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*Attorney for Petitioner*  
Carlos Yaser Barakat

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Carlos Yaser Barakat,  
  
Petitioner-Plaintiff,  
  
v.  
  
Unknown Individual #1, Warden at Eloy  
Detention Center;  
  
Unknown Individual #2, Field Office  
Director, Phoenix Field Office, U.S.  
Immigrations and Customs Enforcement,  
U.S. Department of Homeland Security;  
  
Todd Lyons, Acting Director,  
Immigration and Customs Enforcement,  
U.S. Department of Homeland Security;  
  
Kristi Noem, Secretary, U.S. Department  
of Homeland Security;  
  
Pamela Bondi, Attorney General of the  
United States  
  

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Respondents-Defendants.

Case No. TBD

**PETITION FOR WRIT OF  
HABEAS CORPUS AND  
COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

Challenge to Unlawful Incarceration  
Under Color of Immigration Detention  
Statutes; Request for Declaratory and  
Injunctive Relief

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3 **INTRODUCTION**

4 1. Petitioner, Carlos Yaser Barakat (“Mr. Barakat”), by and through his  
5 undersigned counsel, hereby files this petition for habeas corpus and complaint for  
6 declaratory and injunctive relief to compel his immediate release from immigration  
7 detention, where he has been held by the U.S. Department of Homeland Security  
8 (“DHS”) since being unlawfully re-detained on June 27, 2025 without a hearing receiving  
9 a due process hearing to determine whether his detention is justified. As a Syrian who  
10 has lived in the United States since May 2023, and who has been reporting regularly to  
11 Immigration and Customs Enforcement (“ICE”) since his release from detention on July  
12 25, 2023, Mr. Barakat’s re-detention by ICE must be held unlawful because it is limitless  
13 in duration. Thus, Mr. Barakat’s detention is both unconstitutional because it is indefinite,  
14 and illegal because he was never provided with a pre-deprivation hearing before his  
15 recent detention by ICE.  
16

17  
18 2. Mr. Barakat has lived in the United States since May 2023, after presenting  
19 himself to immigration authorities and expressing fear of return to Syria due to his  
20 Christian faith. While he was detained, Mr. Barakat was provided with a Credible Fear  
21 Interview by an asylum officer. On information and belief, Mr. Barkat did not pass this  
22 screening interview. Mr. Barakat did not have legal representation and attended a hearing  
23 before an Immigration Judge who reviewed the results of the Credible Fear Interview and  
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1 affirmed them. At that time, he could not be repatriated to Syria due to the suspension of  
2 diplomatic relations between the U.S. and Syria from 2012 to the present.<sup>1</sup>  
3

4 3. ICE released Mr. Barakat from detention on or about July 25, 2023, and  
5 placed him on a Form I-220B, Order of Supervision (“OSUP”), which permitted him to  
6 remain free from custody following his removal proceedings because his removal is not  
7 reasonably foreseeable and he is otherwise neither a flight risk nor a danger to the  
8 community. The OSUP also required him to attend regular check-in appointments with  
9 ICE Enforcement and Removal Operations and permitted him to apply for work  
10 authorization. 8 C.F.R. § 241.5.  
11

12 4. Since his release from ICE detention in July 2023, Mr. Barakat has made  
13 every effort to comply with the terms of the OSUP, including attending regularly  
14 scheduled check-ins with ICE at five-month intervals. During his January 2025 check-in,  
15 ICE instructed Mr. Barakat to return on June 23, 2025. Because of Mr. Barakat’s limited  
16 English proficiency, he misunderstood the date, but as soon as he recognized his error,  
17 he voluntarily presented himself on June 27, 2025, to explain the misunderstanding and  
18 complete the ICE check-in.  
19

20 5. At that time, DHS revoked Mr. Barakat’s OSUP without providing any  
21 indication that circumstances have changed to warrant revocation of his OSUP, without  
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26 <sup>1</sup> The U.S. Department of State updated the Syria Travel Advisory on July 23, 2025, noting “[t]he  
27 U.S. government suspended operations in 2012...Do not travel to Syria for any reason.” U.S.  
28 Department of State, Syria Travel Advisory (July 23, 2025), available at:  
<https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/syria-travel-advisory.html>

1 showing that he will be removed in the reasonably foreseeable future, and without notice  
2 of any other reason for revocation. In July 2025, an ICE officer conducted an interview  
3 with Mr. Barakat, with an interpreter present, and explained that his re-detention was due  
4 to his prior deportation order. However, upon information and belief, ICE has not  
5 obtained documents to remove him to Syria or any other country.  
6  
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8 6. Therefore, there is no substantial likelihood that Mr. Barakat will be  
9 removed from the United States in the reasonably foreseeable future, and his continued  
10 detention in immigration custody is unlawful because it is limitless in duration, and  
11 because he was not provided with any pre-deprivation hearing.  
12

13 7. By statute and regulation, ICE has the authority to detain a noncitizen  
14 previously ordered removed and subject to an OSUP only in specific circumstances,  
15 including where an individual violates any condition of release or the individual's  
16 conduct demonstrates that release is no longer appropriate. 8 U.S.C. § 1231; 8 C.F.R. §  
17 241.4(1)(1)-(2). That authority, however, is proscribed by the Due Process Clause because  
18 it is well-established that individuals released from incarceration have a liberty interest  
19 in their freedom. In turn, to protect that interest, on the particular facts of Mr. Barakat's  
20 case, due process required notice and a hearing, *prior to any re-arrest*, at which he would  
21 be afforded the opportunity to advance his arguments as to why he should not be re-  
22 detained.  
23  
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25 8. Here, Respondents created a reasonable expectation that Mr. Barakat  
26 would be permitted to live and work in the United States without being subject to arbitrary  
27 arrest and removal.  
28

1  
2 9. This reasonable expectation creates constitutionally protected liberty and  
3 property interests. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972) (reliance on  
4 policies and practices may establish a legitimate claim of entitlement to a  
5 constitutionally-protected interest); *see also Texas v. United States*, 809 F.3d 134, 174  
6 (2015), affirmed by an equally divided court, 136 S. Ct. 2271 (2016) (explaining that  
7 “DACA involve[s] issuing benefits” to certain applicants). These benefits are entitled to  
8 constitutional protections no matter how they may be characterized by Respondents. *See*,  
9 *e.g., Newman v. Sathyavaglswaran*, 287 F.3d 786, 797 (9th Cir. 2002) (“[T]he  
10 identification of property interests under constitutional law turns on the substance of the  
11 interest recognized, not the name given that interest by the state or other independent  
12 source.”) (internal quotations omitted).

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15 10. Further, the Supreme Court has limited the potentially indefinite post-  
16 removal order detention to a maximum of six months after the removal order becomes  
17 final, where removal is not reasonably foreseeable. *Zadvydas v. Davis*, 533 U.S. 678, 701  
18 (2001). Because ICE has not indicated that it has secured travel documents for Mr.  
19 Barakat’s removal, his removal is not reasonably foreseeable in this case, and the  
20 government has not provided him with notice, evidence, or an opportunity to be heard on  
21 this issue either before arbitrarily revoking the OSUP and detaining him. His continued  
22 detention without any reasonably foreseeable end point is thus unconstitutionally  
23 indefinite in violation of clear Supreme Court precedent.

