

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

KETKEO HENDERSON,

Petitioner,

v.

KRISTI NOEM, Secretary of the
Department of Homeland Security;

PAMELA BONDI, Attorney General of
The United States;

TODD M. LYONS, Acting Director of
U.S. Immigration and Customs Enforcement;

MARY DE ANDA-YBARRA, El Paso Field
Office Director, U.S. Immigration and Customs
Enforcement; and

WARDEN of ERO El Paso Camp East
Montana.

Respondents.

Civil Action No: 3:25-cv-521

**VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241 AND REQUEST FOR ORDER TO SHOW CAUSE**

INTRODUCTION

1. This habeas corpus petition challenges the unlawful detention of KETKEO HENDERSON ("Petitioner" or "Henderson"), who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the ERO El Paso Camp East Montana detention facility located in El Paso, Texas.

2. Henderson is a fifty-five-year-old native and citizen of Laos who has lived in the United States for more than forty-five years—since she arrived as a 10-year child refugee in approximately 1980. For nearly two decades, Henderson lived lawfully in the community under an Order of Supervision (OSUP) issued by U.S. Immigration and Customs Enforcement (“ICE”) following a final order of removal entered on February 3, 2005. During that time, she demonstrated unwavering compliance with all reporting requirements, worked continuously, raised three U.S. citizen children and four grandchildren, married her long-time U.S. citizen partner, and served as the primary caregiver to her medically fragile sister.

3. On August 6, 2025, ICE abruptly and without warning revoked Ms. Henderson’s long-standing Order of Supervision and took her into custody at her routine check-in, despite twenty years of full compliance, deep family and community ties, and severe ongoing health conditions—including a history of leiomyosarcoma, a rare and aggressive gynecological cancer requiring continuous medical surveillance. ICE has not alleged that Henderson poses any danger to the community or risk of flight, nor has it demonstrated that her removal to Laos, which has been impossible since 2005, is reasonably foreseeable.

4. Henderson is currently detained at the ERO El Paso Camp East Montana detention facility in El Paso, Texas. *See, U.S. DHS Online Detainee Locator attached as Exhibit A.*

5. Henderson’s re-detention is arbitrary, punitive, and unlawful under the Immigration and Nationality Act (INA), 8 U.S.C. § 1231(a)(6), violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution. Her prolonged and unnecessary detention directly contravenes the constitutional and statutory principles set forth in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, which forbid indefinite detention absent a significant likelihood of removal in the reasonably foreseeable future.

6. Based on the foregoing, Henderson respectfully petitions this Court to issue a writ of habeas corpus ordering her immediate release from custody. After two decades of full compliance and rehabilitation, her continued detention serves no legitimate governmental purpose, jeopardizes her health, and offends fundamental notions of fairness and due process.

JURISDICTION

7. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952 ("INA"), 8 U.S.C. § 1101 *et seq.*

8. This Court has subject matter jurisdiction over this petition for writ of habeas corpus under 28 U.S.C. § 2241 (habeas corpus authority); U.S. Const. art. 1, § 9, cl. 2. (Suspension Clause), 28 U.S.C. § 1331 (federal question); U.S. Const. amend. V (the Due Process Clause of the U.S. Constitution).

9. This Court may grant relief under the habeas corpus statute, 28 U.S.C. § 2241, the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*

10. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging both the lawfulness and the constitutionality of their detention. *See, Demore v. Kim*, 538 U.S. 510, 516-517 (2003) (recognizing jurisdiction to grant habeas corpus relief to noncitizens challenging their detention); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Tran v. Mukasey*, 515 F.3d 478 (5th Cir. 2008).

