful manner." *Id.* at 333 (citation modified).

24 **B. Procedure for Revoking an Order of Supervision And Removal To Third** 25 **Countries Without Due Process**

1 46. A non-citizen with a final order of removal “who is not removed within the [90-
2 day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed
3 by the Attorney General.” 8 U.S.C. § 1231(a)(3) (titled “Supervision after 90-day period”).
4

5 47. A non-citizen may only be detained past the 90-day removal period following a
6 removal order if found to be “a risk to the community or unlikely to comply with the order of
7 removal” or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).
8

9 48. But even where initial detention past the 90-day removal period is authorized, if
10 “removal is not reasonably foreseeable, the court should hold continued detention unreasonable
11 and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and
12 should be conditioned on any of the various forms of supervised release that are appropriate in
13 the circumstances” *Zadvydas*, 533 U.S. at 699-700.
14

15 49. Regulations provide the following additional circumstances, beyond those listed
16 at § 1231(a)(6), that allow for the revocation of an order of supervision and re-detention of a non-
17 citizen: “(1) the purposes of release have been served; (2) the alien violates any condition of
18 release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any
19 other circumstance, indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2);
20 *see also id.* § 241.13(i) (permitting revocation of an order of supervision only if a non-citizen
21 “violates any of the conditions of release”).
22

23 50. Because “[r]egulations cannot circumvent the plain text of the statute[,]” these
24 regulations are *ultra vires* of statutory authority. *See, e.g., You v. Nielsen*, 321 F. Supp. 3d. 451,
25 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention
26 past the removal period only if person is a risk to the community, unlikely to comply with the
27 order of removal, or was ordered removed on specified grounds).
28

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

14
15
16 52. Upon revocation of an order of supervision, ICE must give a non-citizen notice of
17 the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(l)(1).

18 **C. Removal To Third Countries Without Due Process**

19
20 53. To remove a foreign national to a third country, the INA requires that the Attorney
21 General—by an through a delegate, such as an immigration judge—first determine that it is
22 “impracticable, inadvisable, or impossible” to remove Petitioner to Vietnam and that the
23 designated third country “will accept [Petitioner] into that country.” 8 U.S.C. §
24 1231(b)(2)(E)(vii); *see Himri v. Ashcroft*, 378 F.3d 932, 939 n. 4 (9th Cir. 2004) (8 U.S.C. §
25 1231(b)(E)(vii) “indisputably requires the Attorney General to prove that the proposed country
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1 of removal is willing to accept the alien”); *see also Jama v. Immigr. & Customs Enf’t*, 543 U.S.
2 335, 344 (2005).

3 54. The statute delegates the authority to the Attorney General, not DHS. 8 U.S.C. §
4 1231(b)(2)(E)(vii) (“the Attorney General shall remove the alien to. . .”); *see also* 8 C.F.R. §
5 1240.10(f) (in removal proceedings the immigration judge “shall. . . identify for the record a
6 country, or countries in the alternative, to which the alien’s removal may be made”).
7

8 55. In order to remove a foreign national to a third country, the Attorney General
9 would need to move to reopen removal proceedings to designate a third country for removal under
10 the statutory process. *See, e.g., Sadychov v. Holder*, 565 F. App’x 648, 651 (9th Cir. 2014)
11 (unpublished) (holding that should a new country of removal be designated, “the agency must
12 provide [the noncitizen] with notice and an opportunity to reopen his case for full adjudication of
13 his claim of withholding of removal from” the third country); *Aden v. Nielsen*, 409 F. Supp. 3d
14 998, 1009, 1011 (W.D. Wash. 2019) (finding that removal proceedings “shall be reopened and a
15 hearing shall be held before the immigration judge so that petitioner may apply for relief from
16 removal” as to a country not designated in prior proceedings).
17

18 56. Adherence to that process is necessary to ensure the foreign national has a statutory
19 right to claim protection in immigration court against removal to a third country where he may
20 be persecuted or tortured, a form of protection known as withholding of removal, 8 U.S.C.
21 § 1231(b)(3)(A); *see also* 8 C.F.R. §§ 208.16, 1208.16, as well as his right to claim deferral of
22 removal under CAT. *See* 28 C.F.R. § 200.1 (“A removal order. . . shall not be executed in
23 circumstances that would violate [the CAT]”); 8 C.F.R. §§ 208.17-18, 1208.17-1208.18.
24