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26 11. The basic principle that individuals placed at liberty are entitled to process  
27 before the government imprisons them has particular force here, where Mr. Barakat was  
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1 *already* afforded an OSUP over two years ago, after which he faithfully complied with  
2 the OSUP's terms and deepened his ties to his family members in the United States.  
3 Under these circumstances, DHS was required to afford Mr. Barakat the opportunity to  
4 advance arguments in favor of his freedom before it robbed him of his liberty. For these  
5 reasons, and because Mr. Barakat's detention has the potential to be indefinite, he must  
6 be released from custody and should not be re-detained unless and until DHS proves to  
7 an Immigration Judge that his removal to Syria is reasonably foreseeable. Several federal  
8 district courts have already ordered similar relief. *See Quoc Chi Hoac v. Becerra*, 2025  
9 U.S. Dist. LEXIS 136002, 2025 LX 206685 (E.D. Cal. July 16, 2025); *Phong Phan v.*  
10 *Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 U.S. Dist. LEXIS 136000 (E.D. Cal. July  
11 16, 2025); *Garcia v. Andrews*, No. 2:25-cv-01884-TLN-SCR, 2025 U.S. Dist. LEXIS  
12 133521 (E.D. Cal. July 14, 2025); *Karem Tadros v. Noem*, No. 25cv4108 (EP), 2025 U.S.  
13 Dist. LEXIS 113198 (D.N.J. June 13, 2025). During any custody redetermination hearing  
14 that occurs, the Immigration Judge must further consider whether, in lieu of detention,  
15 alternatives to detention exist to mitigate any risk that DHS may establish.

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20 12. Additionally, Mr. Barakat has never been ordered removed to any third  
21 country or notified of such potential removal. Given the Supreme Court of the United  
22 States' decision on June 23, 2025, in *U.S. Department of Homeland Security, et al. v.*  
23 *D.V.D., et al.*, No. 24A1153, 2025 WL 1732103 (June 23, 2025), which stayed the  
24 nationwide injunction that had precluded Respondents from removing noncitizens to  
25 third countries without notice and an opportunity to seek fear-based relief, ICE appears  
26 emboldened and intent to implement its campaign to send noncitizens to far corners of  
27  
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1 the planet—places they have absolutely no connection to whatsoever<sup>2</sup>—in violation of  
2 clear statutory obligations set forth in the Immigration and Nationality Act (“INA”),  
3 binding treaty, and due process. In the absence of the nation-wide injunction, individual  
4 lawsuits like the instant case are the only method to challenge the illegal third-country  
5 removals to countries a noncitizen has never been ordered removed.  
6  
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8 13. The Supreme Court’s order in *D.V.D., et al.*, which is not accompanied by  
9 an opinion, signals only disagreement with the nature, and not the substance, of the  
10 nationwide preliminary injunction. Thus, in this individual habeas petition, Mr. Barakat  
11 submits that he cannot be removed to any third country unless he is first provided with  
12 adequate notice and a meaningful opportunity to apply for protection under the  
13 Convention Against Torture (“CAT”).<sup>3</sup> District courts have recently ordered similar  
14 relief. *See Quoc Chi Hoac v. Becerra*, 2025 U.S. Dist. LEXIS 136002, 2025 LX 206685  
15 (E.D. Cal. July 16, 2025); *Phong Phan v. Becerra*, No. 2:25-CV-01757-DC-JDP, 2025  
16 U.S. Dist. LEXIS 136000 (E.D. Cal. July 16, 2025); *Delkash v. Noem*, No. 5:25-cv-  
17 01675-HDV-AGR<sub>x</sub>, 2025 U.S. Dist. LEXIS 133909 (C.D. Cal. July 14, 2025); *J.R. v.*  
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22 <sup>2</sup> CBS News, “Politics Supreme Court lets Trump administration resume deportations to  
23 third countries without notice for now” (June 24, 2025), available at:  
24 [https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-](https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/)  
25 [deportations-to-third-countries-without-notice/](https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/); *see also* Catholic Legal Immigration  
26 Network, “Updates on Third Country Removals and the D.V.D. Litigation,” June 26,  
27 2025, available at: [https://www.cliniclegal.org/resources/removal-proceedings/updates-](https://www.cliniclegal.org/resources/removal-proceedings/updates-third-country-removals-and-dvd-litigation)  
28 [third-country-removals-and-dvd-litigation](https://www.cliniclegal.org/resources/removal-proceedings/updates-third-country-removals-and-dvd-litigation).

<sup>3</sup> United Nations, Convention Against Torture and Other Cruel, Inhuman or Degrading  
Treatment or Punishment (Dec. 10, 1984), available at:  
[https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading)  
[torture-and-other-cruel-inhuman-or-degrading](https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading).

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2 *Bostock*, No. 2:25-cv-01161-JNW, 2025 U.S. Dist. LEXIS 124229 (W.D. Wash. June  
3 30, 2025).

4 **CUSTODY**

5 14. Petitioner is detained by DHS at the CoreCivic Eloy Detention Center  
6 located at 1705 E. Hanna Road, Eloy, Arizona 85131, where he was transferred after  
7 being arrested by ICE at his check-in appointment. The Eloy Detention Center is within  
8 the jurisdiction of this Court. Prior to and since being arrested by ICE in Phoenix,  
9 Petitioner has not been provided with a constitutionally compliant hearing to assess  
10 whether the revocation of his OSUP, and his resulting detention, is warranted.  
11

12 **JURISDICTION**

13  
14 15. This Court has jurisdiction over the present action pursuant to 28 U.S.C. §  
15 1331, general federal question jurisdiction; 5 U.S.C. § 701 *et seq.*, the All Writs Act; 28  
16 U.S.C. § 2241 *et seq.*, habeas corpus; 28 U.S.C. § 2201, the Declaratory Judgment Act;  
17 Art. 1, § 9, Cl. 2 of the United States Constitution (Suspension Clause); Art. 3 of the  
18 United States Constitution, and the common law, as Petitioner is detained under color of  
19 the authority of the United States, and such custody is in violation of the Constitution,  
20 laws, regulations, and, or treaties of the United States.  
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22  
23 16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
24 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651 to  
25 protect Petitioner's rights under the Due Process Clause of the Fifth Amendment to the  
26 United States Constitution, the Excessive Bail Clause of the Eighth Amendment, and  
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1 under applicable Federal law, and to issue a writ of habeas corpus for his immediate  
2 release. *See generally INS v. St. Cyr*, 533 U.S. 289 (2001); *Zadvydas*, 533 U.S. 678.  
3

4 **REQUIREMENTS OF 28 U.S.C. § 2243**

5 17. Ordinarily, the Court must grant the petition for writ of habeas corpus or  
6 issue an order to show cause (“OSC”) to Respondents “forthwith,” unless the petitioner  
7 is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require  
8 Respondents to file a return “within *three days* unless for good cause additional time, *not*  
9 *exceeding twenty days*, is allowed.” *Id.* (emphasis added).  
10

11 18. Courts have long recognized the significance of the habeas statute in  
12 protecting individuals from unlawful detention. The Great Writ has been referred to as  
13 “perhaps the most important writ known to the constitutional law of England, affording  
14 as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.”  
15 *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).  
16