VENUE

11. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1), because at least one Respondent resides in the District, a substantial part of the events or omissions giving rise to the claim occurred in this District, Petitioner is detained in this District, and there is no real

property involved in this action, and at least one Respondent is an officer or employee of the United States or any agency acting in their official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

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

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

PARTIES

14. Petitioner, **Ms. Ketkeo Henderson**, is a 55-year-old native and citizen of Laos, who has resided in the United States since her entry on or about 1980 as a refugee, when she was approximately 10 years old. Prior to Respondent's revocation of Petitioner's Order of Supervision and detention on or about August 6, 2025, she was residing in Murfreesboro, Tennessee. Petitioner is currently in the physical and legal custody of Respondents at the ERO El Paso Camp East Montana detention facility located in El Paso, Texas.

15. Respondent **Kristi Noem** is the Secretary of the United States Department of Homeland Security ("DHS"). In that capacity, she exercises ultimate control and supervisory authority over all components and personnel of DHS, including U.S. Immigration and Customs

Enforcement ("ICE"). She is responsible for the administration and enforcement of the nation's immigration laws pursuant to 8 U.S.C. § 1103(a). Accordingly, she is the Petitioner's ultimate legal custodian, as Petitioner's detention is maintained under DHS authority.

16. Respondent **Pamela Bondi** is the Attorney General of the United States. In that capacity, she administers the Department of Justice ("DOJ"), including the Executive Office for Immigration Review ("EOIR"), the Board of Immigration Appeals ("BIA"), and the Immigration Courts. She is responsible for the administration and enforcement of the nation's immigration laws pursuant to 8 U.S.C. § 1103(g). Accordingly, she is one of Petitioner's legal custodians.

17. Respondent **Todd M. Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), a component agency within DHS. In that capacity, he exercises authority over ICE operations nationwide, including enforcement, detention, and removal functions. Accordingly, he is one of Petitioner's legal custodians, as he has direct oversight of the agency responsible for Petitioner's custody.

18. Respondent **Mary De Anda-Ybarra** is the El Paso Field Office Director for U.S. Immigration and Customs Enforcement ("ICE"), which has jurisdiction over the ERO El Paso Camp East Montana facility where Petitioner is detained. In that capacity, she exercises day-to-day supervisory authority over custody determinations and the conditions of detention within her jurisdiction. Accordingly, she is a proper Respondent as one of Petitioner's legal custodians.

19. Respondent, **Warden**, is sued in his/her official capacity as the Warden of the ERO El Paso Camp East Montana detention facility, where Petitioner is currently detained.

20. All respondents are named in their official capacities. One or more of the respondents is Petitioner's immediate custodian.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

21. Petitioner reserves the right to amend and supplement this Statement of Facts upon receipt of her complete immigration and agency files from her pending Freedom of Information Act (FOIA) requests before USCIS and EOIR.

22. Petitioner Ketkeo Henderson ("Henderson") is a native and citizen of Laos. She was born on  1970, and is currently fifty-five years old.

23. Henderson fled Laos with her mother and two older sisters, when she was approximately five years old, amid the political upheaval following the Vietnam War.

24. After spending several years in a refugee camp in Thailand, Henderson and her family resettled in the United States as refugees in or around 1980, when she was approximately ten years old.¹

25. Following her arrival in the United States, Henderson adjusted her status to that of a lawful permanent resident, a status she maintained until February 3, 2005, when she was ordered removed by the Oakdale Immigration Court.² **See, EOIR Automated Case Information attached as Exhibit B.**

26. When Henderson was fifteen years old, her mother passed away from cancer, leaving her older sisters to serve as her guardians.

27. Henderson has extensive and longstanding family and community ties in the United States.

¹ The exact date of entry into the U.S. and adjustment of status is currently unknown, as Respondent cannot recall the precise details due to her young age at the time of entry into the U.S. and because her application for adjustment of status was filed on her behalf as a minor. A Freedom of Information Act (FOIA) request is currently pending to obtain relevant records.

² *Id.*

28. Henderson is the mother of three U.S. citizen adult children: (1) **Tykell Henderson**, a daughter born on [REDACTED] 1993; (2) **Alani Kianta Hathaway**, a daughter born on [REDACTED] 1996; and (3) **Jaysileen Tynak Hathaway**, a son born on [REDACTED] 1998.