25 57. At a minimum, Due Process guarantees meaningful notice of a third country
26 removal and an opportunity to respond. *See D.V.D.*, 145 S. Ct. at 2163 (Sotomayor, J., dissenting)
27
28

1 (“[t]he Fifth Amendment unambiguously guarantees that right” to notice of a third country
2 removal so that a noncitizen “learn[s] about it in time to seek an immigration judge’s review”).
3 Notice cannot be “last minute” because that would deprive an individual of a meaningful
4 opportunity to apply for fear-based protection from removal. *Andriasian v. INS*, 180 F.3d 1033,
5 1041 (9th Cir. 1999).
6

7 58. Individuals must have time to prepare and present relevant arguments and
8 evidence and to seek reopening of their removal case. “[W]ritten notice of the country being
9 designated” is required and “the statutory basis for the designation, i.e., the applicable subsection
10 of § 1231(b)(2)” must be specified. *Aden*, 409 F. Supp. 3d at 1019; *see also D.V.D. v. U.S. Dep’t*
11 *of Homeland Sec.*, No. 25-cv-10676-BEM, 2025 WL 1453640, at *1 (D. Mass. May 21, 2025)
12 (“All removals to third countries, *i.e.*, removal to a country other than the country or countries
13 designated during immigration proceedings as the country of removal on the non-citizen’s order
14 of removal, must be preceded by written notice to both the non-citizen and the non-citizen’s
15 counsel in a language the non-citizen can understand.” (internal citation omitted)); *Andriasian*,
16 180 F.3d at 1041 (due process requires notice to the noncitizen of the right to apply for asylum
17 and withholding to the country where they will be removed).
18

19
20 59. Due process also demands that the government “ask the noncitizen whether he or
21 she fears persecution or harm upon removal to the designated country and memorialize in writing
22 the noncitizen’s response. This requirement ensures DHS will obtain the necessary information
23 from the noncitizen to comply with § 1231(b)(3) and avoids [a dispute about what the officer and
24 noncitizen said].” *Aden*, 409 F. Supp. 3d at 1019.
25

26 60. Any unannounced attempt at a third country removal would violate these statutory
27 and constitutional procedural protections.
28

1 61. According to ICE’s July 7 guidance, individuals can be removed to third countries
2 “without the need for further procedures,” so long as “the [U.S.] has received diplomatic
3 assurances.”

4 62. The policy instructs officers to violate their statutory and constitutional
5 requirements.

6 63. The same is true of the minimal procedures ICE offers when no diplomatic
7 assurances are present.

8 64. The policy provides no meaningful notice (6-24 hours), instructs officers *not* to
9 ask about fear, and provides no actual opportunity to see counsel and prepare a fear-based claim
10 (6-24 hours), let alone reopen removal proceedings.

11 65. In sum, it directs ICE officers to violate the rights of those whom they seek to
12 subject to the third country removal program.

13 66. Several courts have recently granted individual TROs against removal to third
14 countries under similar circumstances. *See generally J.R. v. Bostock*, 25-cv-01161-JNW, 2025
15 WL 1810210 (W.D. Wash. Jun. 30, 2025) (immediately enjoining removal to “Cuba, Libya, or
16 any third country in the world absent prior approval from this Court”); *Phan*, 2025 WL 1993735,
17 at *7 (enjoining Respondents from “re-detaining or removing Petitioner to a third country without
18 notice and an opportunity to be heard”); *Hoac*, 2025 WL 1993771, at *7 (same); *Vaskanyan v.*
19 *Janecka*, 25-cv-01475-MRA-AS, 2025 WL 2014208 (C.D. Cal. Jun. 25, 2025); *Ortega v. Kaiser*,
20 25-cv-05259-JST, 2025 WL 1771438 (N.D. Cal. June 26, 2025).

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25 **D. The APA Sets Minimum Standards for Final Agency Action**

26 67. The Administrative Procedure Act authorizes judicial review of final agency
27 action. 5 U.S.C. § 704.