17 19. Habeas corpus must remain a swift remedy. Importantly, “the statute itself  
18 directs courts to give petitions for habeas corpus ‘special, preferential consideration to  
19 insure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th  
20 Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action  
21 creating the perception “that courts are more concerned with efficient trial management  
22 than with the vindication of constitutional rights.” *Id.*  
23

24 **VENUE**

25 20. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e)  
26 because the Respondents are employees or officers of the United States, acting in their  
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1 official capacity; because a substantial part of the events or omissions giving rise to the  
2 claim occurred in the District of Arizona; because Petitioner is currently detained in the  
3 District of Arizona; and because there is no real property involved in this action.  
4

5 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

6  
7 21. For habeas claims, exhaustion of administrative remedies is prudential, not  
8 jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may  
9 waive the prudential exhaustion requirement if “administrative remedies are inadequate  
10 or not efficacious, pursuit of administrative remedies would be a futile gesture,  
11 irreparable injury will result, or the administrative proceedings would be void.” *Id.*  
12 (*quoting Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (citation and quotation  
13 marks omitted)). Petitioner asserts that exhaustion is satisfied as there is no administrative  
14 jurisdiction over his detention status because he already has a final order of removal.  
15

16  
17 22. No statutory exhaustion requirements apply to Petitioner’s claim of  
18 unlawful custody in violation of his due process rights, and there are no administrative  
19 remedies that he needs to exhaust. *See Am.-Arab Anti-Discrimination Comm. v. Reno*, 70  
20 F.3d 1045, 1058 (9th Cir. 1995) (finding exhaustion to be a “futile exercise because the  
21 agency does not have jurisdiction to review” constitutional claims); *In re Indefinite Det.*  
22 *Cases*, 82 F. Supp. 2d 1098, 1099 (C.D. Cal. 2000) (same).  
23

24 **PARTIES**

25  
26 23. Petitioner Carlos Yaser Barakat was born in Syria in September 2000. In  
27 May 2023, he presented himself to immigration officials at the southern border and  
28 expressed fear of return to Syria due to persecution he will experience 

1  Mr. Barakat was immediately detained while claiming a fear of removal to  
2 Syria. Without legal representation and after a single hearing before an Immigration  
3 Judge, Mr. Barakat was denied the opportunity to present a full asylum claim to the  
4 Immigration Court. On or about July, 25, 2023, ICE released Mr. Barakat on an OSUP,  
5 requiring him to check-in at 5-month intervals. Mr. Barakat complied with the terms of  
6 the OSUP and his regular ICE check-ins without incident for nearly two years. On June  
7 27, 2025, without prior notice or a hearing, ICE took Mr. Barakat into custody when he  
8 appeared at his check-in. Once he was in custody, Mr. Barakat never received a custody  
9 status review either before or after ICE revoked his OSUP and detained him.

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13 24. Respondent Unknown Individual #1 is the warden of the CoreCivic Eloy  
14 Detention Center, where Petitioner is being held.<sup>4</sup> Respondent oversees the day-to-day  
15 operations of the Eloy Detention Center and acts at the direction of Respondents Lyons,  
16 Noem, and Cantu. They are a custodian of Petitioner and is named in his official capacity.

17  
18 25. Respondent Unknown Individual #2 is the Acting Field Office Director of  
19 ICE, in Phoenix, Arizona, and is named in their official capacity.<sup>5</sup> ICE is the component  
20 of the DHS that is responsible for detaining and removing noncitizens according to  
21

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23  
24 <sup>4</sup> The Warden of the Eloy Detention Center was, until September, Fred Figueroa. Fred  
25 Figueroa is now the Warden of Diamondback Correctional Facility.

26 <https://www.corecivic.com/facilities/diamondback-correctional-facility> . There is no  
27 readily available information about the current Warden of the Eloy Detention Center.

28 <sup>5</sup> On or about October 27, 2025, former Phoenix Field Office Director John Cantu was  
removed from his position. There is no readily available information about the current  
Phoenix Field Office Director. <https://www.newsweek.com/ice-leadership-shakeup-as-trump-admin-pushes-to-ramp-up-deportations-10949028> .

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immigration law and oversees custody determinations. In their official capacity, they are the legal custodian of Petitioner.

26. Respondent Todd Lyons is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Petitioner.

27. Respondent Kristi Noem is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent Noem has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent Noem is the ultimate legal custodian of Petitioner.

28. Respondent Pamela Bondi is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (“DOJ”) and is named in her official capacity. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA.

**STATEMENT OF FACTS**

1  
2 29. Mr. Barakat is 25 years old and was born in Syria. *See* Exhibit A  
3 (Declaration of Petitioner). Mr. Barakat entered the United States for the first time in  
4 May 2023 after presenting himself to immigration officials and expressing fear of being  
5 returned to Syria. *See* Exhibit A. He was immediately detained in facilities in Louisiana  
6 and Mississippi. *Id.* While detained, Mr. Barakat was given a credible fear interview with  
7 an asylum officer. *See id.*; 8 U.S.C. § 1225(b)(1)(A)(ii); 8 C.F.R. § 208.30(d). He was  
8 subsequently provided a credible fear review hearing with an immigration judge. *See*  
9 Exhibit A. The immigration judge affirmed the negative decision of the asylum officer.  
10  
11 *Id.*

12  
13 30. At that time, Syrian individuals like Mr. Barakat could not be removed due  
14 to the suspension of diplomatic relations between the U.S. and Syria.<sup>6</sup> Therefore, his  
15 continued detention by ICE would be indefinite and unconstitutionally prolonged if he  
16 were to remain in ICE detention. Consistent with the Supreme Court precedent in  
17 *Zadvydas*, 533 U.S. 678, Mr. Barakat was released from ICE custody after less than three  
18 months of detention and placed on an OSUP in late July 2023, which required him to  
19 appear for regular ICE check-ins at five-month intervals and permitted him to apply for  
20 work authorization.  
21

22  
23 31. Since his release from ICE detention in July 2023, Mr. Barakat has made  
24 every effort to comply with the terms of the OSUP by regularly checking in at the ICE  
25 Phoenix office on a five-month schedule. *See* Exhibit A. During his January 2025 check-  
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<sup>6</sup> *See supra*, n.l.

1  
2 in, ICE instructed Mr. Barakat to return on June 19, 2025. Because of Mr. Barakat's  
3 limited English proficiency, he confused the appointment time, but as soon as he  
4 recognized his error, he promptly presented himself on June 23, 2025. *Id.*

5 32. On June 23, 2025, ICE instructed Mr. Barakat to return to their office again  
6 on June 27, 2025. *Id.*

7  
8 33. On June 27, 2025, after Mr. Barakat presented his identification, ICE  
9 directed him to a waiting area. *Id.* Two ICE officers then escorted Mr. Barakat to a room  
10 where they detained him. *Id.* ICE refused to give Mr. Barakat any explanation for his  
11 detention and would not allow him to speak. *Id.* ICE instructed Mr. Barakat to sign a  
12 document without explaining the document or having it translated for him. *Id.*

13  
14 34. In July 2025, an ICE officer and interpreter interviewed Mr. Barakat while  
15 he was detained. After explaining his misunderstanding with the check-in date, the ICE  
16 Officer explained to Mr. Barakat that the reason for his detention was because of his prior  
17 order of removal. In August 2025, ICE conducted a second interview with Mr. Barakat  
18 was substantially similar to the one in July. On information and belief, Mr. Barakat's  
19 Form I-220B OSUP has never been revoked, withdrawn, or otherwise cancelled.