29. Henderson is also the grandmother of four U.S. citizen grandchildren.

30. Henderson is married to Mr. Rickey Latinos Haymer, Sr., a U.S. citizen with whom she has shared an eight-year relationship. They were legally married on July 9, 2025, in Tennessee.

31. Mr. Haymer is working on filing a Form I-130, Petition for Alien Relative, on behalf of Henderson, so that Henderson can apply for adjustment of status with a Form I-601, Application for Waiver of Grounds of Inadmissibility.

32. Henderson is the primary caregiver for her older sister, Ms. Deng Kanjanabout, who suffers from chronic medical conditions and limited mobility. Henderson assists her sister with transportation to medical appointments and grocery stores, meal preparation, daily activities, and provides emotional support.

33. Henderson's detention has caused profound emotional and financial distress to her husband, children, grandchildren, and sister, each of whom describe her as "the pillar of the family".

34. Henderson has not returned to Laos since she fled at age five and has no remaining family, contacts, or meaningful linguistic or cultural ties to that country. Henderson cannot read or write Laotian and communicates exclusively in English.

35. On December 12, 2002, Henderson was convicted under Tennessee Code § 39-14-103 in Rutherford County, Tennessee, and sentenced to six years (suspended all but 60 days), six years of probation, and restitution as determined by probation.

36. Henderson successfully completed all conditions of her sentence and probation. In the twenty-three years since her conviction, she has maintained a spotless record and has had no further contact with law enforcement, effectively demonstrating complete rehabilitation, stability, and good moral character.

37. As a result of her conviction, removal proceedings were initiated against Henderson, culminating in a final order of removal issued on February 3, 2005, by the Oakdale Immigration Court. *See, EOIR Automated Case Information attached as Exhibit B.*

38. Following the entry of her removal order, ICE released Henderson from custody under an Order of Supervision (OSUP) requiring her to report annually to ICE.

39. Since her OSUP release, Henderson has faithfully complied with every condition of her Order of Supervision for approximately twenty years.

40. Since her release, Henderson has dedicated her life to her family, including her three children, four grandchildren, and husband. She has been consistently employed as a nail technician and has established a loyal clientele. Despite her medical challenges, she has remained productive and self-sufficient.

41. Henderson has been lawfully employed at Nails So Happy as a nail technician since 2018. Her employer, Mr. Duy Dang, describes her as consistently demonstrating "dedication, professionalism, and integrity in her work" and notes that she is often the first to arrive, the last to leave, and is held in the highest esteem by her clients.

42. Henderson has a documented history of leiomyosarcoma, a rare and aggressive gynecological cancer.

43. Henderson's treating oncologist, Dr. Michael Stany of Tennessee Oncology, confirms that Henderson requires ongoing surveillance and follow-up testing every three months

in accordance with the National Comprehensive Cancer Network (NCCN) guidelines to monitor for recurrence or metastasis.

44. Although Henderson's cancer is currently stable, she remains under continuous medical monitoring and is considered at ongoing risk for recurrence. Her next follow-up oncology appointment is scheduled for November 14, 2025.

45. Henderson also suffers from the following chronic medical conditions, including Type 2 diabetes mellitus (insulin-dependent); hypertension; hyperlipidemia; hypothyroidism; urticaria, and osteoarthritis.

46. Henderson's medicine regimen includes: (1) Jardiance 10 mg (diabetes); (2) 1600 Lantus Solostar injection (insulin); (3) Levothyroxine 75 mcg (hypothyroidism); (4) Losartan 25 mg (hypertension); (5) Atorvastatin (high cholesterol).³

47. While detained, Henderson's access to specialized medical care and consistent medication management has been severely disrupted, placing her at grave medical risk.

48. On August 6, 2025, Henderson reported for her routine ICE check-in in Tennessee, where she was taken into custody without prior notice.