1 68. Final agency actions are those (1) that “mark the consummation of the agency’s
2 decisionmaking process[,]” and (2) “by which rights or obligations have been determined, or from
3 which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation
4 modified).

5
6 69. ICE’s decision to revoke the order of supervision without written notice prior to
7 re-detention is a final agency action subject to this Court’s review.

8 70. The re-detention here marked the consummation of ICE’s decisionmaking process
9 regarding Petitioner’s custody.

10
11 71. The re-detention was an action by which rights or obligations have been
12 determined or from which legal consequences flowed, because it led ICE to detain Petitioner in
13 violation of his rights under the Constitution, statute, and regulation.

14 **E. Agencies Must Follow Lawful Rules And Policy**

15 72. Under the *Accardi* doctrine, a foundational principle of administrative law,
16 agencies must follow their own procedures, rules, and instructions. See *United States ex rel.*
17 *Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where
18 the Board of Immigration Appeals failed to follow procedures governing deportation
19 proceedings); see also *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals
20 are affected, it is incumbent upon agencies to follow their own procedures . . . even where the
21 internal procedures are possibly more rigorous than otherwise would be required.”).

22
23 73. *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla*
24 *v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of
25 unpublished rules and instructions to agency officials. See *Morton v. Ruiz*, 415 U.S. 235
26 (affirming reversal of agency denial of public assistance made in violation of internal agency
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1 manual); *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to
2 admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

3 74. Where a release notification issued alongside an order of supervision instructs that
4 a non-citizen with a final order of removal will be given an opportunity to prepare for an “orderly
5 departure,” ICE’s failure to follow that instruction is an *Accardi* violation. See *Ceesay*, 781 F.
6 Supp. 3d at 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), *vacated and*
7 *remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008 (2d Cir. July 30, 2019);
8 *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering release of petitioners to give an
9 opportunity to prepare for orderly departure).
10
11

12 **CLAIMS FOR RELIEF**

13 **Count One**

14 **Violation of the Fifth Amendment of the U.S. Constitution**
15 **Substantive Due Process**

16 75. Petitioner realleges all paragraphs above as if fully set forth here.

17 76. The Due Process Clause of the Fifth Amendment Protects against punitive
18 detention and similar restrictions on a person’s liberty.

19 77. When ICE issued Petitioner an order of supervision, ICE found that he is neither
20 a danger to the community nor a flight risk.

21 78. ICE did not revoke Mr. Nguyễn’s OSUP prior to arresting him.

22 79. Mr. Nguyễn had complied with every condition of the order.

23 80. No change in circumstances warranted his re-detention.

24 81. Petitioner’s arrest and detention therefore did not bear a reasonable relationship to
25 the two recognized purposes of immigration detention: preventing danger to the community, or
26 flight prior to removal.
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1 giving notice and an opportunity to be heard. 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4(l)(2); *see*
2 *also id.* § 241.13(i).

3
4 89. Here, Respondents unlawfully detained Mr. Nguyễn in violation of law and all
5 procedural protections. The failure to follow the procedural safeguards led to the deprivation of
6 Mr. Nguyễn's liberty. Requiring Respondents to give notice and an opportunity for Petitioner to
7 respond prior to revoking an order of supervision was required.

8 90. The third factor, the government's interest, also favors Petitioner.

9
10 91. When the government ignores law that ensures notice and an opportunity to
11 respond to a person at risk of revocation of an order of supervision, it is more likely to waste
12 limited financial and administrative resources on unnecessary detention of people who are neither
13 flight risks nor dangerous, as is the case with Petitioner. And because the government must also
14 spend resources defending against a habeas corpus petition in federal court to compel
15 Respondents to comply with law, requiring Respondents to instead provide notice and a
16 meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and
17 administrative burdens on the government.
18

19 92. For these reasons, revoking Petitioner's order of supervision, without providing
20 notice and a meaningful opportunity to respond, violated procedural due process under the Fifth
21 Amendment to the U.S. Constitution.
22

23 **Count Three**
24 **Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B)**
25 **Contrary to Law and Constitutional Right**

26 93. Petitioner realleges all paragraphs above as if fully set forth here.
27
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1 94. Under the APA, a court shall “hold unlawful and set aside agency action . . . found
2 to be . . . not in accordance with law” or “contrary to constitutional right, power, privilege, or
3 immunity.” 5 U.S.C. § 706(2)(A), (B).