20  
21 35. Prior to June 27, 2025, ICE did not seek to re-detain Mr. Barakat. *See id.*  
22 Instead, for nearly two years Mr. Barakat attended his routine check-in appointments as  
23 required while working and reconnecting with his family members in the United States.  
24  
25 *Id.*

26  
27 36. After Mr. Barakat was released in July 2023, but before his re-detention in  
28 June 2025, his family hired an attorney who advised him to file an application for

1  
2 Temporary Protected Status (“TPS”). On information and belief, Mr. Barakat’s TPS  
3 application is still pending. *Id.*

4 37. On information and belief, on January 25, 2025, officials in the Trump  
5 administration directed senior ICE officials to increase arrests to meet daily quotas.  
6 Specifically, each field office was instructed to make seventy-five arrests per day.<sup>7</sup>  
7

8 38. As of the time of this filing, Mr. Barakat has not been provided with any  
9 documentation. *Id.* Other than the document he signed on June 27, 2025, at the ICE  
10 Phoenix office, Mr. Barakat has not been asked to sign any documents. *Id.* He does not  
11 have any information regarding what ICE’s plan is for obtaining travel documents for  
12 him. *Id.* No evidence has been presented to Mr. Barakat that ICE has requested travel  
13 document to Syria. No evidence has been presented or made available to Mr. Barakat that  
14 the government of Syria has ever indicated that it would issue such travel documents.  
15

16 39. Mr. Barakat remains detained at Eloy Detention Center in Eloy, Arizona.  
17 His detention is unlawful because he is detained without having been provided a due  
18 process hearing, and his prolonged and potentially indefinite detention is not  
19 constitutional, given that his removal to Syria, the only country to which he has been  
20 ordered removed, is not reasonably foreseeable.  
21

22 40. Mr. Barakat is also at risk of being unlawfully removed to a third country  
23 without constitutionally adequate notice and a meaningful opportunity to apply for  
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26  
27 <sup>7</sup> See “Trump officials issue quotas to ICE officers to ramp up arrests,” *Washington Post*  
28 <https://www.washingtonpost.com/immigration/2025/01/26/ice-arrests-raids-trump-quota/>

1 protection under the Convention Against Torture, in violation of the INA, binding  
2 international treaty, and due process. Currently, DHS has a policy of removing or seeking  
3 to remove individuals to third countries *without* first providing adequate notice of third  
4 country removal, or any meaningful opportunity to contest that removal if the individual  
5 has a fear of persecution or torture in that country.<sup>8</sup>  
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8 41. Intervention from this Court is therefore required to ensure that Mr. Barakat  
9 does not continue to suffer irreparable harm in the form of unjustified, prolonged, and  
10 indefinite detention, and further violation of his rights in the form of summary removal  
11 to a third country.  
12

### 13 LEGAL BACKGROUND

#### 14 **Right to a Hearing Prior to Detention and Revocation of OSUP.**

15 42. Following a final order of removal, ICE is directed by statute to detain an  
16 individual for ninety (90) days to effectuate removal. 8 U.S.C. § 1231(a)(2). This ninety  
17 (90) day period, also known as “the removal period,” generally commences as soon as a  
18 removal order becomes administratively final. *Id.* at § 1231(a)(1)(A); § 1231(a)(1)(B).  
19

20 43. If ICE fails to remove an individual during the ninety (90) day removal  
21 period, the law requires ICE to release the individual under conditions of supervision,  
22 including periodic reporting. 8 U.S.C. § 1231(a)(3) (“If the alien . . . is not removed  
23 within the removal period, the alien, pending removal, shall be subject to supervision.”).  
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27 <sup>8</sup> Clinic Legal, “Updates on Third Country Removals and the D.V.D. Litigation” (June  
28 26, 2025), available at: <https://www.cliniclegal.org/resources/removal-proceedings/updates-third-country-removals-and-dvd-litigation>.

1 Limited exceptions to this rule exist. Specifically, ICE “may” detain an individual beyond  
2 ninety days if the individual was ordered removed on criminal grounds or is determined  
3 to pose a danger or flight risk. 8 U.S.C. § 1231(a)(6). However, ICE’s authority to detain  
4 an individual beyond the removal period under such circumstances is not boundless.  
5 Rather, it is constrained by the constitutional requirement that detention “bear a  
6 reasonable relationship to the purpose for which the individual [was] committed.”  
7 *Zadvydas*, 533 U.S. at 690. Because the principal purpose of the post-final-order  
8 detention statute is to effectuate removal, detention bears no reasonable relation to its  
9 purpose if removal cannot be effectuated. *Id.* at 697.

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13 44. Post-final order detention is only authorized for a “period reasonably  
14 necessary to secure removal,” a period that the Court determined to be presumptively six  
15 months. *Id.* at 699-701. After this six (6) month period, if a detainee provides “good  
16 reason” to believe that his or her removal is not significantly likely in the reasonably  
17 foreseeable future, “the Government must respond with evidence sufficient to rebut that  
18 showing.” *Id.* at 701. If the government cannot do so, the individual must be released.

19  
20 45. That said, detainees are entitled to release even before six months of  
21 detention if removal is not reasonably foreseeable. *See* 8 C.F.R. § 241.13(b)(1)  
22 (authorizing release after ninety days where removal not reasonably foreseeable).  
23 Moreover, as the period of post-final-order detention grows, what counts as “reasonably  
24 foreseeable” must conversely shrink. *Zadvydas*, 533 U.S. at 701.

25  
26 46. Even where detention meets the *Zadvydas* standard for reasonable  
27 foreseeability, detention violates the Due Process Clause unless it is “reasonably related”  
28

1 to the government's purpose, which is to prevent danger or flight risk. *See Zadvydas*, 533  
2 U.S. at 700 (“[I]f removal is reasonably foreseeable, the habeas court should consider the  
3 risk of the alien’s committing further crimes as a factor potentially justifying confinement  
4 within that reasonable removal period”) (emphasis added); *Id.* at 699 (purpose of  
5 detention is “assuring the alien’s presence at the moment of removal”); *Id.* at 690-91  
6 (discussing twin justifications of detention as preventing flight and protecting the  
7 community). Thus, Mr. Barakat must be released from custody because he does not pose  
8 a danger or flight risk that warrants post-final-order detention, regardless of whether his  
9 removal can be effectuated within a reasonable period. This is especially so because ICE  
10 *has already* allowed Mr. Barakat to remain at liberty pursuant to an OSUP for a period  
11 of nearly two years.

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15 47. The government’s own regulations contemplate this requirement. They  
16 dictate that even after ICE determines that removal is reasonably foreseeable—and that  
17 detention therefore does not per se exceed statutory authority—the government must still  
18 determine whether continued detention is warranted based on flight risk or danger. *See* 8  
19 C.F.R. § 241.13(g)(2) (providing that where removal is reasonably foreseeable,  
20 “detention will continue to be governed under the established standards” in 8 C.F.R. §  
21 241.4).