49. Henderson was subsequently transferred to the South Louisiana ICE Processing Center in Basile, Louisiana.

50. On October 22, 2025, through Counsel, Henderson submitted an Urgent OSUP Request to ICE seeking to be released based on humanitarian and health-related grounds. On October 29, 2025, Assistant Field Office Director Charles G. Ward denied the request.

51. On or about November 2, 2025, Henderson was transferred to the ERO El Paso Camp East Montana facility in El Paso, Texas, where she remains detained.

³ *Id.*

52. ICE has been unable to remove Henderson to Laos since 2005.

53. Given these facts, Henderson's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a)(6), and the constitutional principles articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001). Despite her two decades of full compliance under supervision, her advanced age, medical vulnerability, and deep community ties, ICE has arbitrarily revoked her Order of Supervision and re-detained her without justification. Her ongoing detention serves no legitimate governmental purpose, contravenes due process, and warrants immediate judicial intervention.

54. This petition followed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

55. There is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. *See* 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) (“Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal.”).

56. The Supreme Court has recognized that exhaustion is not required where a plaintiff “may suffer irreparable harm if unable to secure immediate judicial consideration of her claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case here, where Henderson raises constitutional and statutory claims that the agency cannot redress, and where each day that passes is one in which she is being unconstitutionally deprived of her liberty.

57. Even if the Court were to consider requiring exhaustion as a prudential matter, further action with the agency is unnecessary when pursuing administrative remedies would be futile or the agency has predetermined a dispositive issue. *McCarthy v. Madigan*, 503 U.S. 144, 147-48 (1992) (holding that an administrative remedy is inadequate when it “lacks institutional

competence to resolve the particular type of issue presented, such as the constitutionality of a statute” or where the “challenge is to the adequacy of the agency procedure itself”).

58. Petitioner has a administratively final order of removal entered on February 3, 2005 with no remedies to exhaust. Accordingly, habeas corpus is an appropriate avenue to vindicate her constitutional, statutory, and regulatory rights and restore her liberty.

LEGAL FRAMEWORK

DUE PROCESS GOVERNS DECISIONS TO REVOKE AN ORDER OF SUPERVISION

59. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "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." *Id.* at 690 (2001). Indefinite detention, in particular, raises a "serious constitutional problem" and violates the Due Process Clause. *Id.* at 689-90.

60. The Due Process Clause requires that the deprivation of Petitioner's liberty must be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest").

61. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement

of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

**STATUTE AND REGULATION GOVERN PROCEDURES FOR
REVOKING AN ORDER OF SUPERVISION**

62. Section 1231 of Title 8 of the U.S. Code governs the detention and removal of individuals who have been ordered removed.

63. Once a noncitizen is subject to a legally final and executable order of removal, the government is required to remove them "within a period of 90 days . . . referred to as the 'removal period.'" 8 U.S.C. § 1231(a)(1)(A); *see also id.* § 1231(a)(1)(B) (listing the circumstances that trigger the beginning of the removal period). Detention is mandatory during the removal period. *See id.* § 1231(a)(2).

64. A noncitizen 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").

65. A noncitizen may only be detained beyond the 90-day removal period following the entry of a final order of removal if they are found to pose a "risk to the community or are unlikely to comply with the order of removal", or if the removal order was issued on specified statutory grounds. *See* 8 U.S.C. § 1231(a)(6). Detention beyond the removal period is therefore permissible only under narrowly defined circumstances. *See id.*; 8 C.F.R. § 241.4 (authorizing continued detention only when DHS determines that the noncitizen presents a danger to the community or a flight risk).

66. The government's post-removal period discretionary detention authority under 8 U.S.C. § 1231(a)(6) is strictly limited by statute and the Constitution. In *Zadvydas v. Davis*, the Supreme Court construed Section 1231(a)(6) to contain an "implicit 'reasonable time' limitation"

in light of the "serious constitutional problem" raised by potentially indefinite civil detention. 533 U.S. at 682, 690. Even where initial detention beyond the 90-day removal period is permissible, 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" *Zadvydas v. Davis*, 533 U.S. 678, 699-700. (emphasis added)

67. 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(l)(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).