4 95. The APA’s reference to “law” in the phrase “not in accordance with law,” “means,
5 of course, *any* law, and not merely those laws that the agency itself is charged with administering.”
6 *FCC v. NextWave Pers. Commc’ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

7 96. ICE failed to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 at the time
8 of Petitioner’s detention.

9 97. ICE never revoked Mr. Nguyễn’s OSUP prior to taking him into custody.

10 98. The agency did not in accordance with the INA and the governing regulations.

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13 **Count Four**
14 **Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)**
15 **Arbitrary and Capricious**

16 99. Petitioner realleges all paragraphs above as if fully set forth here.

17 100. Under the APA, a court shall “hold unlawful and set aside agency action . . . found
18 to be arbitrary [or] capricious.” 5 U.S.C. § 706(2)(A).

19 101. Respondents’ re-detention of Petitioner was arbitrary and capricious because it
20 violated statute, regulation, and the Constitution, as described above.

21 102. An agency decision that “runs counter to the evidence before the agency” is also
22 arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29,
23 43 (1983).

24 103. Respondents’ decision to re-detain Mr. Nguyễn’s ran counter to the evidence
25 before the agency that Petitioner would comply with a demand to appear for removal without
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1 detention. Petitioner has never violated the conditions of his order of supervision, and no new
2 facts or changed circumstances existed at the time of his re-detention.

3 104. ICE ignored its own prior findings and failed to consider Mr. Nguyễn's
4 compliance with the terms of his release.

5 105. Respondents "failed to consider important aspects of the problem" before
6 Respondents, making it arbitrary and capricious for multiple other reasons. *Dep't of Homeland*
7 *Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

8 106. First, Respondents failed to consider the serious constitutional concerns raised by
9 re-detaining Petitioner while under an order of supervision.

10 107. Second, Respondents failed to consider the governing regulations.

11 108. Third, Respondents failed to consider less punitive alternatives.

12 109. Fourth, Respondents failed to consider Petitioner's substantial reliance interest,
13 created by its instruction on Petitioner's release notification, the agency would give an
14 opportunity to arrange for an orderly departure once it obtained travel documents.

15 110. For these and other reasons, Respondents' revocation of Petitioner's order of
16 supervision was arbitrary and capricious and must be held unlawful and set aside.

17
18 **Count Five**
19 **Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C)**
20 **In Excess of Statutory Authority**

21 111. Petitioner realleges all paragraphs above as if fully set forth here.

22 112. Under the APA, a court shall "hold unlawful and set aside agency action . . . found
23 to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right."
24 5 U.S.C. § 706(2)(C).

1 113. “An agency . . . literally has no power to act—including under its regulations—
2 unless and until Congress authorizes it to do so by statute.” *FEC v. Cruz*, 596 U.S. 289, 301 (2022)
3 (internal quotation marks and citation omitted).
4

5 114. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period
6 for a person who is found to be a danger to the community, unlikely to comply with a removal
7 order, or whose removal order is on certain grounds specified in the statute. Even then, if removal
8 “is not reasonably foreseeable, the court should hold continued detention unreasonable and no
9 longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and should be
10 conditioned on any of the various forms of supervised release that are appropriate in the
11 circumstances” *Zadvydas*, 533 U.S. at 699-700.
12

13 115. Regulations that purport to give Respondents authority to revoke an order of
14 supervision on grounds other than those listed in § 1231(a)(6) are *ultra vires* and in excess of
15 statutory authority, because “[r]egulations cannot circumvent the plain text of the statute.” *You*,
16 321 F. Supp. 3d. at 463.
17

18 116. Respondents’ revocation of Petitioner’s order of supervision was based on *ultra*
19 *vires* regulations and actions taken in excess of legal authority.
20

21 **Count Six**
Ultra Vires Action

22 117. Petitioner realleges all paragraphs above as if fully set forth here.