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23  
24 48. The regulations at 8 C.F.R. § 241.4 set forth the custody review process  
25 that existed even before *Zadvydas*. This mandated process, known as the post-order  
26 custody review, requires ICE to conduct “90-day custody reviews” prior to expiration of  
27 the ninety-day removal period and to consider release of individuals who pose no danger  
28

1 or flight risk. 8 C.F.R. § 241.4(e)-(f). Among the factors to be considered in these custody  
2 reviews are “ties to the United States such as the number of close relatives residing here  
3 lawfully”; whether the noncitizen “is a significant flight risk”; and “any other information  
4 that is probative of whether” the noncitizen is likely to “adjust to life in a community,”  
5 “engage in future acts of violence,” “engage in future criminal activity,” pose a danger to  
6 themselves or others, or “violate the conditions of his or her release from immigration  
7 custody pending removal from the United States.” *Id.*

10 49. Individuals with final orders who are released after a post-order custody  
11 review are subject to Forms I-220B, Order of Supervision. 8 C.F.R. § 241.4(j). After an  
12 individual has been released on an order of supervision, as Mr. Barakat was, ICE cannot  
13 revoke such an order without cause or adequate legal process. 8 C.F.R. § 241.13(i)(2)-  
14 (3).

16 **Petitioner’s Protected Liberty Interest in His Release**

18 50. Petitioner’s liberty from immigration custody is protected by the Due  
19 Process Clause: “Freedom from imprisonment—from government custody, detention, or  
20 other forms of physical restraint—lies at the heart of the liberty that [the Due Process]  
21 Clause protects.” *Zadvydas*, 533 U.S. at 690.

23 51. For nearly two years preceding his detention on June 27, 2025, Petitioner  
24 exercised that freedom under his prior OSUP, issued in 2023. *See* Exhibit A. He thus  
25 retained a weighty liberty interest under the Due Process Clause of the Fifth Amendment  
26 in avoiding incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v.*  
27 *Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-483  
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1  
2 (1972). Moreover, the Supreme Court has recognized that post-removal order detention  
3 is potentially indefinite and thus unconstitutional without some limitation. *Zadvydas*, 533  
4 U.S. at 701. In this case, in the absence of a U.S. diplomatic relations with Syria that  
5 permits Petitioner’s removal to Syria, his removal is not foreseeable at all, let alone  
6 reasonably. Therefore, Petitioner’s continued detention is unconstitutional.  
7

8 52. Just as importantly, Petitioner continued presenting himself before ICE for  
9 his regular check-in appointments for nearly two years, where ICE did not seek to revoke  
10 his OSUP or arrest him during this time. *See* Exhibit A. ICE instead gave him a future  
11 date and time to appear again. *See id.*  
12

13 53. In *Morrissey*, the Supreme Court examined the “nature of the interest” that  
14 a parolee has in “his continued liberty.” 408 U.S. at 481-82. The Court noted that,  
15 “subject to the conditions of his parole, [a parolee] can be gainfully employed and is free  
16 to be with family and friends and to form the other enduring attachments of normal life.”  
17 *Id.* at 482. The Court further noted that “the parolee has relied on at least an implicit  
18 promise that parole will be revoked only if he fails to live up to the parole conditions.”  
19 *Id.* The Court explained that “the liberty of a parolee, although indeterminate, includes  
20 many of the core values of unqualified liberty and its termination inflicts a grievous loss  
21 on the parolee and often others.” *Id.* In turn, “[b]y whatever name, the liberty is valuable  
22 and must be seen within the protection of the [Fifth] Amendment.” *Morrissey*, 408 U.S.  
23 at 482.  
24  
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26 54. This basic principle—that individuals have a liberty interest in their  
27 release—has been reinforced by both the Supreme Court and the circuit courts on  
28

1 numerous occasions. *See, e.g., Young v. Harper*, 520 U.S. at 152 (holding that individuals  
2 placed in a pre-parole program created to reduce prison overcrowding have a protected  
3 liberty interest requiring pre-deprivation process); *Gagnon v. Scarpelli*, 411 U.S. at 781-  
4 82 (holding that individuals released on felony probation have a protected liberty interest  
5 requiring pre-deprivation process). As the First Circuit has explained, when analyzing  
6 the issue of whether a specific conditional release rises to the level of a protected liberty  
7 interest, “[c]ourts have resolved the issue by comparing the specific conditional release  
8 in the case before them with the liberty interest in parole as characterized by *Morrissey*.”  
9 *Gonzalez-Fuentes v. Molina*, 607 F.3d 864, 887 (1st Cir. 2010) (internal quotation marks  
10 and citation omitted). *See also, e.g., Hurd v. District of Columbia*, 864 F.3d 671, 683  
11 (D.C. Cir. 2017) (“a person who is in fact free of physical confinement—even if that  
12 freedom is lawfully revocable—has a liberty interest that entitles him to constitutional  
13 due process before he is re-incarcerated”) (citing *Young*, 520 U.S. at 152, *Gagnon*, 411  
14 U.S. at 782, and *Morrissey*, 408 U.S. at 482).

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19 55. In fact, it is well-established that an individual maintains a protectable  
20 liberty interest even where the individual obtains liberty through a mistake of law or fact.  
21 *See id.; Gonzalez-Fuentes*, 607 F.3d at 887; *Johnson v. Williford*, 682 F.2d 868, 873 (9th  
22 Cir. 1982) (noting that due process considerations support the notion that an inmate  
23 released on parole by mistake, because he was serving a sentence that did not carry a  
24 possibility of parole, could not be re-incarcerated because the mistaken release was not  
25 his fault, and he had appropriately adjusted to society, so it “would be inconsistent with  
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1  
2 fundamental principles of liberty and justice” to return him to prison) (internal quotation  
3 marks and citation omitted).

4 56. Here, when this Court “‘compar[es] the specific conditional release in  
5 [Petitioner’s case], with the liberty interest in parole as characterized by *Morrissey*,” it  
6 is clear that they are strikingly similar. *See Gonzalez-Fuentes*, 607 F.3d at 887. Like the  
7 terms of parole in *Morrissey*, the conditions of Mr. Barakat’s OSUP “enable[d] him to  
8 do a wide range of things open to persons” who have never been in custody or convicted  
9 of any crime, including to live at home, work with his community, and “be with family  
10 and friends and to form the other enduring attachments of normal life.” *Morrissey*, 408  
11 U.S. at 482. Indeed, unlike in *Morrissey*, Petitioner has never been in criminal custody;  
12 ICE never previously found it necessary to detain him; and the terms of his OSUP in  
13 recent years required only semi-annual reporting for check-ins. *See Exhibit A*.