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 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 intends 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).

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 to the reasons for revocation stated in the notification. 8 C.F.R. § 241.4(l)(1).

THE APA SETS MINIMUM STANDARDS FOR FINAL AGENCY ACTION

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

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

72. ICE’s revocation of an Order of Supervision is a final agency action subject to this Court’s review.

73. The revocation here marked the consummation of ICE’s decision-making process regarding Petitioner’s custody.

74. The revocation was also an action by which rights or obligations have been determined or from which legal consequences flowed because it led ICE to detain Petitioner in violation of her rights under the Constitution, statute, and regulation.

**THE *ACCARDI* DOCTRINE REQUIRES AGENCIES TO
FOLLOW INTERNAL RULES**

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

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

77. Where a release notification issued alongside an Order of Supervision instructs that a non-citizen with a final order of removal will be given an opportunity to prepare for an “orderly departure,” ICE’s failure to follow that instruction is an *Accardi* violation. See *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), *vacated and remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008 (2d

Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering release of petitioners to give an opportunity to prepare for orderly departure).

CLAIMS FOR RELIEF

CLAIM ONE

**VIOLATION OF THE SUBSTANTIVE DUE PROCESS PROTECTIONS
OF THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION**

78. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

79. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint "lies at the heart of the liberty that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690.

80. Petitioner's detention is governed by the post-removal order detention statute, 8 U.S.C. § 1231(a), because she has been subject to a final order of removal since February 3, 2005.

81. The U.S. government did not remove Petitioner during the 90-day removal period, and she was subsequently released under an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3). In issuing the Order of Supervision, ICE necessarily determined that Petitioner poses neither a danger to the community nor a flight risk.

82. Petitioner has remained under an Order of Supervision for approximately twenty years, during which she fully and faithfully complied with every condition imposed. Respondents nevertheless revoked the Order of Supervision taking her into custody at her August 6, 2025 ICE

check-in despite her unbroken record of compliance and without any change in circumstances to justify such action.

83. To comply with the Due Process Clause, detention must always bear "some reasonable relation to the purpose for which the individual was committed." *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 241 (5th Cir. 2018)

84. The only legitimate purpose, consistent with due process, for federal civil immigration detention is to prevent flight risk and ensure the detained person's attendance for a legal hearing adjudicating their status or potential removal, or to otherwise ensure the safety of the community. *Zadvydas*, 533 U.S. at 690-91.

85. The Due Process Clause requires that any deprivation of liberty be narrowly tailored to serve a compelling government interest. *See Reno v. Flores*, 507 U.S. 292, 301-02 (1993) (holding that due process "forbids the government to infringe certain 'fundamental' liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest"); *Demore*, 538 U.S. at 528 (applying a less rigorous standard for "deportable [noncitizens]").

86. Here, Henderson's re-detention bears no reasonable relationship to any legitimate purpose. Henderson has lived under an Order of Supervision for approximately twenty years and has consistently complied with every condition imposed. During that time, the government has been unable to effectuate her removal. Henderson has had no further encounters with law enforcement, has maintained steady employment, receives medical care, and has deep family and community ties in the United States. Her long history of compliance demonstrates conclusive that she poses neither a flight risk nor a danger to public safety. Accordingly, Henderson's continued detention is arbitrary and unsupported by the statutory purposes of immigration detention:

preventing danger to the community or flight prior to removal. Detention is constitutional only when it serves a lawful and legitimate purpose; here, it serves none.

87. Because Respondents 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 and is causing Henderson substantial and irreparable harm.

CLAIM TWO

VIOLATION OF THE PROCEDURAL DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE U.S. CONSTITUTION

88. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

89. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), instructs courts to balance three factors in determining whether procedural due process has been satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements would entail.