23 118. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that
24 violated agency procedures, rules, or instructions. *See Accardi*, 347 U.S. at 260 (“If petitioner can
25 prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new
26 hearing”).
27
28

1 119. Respondents violated agency regulations governing who and upon what findings
2 may properly revoke an order of supervision. “As a result, this Court cannot conclude that [the
3 revoking officer] had the authority to revoke release[,]” and Petitioner “is entitled to release on
4 that basis alone.” *Ceesay*, 781 F. Supp. 3d at 162 (citing *Rombot*, 296 F. Supp. 3d at 386-89); see
5 also, e.g., *Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025
6 WL 2430267 (D. Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE
7 order of supervision was ordered by someone without regulatory authority to do so).
8

9 120. Respondents also violated agency instructions in Petitioner’s release notification
10 to give an opportunity to prepare for an orderly departure when they revoked Petitioner’s order
11 without advance notice.
12

13 121. Under *Accardi*, Respondents’ decision to ignore instructions in the OSUP and
14 regulations should be set aside.
15

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioner requests that this Court:

- 18 A. Exercise jurisdiction over this matter;
- 19 B. Enjoin Petitioner’s removal or transfer outside the jurisdiction of this Court and
20 the United States pending its adjudication of this petition;
- 21 C. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth
22 Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;
- 23 D. Order Petitioner’s immediate release;
- 24 E. Award Petitioner costs and reasonable attorney’s fees; and
- 25 F. Grant such other relief as this Court may deem just and proper.
26
27
28

1 October 29, 2025

Respectfully Submitted,

2 /s/Jesse M. Bless

3 Jesse M. Bless

4 MA Bar No. 660713

Bless Litigation LLC

5 6 Vineyard Lane

Georgetown MA 01833

6 781.704.3897

7 jesse@blesslitigation.com

8 *Admitted Pro Hac Vice*

Attorney for Petitioner

9
10 **28 U.S.C. § 2242 VERIFICATION STATEMENT**

11 I am submitting this verification on behalf of the Petitioner because I am the Petitioner's
12 attorney. On the basis of documents, discussions with Petitioner's counsel, and Petitioner's
13 family, I hereby verify that the statements made in this Petition and Complaint are true and correct
14 to the best of my knowledge.

15 /s/Jesse M. Bless

16 Jesse M. Bless

17 MA Bar No. 660713

Bless Litigation LLC

18 6 Vineyard Lane

Georgetown MA 01833

19 781.704.3897

20 jesse@blesslitigation.com

21 *Admitted Pro Hac Vice*

Attorney for Petitioner

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the District of Arizona.

The completed cover sheet must be printed directly to PDF and filed as an attachment to the Complaint or Notice of Removal.

Plaintiff(s): **Quoc Huy Nguyen , ;**

Defendant(s):

Gregory J. Archambeault , in his official capacity as Field Office Director, San Diego Field Office, U.S. Immigration and Customs Enforcement; David R. Rivas , in his official capacity as Warden, San Luis Regional Detention Center; United States Department of Homeland Security , ; United States Immigration and Customs Enforcement , ;

County of Residence: Yuma

County of Residence: Outside the State of Arizona

County Where Claim For Relief Arose: Yuma

Plaintiff's Atty(s):

Defendant's Atty(s):

Jesse M. Bless ,
Bless Litigation LLC
6 Vineyard Lane
Georgetown, MA 01833
781-704-3897

IFP REQUESTED

REMOVAL FROM COUNTY, CASE #

II. Basis of Jurisdiction:

2. U.S. Government Defendant

III. Citizenship of Principal Parties(Diversity Cases Only)

Plaintiff:-

N/A

Defendant:-

N/A

IV. Origin :

1. Original Proceeding

V. Nature of Suit:

463 Alien Detainee

VI.Cause of Action:

28:2241 Petition for Writ of Habeas Corpus (Federal)

VII. Requested in Complaint

Class Action:

No

Dollar Demand:

0

Jury Demand:

No

VIII. This case is not related to another case.

Signature: /s/ Jesse M. Bless

Date: 10/29/2025

If any of this information is incorrect, please go back to the Civil Cover Sheet Input form using the *Back* button in your browser and change it. Once correct, save this form as a PDF and include it as an attachment to your case opening documents.