14 57. Since Petitioner first received his OSUP in 2023, he has continued to build  
15 his life in the United States, working and spending time with his family members. *See id.*

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19 **Petitioner’s Liberty Interest Mandated a Due Process Hearing Before any**  
20 **Revocation of His OSUP or Detention**

21 58. Petitioner asserts that, here, (1) where his detention is civil, (2) where he  
22 has diligently complied with ICE’s reporting requirements on a regular basis, and (3)  
23 where on information and belief ICE officers arrested Petitioner merely to fulfill an arrest  
24 quota because his removal is not reasonably foreseeable and potentially indefinite, due  
25 process mandates that he was required to receive notice and a hearing before an  
26 Immigration Judge prior to any re-detention.  
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59. “Adequate, or due, process depends upon the nature of the interest affected. The more important the interest and the greater the effect of its impairment, the greater the procedural safeguards the [government] must provide to satisfy due process.” *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en banc) (citing *Morrissey*, 408 U.S. at 481-82). This Court must “balance [Petitioner’s] liberty interest against the [government’s] interest in the efficient administration of” its immigration laws to determine what process he is owed to ensure that ICE does not unconstitutionally deprive him of his liberty. *Id.* at 1357. Under the test set forth in *Mathews v. Eldridge*, this Court must consider three factors in conducting its balancing test: “first, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards; and finally the government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.” *Haygood*, 769 F.2d at 1357 (citing *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

60. The Supreme Court “usually has held that the Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.” *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Only in a “special case” where post-deprivation remedies are “the only remedies the State could be expected to provide” can post-deprivation process satisfy the requirements of due process. *Zinermon*, 494 U.S. at 128. Moreover, only where “one of the variables in the *Mathews* equation—the value of predeprivation safeguards—is negligible in preventing the kind of deprivation at issue”

1 such that “the State cannot be required constitutionally to do the impossible by providing  
2 predeprivation process,” can the government avoid providing pre-deprivation process. *Id.*

3  
4 61. Because, in this case, the provision of a pre-deprivation hearing both was  
5 possible and would have been valuable to preventing an erroneous deprivation of liberty,  
6 ICE was required to provide Petitioner with notice and a hearing *prior* to any  
7 incarceration and revocation of his OSUP. *See Morrissey*, 408 U.S. at 481-82; *Haygood*,  
8 769 F.2d at 1355-56; *Jones v. Blanas*, 393 F.3d 918, 932 (9th Cir. 2004); *Zinerman*, 494  
9 U.S. at 128; *see also Youngberg v. Romeo*, 457 U.S. 307, 321-24 (1982); *Lynch v. Baxley*,  
10 744 F.2d 1452 (11th Cir. 1984) (holding that individuals awaiting involuntary civil  
11 commitment proceedings may not constitutionally be held in jail pending the  
12 determination as to whether they can ultimately be recommitted). Under *Mathews*, “the  
13 balance weighs heavily in favor of [Petitioner’s] liberty” and required a pre-deprivation  
14 hearing before an Immigration Judge, which ICE failed to provide.<sup>9</sup>

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18 **Petitioner’s Private Interest in His Liberty is Profound, and the Government’s  
19 Interest in His Continued Detention Is Low.**

20 62. Under *Morrissey* and its progeny, individuals conditionally released from  
21 serving a criminal sentence have a liberty interest that is “valuable.” *Morrissey*, 408 U.S.  
22 at 482. In addition, the principles espoused in *Hurd* and *Johnson*—that a person who is  
23 in fact free of physical confinement, even if that freedom is lawfully revocable, has a  
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25  
26 <sup>9</sup> *Johnson v. Arteaga v. Martinez*, 596 U.S. 573 (2022), is not to the contrary. The  
27 Supreme Court in that case did not address the requirements for revocation of an OSUP,  
28 and it specifically indicated that its prior decision in *Zadvydas* was still good law. *Johnson v. Arteaga*, 596 U.S. at 579.

1 liberty interest that entitles him to constitutional due process before he is re-  
2 incarcerated—apply with even greater force to individuals like Petitioner, who was  
3 permitted to remain at liberty, subject to an OSUP, without ever being detained. Parolees  
4 and probationers have a diminished liberty interest given their underlying convictions.  
5  
6 *See, e.g., U.S. v. Knights*, 534 U.S. 112, 119 (2001); *Griffin v. Wisconsin*, 483 U.S. 868,  
7 874 (1987). Nonetheless, even in the criminal parolee context, the courts have held that  
8 the parolee cannot be re-arrested without a due process hearing in which they can raise  
9 any claims they may have regarding why their re-incarceration would be unlawful. *See*  
10 *Gonzalez-Fuentes*, 607 F.3d at 891-92; *Hurd*, 864 F.3d at 683. Petitioner has never been  
11 subject to criminal parole, and he has been reporting regularly for ICE check-ins while  
12 living in the community for nearly two years. *See* Exhibit A. Thus, Petitioner retains a  
13 truly weighty liberty interest.

14  
15  
16 63. What is at stake in this case for Petitioner is one of the most profound  
17 individual interests recognized by our legal system: whether ICE may unilaterally nullify  
18 a prior determination that he is entitled to remain at liberty on an OSUP, and be able to  
19 take away his physical freedom, i.e., his “constitutionally protected interest in avoiding  
20 physical restraint.” *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011) (internal  
21 quotation omitted). “Freedom from bodily restraint has always been at the core of the  
22 liberty protected by the Due Process Clause.” *Foucha v. Louisiana*, 504 U.S. 71, 80  
23 (1992). *See also Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment—from  
24 government custody, detention, or other forms of physical restraint—lies at the heart of  
25 the liberty that [the Due Process] Clause protects.”); *Cooper v. Oklahoma*, 517 U.S. 348  
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2 (1996).

3 64. Thus, there is a profound private interest at stake in this case, which must  
4 be weighed heavily when determining what process Mr. Barakat is owed under the  
5 Constitution. *See Mathews*, 424 U.S. at 334-35.