90. The first factor, the private interest at issue, strongly favors Petitioner. "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.

91. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, also weighs heavily in Petitioner's favor. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an Order of

Supervision can be revoked. Regulations 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. Respondents ignored these statutory and regulatory requirements, rendering the risk of erroneous deprivation of liberty not merely high but inevitable. Requiring Respondents to provide notice and an opportunity to respond before revoking an Order of Supervision is of great value, because it reduces the risk of wrongful detention, particularly for individuals like Petitioner, who are neither dangerous nor flight risks

92. The third factor, the government's interest, likewise favors Petitioner. When the government disregards the legal requirements of notice and an opportunity to be heard before revoking an Order of Supervision, it expends scarce financial and administrative resources on the unnecessary detention of individuals who are neither flight risks nor dangers to the community. Such arbitrary action undermines, rather than advances, the efficiency and integrity of the immigration system. Moreover, by forcing detainees to seek judicial intervention through habeas corpus proceedings, the government further burdens itself with avoidable litigation. Ensuring notice and a meaningful opportunity to respond prior to revocation would, in contrast, conserve governmental resources and promote lawful and efficient enforcement.

93. 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.

CLAIM THREE

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A), (B)
CONTRARY TO LAW AND CONSTITUTIONAL RIGHT**

94. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

95. The Administrative Procedure Act ("APA") provides that a reviewing court shall "hold unlawful and set aside agency action" that is ". . . otherwise not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity". 5 U.S.C. § 706(2)(A), (B).

96. The Supreme Court has clarified that the APA's reference to "law" in the phrase "not in accordance with law," "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *FCC v. NextWave Pers. Commc'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

97. Respondents' revocation of Petitioner's Order of Supervision was both unconstitutional and unlawful. As detailed in the Statutory Framework above, the revocation violated the Fifth Amendment Due Process Clause and contravened the Immigration and Nationality Act ("INA") and its implementing regulations which strictly define who may lawfully revoke an Order of Supervision and under what circumstances.

98. 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.

99. Before revoking the order, Respondents failed to make findings that Petitioner was either a danger to the community or unlikely to comply with a removal order, as required by statute.

100. Even assuming the validity of regulations purporting to provide additional justifications for revocation of an Order of Supervision, Respondents did not comply with them. Respondents could not make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because she had not. Nor could

Respondents make findings that the purposes of release had been served or that it was appropriate to enforce a removal order, because it had yet to make final arrangements for Petitioner's removal.

101. Respondents also failed to provide Petitioner with notice of the reasons for revocation and an opportunity to be heard prior to her re-detention.

102. For these reasons, the revocation of Petitioner's Order of Supervision was contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations. Accordingly, it must be held unlawful and set aside.

CLAIM FOUR

VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(A) ARBITRARY AND CAPRICIOUS

103. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

104. Under the Administrative Procedure Act ("APA"), a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A).

105. An agency action is arbitrary and capricious when it "runs counter to the evidence before the agency". *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

106. Respondents' revocation of Petitioner's Order of Supervision was arbitrary and capricious because it violated statute, regulation, and the Constitution, as set forth above.

107. Respondents' decision to revoke Petitioner's Order of Supervision ran directly counter to the evidence before the agency that Petitioner would comply with a demand to appear for removal without detention. Petitioner has never violated a condition of her Order of Supervision, and no new facts or changed circumstances suggest she would fail to comply with a removal demand if issued.

108. Respondents further “failed to consider important aspects of the problem,” rendering the revocation arbitrary and capricious for multiple other reasons. *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

109. First, Respondents failed to consider the serious constitutional concerns raised by revoking Petitioner’s Order of Supervision without notice and an opportunity to respond.

110. Second, Respondents failed to consider the substantial fiscal and administrative burden to the agency caused by detaining a person who poses no risk of flight or danger to the community and for whom the agency lacks the travel documents necessary to effectuate removal. Such unnecessary detention drains limited resources and diverts them from legitimate enforcement priorities.

111. Third, Respondents failed to consider reasonable and less burdensome alternatives that were available, such as continuing release under the Order of Supervision and setting a future time and date to appear for removal. This alternative would have advanced the government’s interest in effectuating a removal order without resorting to the Petitioner’s unlawful detention.

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

113. For these and other reasons, Respondents’ revocation of Petitioner’s Order of Supervision was arbitrary, capricious, and not in accordance with law, and should be held unlawful and set aside under 5 U.S.C. § 706(2)(A).

CLAIM FIVE

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT, 5 U.S.C. § 706(2)(C)
IN EXCESS OF STATUTORY AUTHORITY**

114. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

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

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

117. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, 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 . . ." *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

118. Regulations that purport to give Respondents authority to revoke an Order of Supervision on grounds other than those listed § 1231(a)(6) are ultra vires and in excess of statutory authority because "[r]egulations cannot circumvent the plain text of the statute." *You v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018)

119. Respondents' revocation of Petitioner's Order of Supervision relied on regulations that are *ultra vires*. Accordingly, the revocation was in excess of statutory authority and must be held unlawful and set aside.

CLAIM SIX

VIOLATION OF THE *ACCARDI* DOCTRINE

120. Petitioner realleges and incorporates by reference each and every allegation set forth above as though fully set forth herein.

121. Under the *Accardi* doctrine, Petitioner 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").

122. Respondents violated agency regulations governing who and upon what findings it may properly revoke an Order of Supervision when it revoked Petitioner's order. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Petitioner "is entitled to release on that basis alone." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); *see also, e.g., Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE Order of Supervision was ordered by someone without regulatory authority to do so).

123. Respondents also violated agency instructions in Petitioner's release notification to give an opportunity to prepare for an orderly departure when they revoked Petitioner's Order of Supervision without advance notice.

124. Under *Accardi*, Respondents' revocation of the Order of Supervision and decision to ignore instructions in the release notification should be set aside for violating agency procedures, rules, or instructions.

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PRAYER FOR RELIEF

WHEREFORE, Petitioner, Ms. Ketkeo Henderson, respectfully requests that this Honorable Court grant the following relief.

- A. Exercise jurisdiction over this matter;
- B. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, ordering Respondents to show cause why this Petition should not be granted within three days;
- C. Enjoin Petitioner's removal from the United States and transfer outside the Western District of Texas during the pendency of this action;
- D. Declare that Petitioner's detention violate the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;
- E. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from ICE custody;
- F. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA) and on any other basis justified under law; and
- G. Grant such other and further relief this Court deems just and proper.

Dated: November 4, 2025

Respectfully submitted,

/s/ Veronica Semino
Veronica Semino, Esq.†
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Attorneys for Petitioner
†Admitted in Florida only; working
remotely from Texas.

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Ketkeo Henderson, and submit this verification on her behalf. I hereby verify under penalty of perjury that the factual statements made in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 4, 2025

Respectfully submitted,

/s/ Veronica Semino

Veronica Semino, Esq.†

SEMINO LAW, P.A.