6  
7 65. The government's interest in keeping Petitioner in detention without a due  
8 process hearing is low, and when weighed against Petitioner's significant private interest  
9 in his liberty, the scale tips sharply in favor of releasing Petitioner from custody unless  
10 and until the government demonstrates that he is a flight risk or danger to the community.  
11 It becomes abundantly clear that the *Mathews* test favors Petitioner when the Court  
12 considers that the process Petitioner seeks—release from custody after ICE *already*  
13 determined, *over two years ago*, that he should remain at liberty subject to an OSUP, and  
14 where nothing in the interim has changed to warrant detention—is a standard course of  
15 action for the government. In the alternative, providing Petitioner with a hearing before  
16 an Immigration Judge to determine whether there is evidence that Petitioner is a flight  
17 risk or danger to the community would impose only a *de minimis* burden on the  
18 government, because the government routinely conducts these reviews for individuals in  
19 Petitioner's same circumstances. 8 C.F.R. § 241.4(e)-(f).  
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23 66. As immigration detention is civil, it can have no punitive purpose. The  
24 government's only interest in holding an individual in immigration detention can be to  
25 prevent danger to the community or to ensure a noncitizen's appearance at immigration  
26 proceedings. *See Zadvydas*, 533 U.S. at 690. Moreover, the Supreme Court has made  
27 clear that indefinite detention of noncitizens who cannot be removed to the country of the  
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1  
2 removal order is unconstitutional. In this case, the government cannot plausibly assert  
3 that it had a sudden interest in detaining Petitioner due to alleged dangerousness, or due  
4 to a change in the foreseeability of his removal to Syria as his circumstances have not  
5 changed since his first OSUP was issued in 2023. *Alimam v. Kline*, No. CV-25-02437-  
6 PHX-KML (DMF), 2025 U.S. Dist. LEXIS 173195, at \*5 (D. Ariz. Aug. 29, 2025)  
7 (noting ICE’s recent guidance “that removals to Syria will not be conducted until further  
8 notice,” and ordering releasing because “there is no significantly likelihood that  
9 [p]etitioner will be removed to Syria in the reasonably foreseeable future.”)(R&R  
10 adopted in 2025 U.S. Dist. LEXIS 173191(D. Ariz. Sep. 4, 2025)).  
11  
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13 67. Petitioner has continued to appear before ICE on a regular basis for every  
14 appointment that has been scheduled and has substantially complied with the terms of the  
15 OSUP. *See Exhibit A; see also Morrissey*, 408 U.S. at 482 (“It is not sophistic to attach  
16 greater importance to a person’s justifiable reliance in maintaining his conditional  
17 freedom so long as he abides by the conditions on his release, than to his mere anticipation  
18 or hope of freedom”) (quoting *United States ex rel. Bey v. Connecticut Board of Parole*,  
19 443 F.3d 1079, 1086 (2d Cir. 1971). Although he appeared three days late to his June  
20 2025 check-in due to confusion stemming from limited English proficiency, he  
21 voluntarily corrected the error. ICE has acknowledged that the delay was not the reason  
22 for his re-detention, and instead is based on Petitioner’s prior removal order.  
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25 68. As to flight risk, Petitioner’s post-release conduct in the form of  
26 compliance with his check-in requirements further confirms that he is not a flight risk  
27 and that he is likely to present himself at any future ICE appearances, as he always aimed  
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1  
2 to do. Petitioner has also complied with all of ICE's requests, including attending  
3 interviews and even signing a document that ICE did not explain or translate for him. *See*  
4 Exhibit A. The government's interest in detaining Petitioner at this time is therefore low.  
5 That ICE has a new policy to make a minimum number of arrests each day under the  
6 current administration does not constitute a material change in circumstances or increase  
7 the government's interest in detaining him.<sup>10</sup> Moreover, nothing has changed regarding  
8 the lack of reasonable foreseeability of his removal to Syria.

9  
10 69. Release from custody until ICE assesses and demonstrates that Petitioner  
11 is a flight risk or danger to the community, or that his detention is not going to be  
12 indefinite, is far *less* costly and burdensome for the government than keeping him  
13 detained. As the Ninth Circuit noted in 2017, which remains true today, "[t]he costs to  
14 the public of immigration detention are 'staggering': \$158 each day per detainee,  
15 amounting to a total daily cost of \$6.5 million." *Hernandez*, 872 F.3d at 996. If, in the  
16 alternative, the Court chooses to order a hearing for Petitioner at which the government  
17 bears the burden of justifying his continued detention, the government would bear no  
18 additional cost if the hearing is scheduled within seven days, rather than allowing  
19 Petitioner to sit in detention for days or weeks awaiting a hearing.

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23 **Without Release from Custody until the Government Provides a Due Process**  
24 **Hearing, the Risk of an Erroneous Deprivation of Liberty is High.**

25 70. Releasing Petitioner from custody until he is provided with a pre-  
26 deprivation hearing would decrease the risk of him being erroneously deprived of his  
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<sup>10</sup> *See supra*, n. 5.

1  
2 liberty. Before Petitioner can be lawfully detained, he must be provided with a hearing  
3 before an Immigration Judge at which the government is held to show that his detention  
4 will not be indefinite, or that the circumstances have changed since his OSUP was issued  
5 in 2023, such that evidence exists to establish that Petitioner is a danger to the community  
6 or a flight risk.

7  
8 71. Under the process that ICE maintains is lawful—which affords Petitioner  
9 no process whatsoever—ICE can simply re-detain him at any point if the agency desires  
10 to do so, as ICE did on June 27, 2025. Petitioner has already been erroneously deprived  
11 of his liberty when he was detained at his check-in appointment, and the risk that he will  
12 continue to be deprived is high if ICE is permitted to keep him in detention after making  
13 a unilateral decision to revoke his OSUP and detain him. Pursuant to 8 C.F.R. § 241.4(l),  
14 revocation of release on an OSUP is at the discretion of the Executive Associate  
15 Commissioner. After re-arrest, ICE makes its own, one-sided custody determination and  
16 can decide whether the agency wants to hold Petitioner. 8 C.F.R. § 241.4(e)-(f). Thus,  
17 the regulations permit ICE to unilaterally re-detain individuals, even for an oversight of  
18 any kind.<sup>11</sup>  
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23 <sup>11</sup> It is unknown in this case who made the determination to revoke Mr. Barakat’s OSUP  
24 and detain him. To the extent this remains unresolved, or if the Executive Associate  
25 Commissioner was not the signatory, that error on its own warrants Mr. Barakat’s  
26 immediate release. *See Ceesay v. Kurzdorfer*, No. 25-CV-0267-LJV, 2025 WL 1284720,  
27 \*17 (W.D.N.Y. May 2, 2025) (holding that a petitioner detained based on notice of  
28 revocation signed by Assistant Field Office Director was entitled to release “on that basis  
alone”); *M.S.L. v. Bostock*, No. 25-CV-01204-AA, 2025 WL 2430267, \*9-10 (D. Or.  
Aug. 21, 2025) (same where signatory was Deputy Field Office Director); *see also*  
*Umanzor-Chavez v. Noem*, No. SAG-25-01634, 2025 WL 2467640, \*7 (D. Md. Aug. 27,

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2 72. By contrast, the procedure Petitioner seeks—release from custody until he  
3 is provided a hearing in front of an Immigration Judge at which the government must  
4 show that his detention will not be indefinite, or otherwise that the circumstances have  
5 changed since his release in 2023 to justify his detention—is much more likely to produce  
6 accurate determinations regarding these factual disputes. *See Chalkboard, Inc. v. Brandt*,  
7 902 F.2d 1375, 1381 (9th Cir.1989) (when “delicate judgments depending on credibility  
8 of witnesses and assessment of conditions not subject to measurement” are at issue, the  
9 “risk of error is considerable when just determinations are made after hearing only one  
10 side”). “A neutral judge is one of the most basic due process protections.” *Castro-Cortez*  
11 *v. INS*, 239 F.3d 1037, 1049 (9th Cir. 2001), *abrogated on other grounds by Fernandez-*  
12 *Vargas v. Gonzales*, 548 U.S. 30 (2006).

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15 73. Due process also requires consideration of alternatives to detention at any  
16 custody redetermination hearing that may occur. The primary purpose of immigration  
17 detention is to ensure removal *is* reasonably foreseeable. *Zadvydas*, 533 U.S. at 697.  
18 Detention is not reasonably related to this purpose if, as here, removal is not actually  
19 foreseeable. Accordingly, alternatives to detention must be considered in determining  
20 whether Petitioner’s revocation of the OSUP and incarceration are warranted.  
21

### 22 **Petitioner’s Right to Immediate Release From Custody**

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26 2025) (explaining that although “high-ranking” ICE employees “can execute the powers  
27 and duties of an immigration officer,” that does not “indicate the reverse: that every  
28 immigration officer can execute the powers and duties of the higher-ranking supervisory  
officials”).