P.O. Box 944

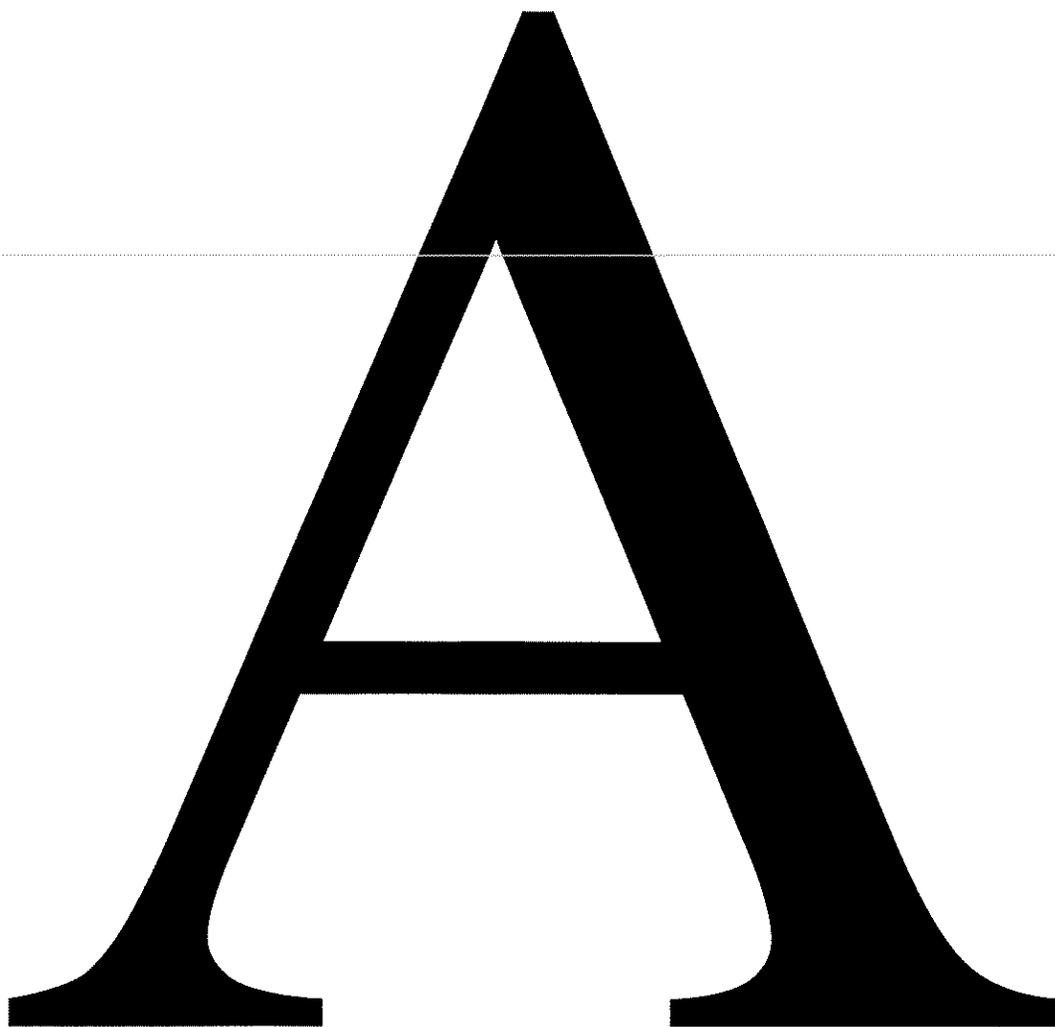
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remotely from Texas.*





Main Menu

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Facility Page

Detention Information For:

KETKEO HENDERSON
Country of Birth: Laos
A-Number: 

Current Detention Facility:

ERO EL PASO CAMP EAST MONTANA

6920 Digital Road

NA

El Paso, TX 79936

Visitor Information: (915) 208-0980

[MORE INFORMATION >](#)

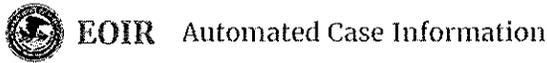
ERO Office Information

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

ERO - Oakdale, LA Sub-Office,

Phone Number: (318) 335-7500

B



Court Closures Today October 30, 2025

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.

[Home](#) > HENDERSON, KETKEO 



Automated Case Information

Name: HENDERSON, KETKEO | A-Number: 

Next Hearing Information



There are no future hearings for this case.

Court Decision and Motion Information

The immigration judge ordered **REMOVAL**.

DECISION DATE

February 3, 2005

COURT ADDRESS

1900 EAST WHATLEY ROAD
OAKDALE, LA 71463

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS

1900 E. WHATLEY RD. POBOX 750
OAKDALE, LA 71463

PHONE NUMBER