1  
2 74. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the  
3 Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period  
4 reasonably necessary to bring about that [noncitizen’s] removal from the United States.”  
5 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued  
6 detention is no longer authorized by statute.” *Id.* at 699.  
7

8 75. There is “good reason to believe that there is no significant likelihood of  
9 removal in the reasonably foreseeable future,” and as such, “the Government must  
10 respond with evidence sufficient to rebut that showing.” *Id.*  
11

12 76. Because diplomatic relations between the U.S. and Syria from 2012 to the  
13 present have been suspended and ICE has not indicated that Syria is willing to accept  
14 Petitioner, there is no significant likelihood of removal to that country in the reasonably  
15 foreseeable future. *See* Exhibit A. Nor has ICE identified an alternative country for  
16 removal or provided Petitioner with an opportunity to express a fear of removal to any  
17 such country. *See id.* Indeed, ICE has not provided any evidence that it has requested  
18 travel documents to Syria or that the government of Syria intends to issue travel  
19 documents. *Id.* Accordingly, Petitioner’s continued detention is unconstitutional.  
20

21  
22 77. Absent a substantial likelihood of removal in the reasonably foreseeable  
23 future – and absent any indication of danger or flight risk, as explained above – there is  
24 no proper justification for Petitioner’s continued detention. *See Zadvydas*, 533 U.S. at  
25 690-91 (concluding that the justification of preventing flight is “by definition . . . weak  
26 or nonexistent where removal seems a remote possibility,” and “preventive detention  
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1 based on dangerousness” is permitted “only when limited to specially dangerous  
2 individuals and subject to strong procedural protections”).  
3

4 78. Thus, under *Zadvydas*, “the court should hold continued detention  
5 unreasonable and no longer authorized by statute,” and should order Petitioner’s  
6 immediate release from custody. *Id.* at 699–700; *see also Zavvar v. Scott*, No. 25-2104-  
7 TDC, 2025 WL 2592543 (D. Md., Sep. 8, 2025) (granting petition and ordering release  
8 because petitioner’s opportunity to seek fear-based relief from removal to third countries,  
9 and associated timeframes for adjudication of fear claims, demonstrated that there was  
10 no substantial likelihood of removal in the reasonably foreseeable future); *Chebib v.*  
11 *DHS*, No. 4:19cv582-MCR-CAS, 2020 WL 2561958 (N.D. Fla. Apr. 1, 2020) (ordering  
12 immediate release with order of supervision where removal not foreseeable) (R&R  
13 adopted in 2020 WL 25621277 (May 1, 2020)); *Manson v. Barr*, No. 3:20-CV-133, 2020  
14 WL 3962235 (M.D. Fla. Jul. 13, 2020) (same); *Muhti*, 314 F. Supp. 2d 418, 430–31 (M.D.  
15 Pa. 2004) (ordering release of the noncitizen where he showed, and the government failed  
16 to rebut, “substantial evidence that removal is unlikely in the reasonably foreseeable  
17 future”); *accord Cabrera Galdamez v. Mayorkas*, No. 22-CV-9847, 2023 WL 1777310  
18 (S.D.N.Y. Feb. 6, 2023) (ordering bond hearing in lieu of immediate release despite  
19 detention beyond six-months following removal order, because Petitioner’s appeal of  
20 withholding of removal denial was only impediment to removal); *Shahbaz H. v. Green*,  
21 No. 19-8052, 2019 WL 2723880 at \*5 (D. N.J. July 1, 2019) (denying petition due to  
22 issuance of travel documents by country to which petitioner was ordered removed, but  
23 reasoning that “the Government can establish its continued authority to detain only if the  
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2 Government can rebut [the] evidence and show that the alien’s removal remains likely in  
3 the reasonably foreseeable future”).

4 79. ICE’s failure to comply with its own procedures by providing Petitioner  
5 with a pre-deprivation hearing also warrants his immediate release from custody. *See*  
6 *Cifuentes Rivera v. Arnott*, No. 4:25-CV-00570-RK (W.D. Mo. Oct. 7, 2025) (collecting  
7 cases and ordering immediate release upon a finding that ICE’s failure to comply with its  
8 own pre-deprivation procedures for revocation of OSUP and re-detention violated  
9 petitioner’s due process rights).

10  
11 **Right to Constitutionally Adequate Procedures Prior to Third Country Removal**

12  
13 80. Under the INA, Respondents have a clear and non-discretionary duty to  
14 execute final orders of removal only to the designated country or countries of removal.  
15 The statute explicitly states that a noncitizen “*shall* remove the [noncitizen] to the country  
16 the [noncitizen] . . . designates.” 8 U.S.C. § 1231(b)(2)(A)(ii) (emphasis added). And  
17 even where a noncitizen does not designate the country of removal, the statute further  
18 mandates that DHS “shall remove the alien to a country of which the alien is a subject,  
19 national, or citizen.” *See id.* § 1231(b)(2)(D); *see also generally Jama v. ICE*, 543 U.S.  
20 335, 341 (2005).

21  
22  
23 81. As the Supreme Court has explained, such language “generally indicates a  
24 command that admits of no discretion on the part of the person instructed to carry out the  
25 directive,” *Nat’l Ass’n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661  
26 (2007) (quoting *Ass’n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d  
27 1150, 1153 (D.C. Cir. 1994)); *see also Black’s Law Dictionary* (11th ed. 2019) (“Shall”  
28

1  
2 means “[h]as a duty to; more broadly, is required to . . . This is the mandatory sense that  
3 drafters typically intend and that courts typically uphold.”); *United States v. Monsanto*,  
4 491 U.S. 600, 607 (1989) (finding that “shall” language in a statute was unambiguously  
5 mandatory). Accordingly, any imminent third country removal fails to comport with the  
6 statutory obligations set forth by Congress in the INA and is unlawful.  
7

8         82. Moreover, prior to any third country removal, ICE must provide Petitioner  
9 with sufficient notice and an opportunity to respond and apply for fear-based relief as to  
10 that country, in compliance with the INA, due process, and the binding international  
11 treaty: The Convention Against Torture and Other Cruel, Inhuman or Degrading  
12 Treatment or Punishment.<sup>12</sup> Currently, DHS has a policy of removing or seeking to  
13 remove individuals to third countries without first providing constitutionally adequate  
14 notice of third country removal, or any meaningful opportunity to contest that removal if  
15 the individual has a fear of persecution or torture in that country.<sup>13</sup> This policy clearly  
16 violates due process and the United States’ obligations under the Convention Against  
17 Torture. *See Sagastizado Sanchez v. Noem*, 5:25-CV-00104 (S.D. TX, Oct. 2, 2025)  
18 (finding due process right to review by immigration judge of USCIS reasonable fear  
19 determination as to third country of removal for noncitizen in removal proceedings under  
20 8 U.S.C. § 1229a).  
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26 <sup>12</sup> *See supra* n.3.

27 <sup>13</sup> Catholic Legal Immigration Network, “Updates on Third Country Removals and the  
28 D.V.D. Litigation,” June 26, 2025, available at:  
<https://www.cliniclegal.org/resources/removal-proceedings/updates-third-country-removals-and-dvd-litigation>.

1  
2 83. The U.S. District Court for the District of Massachusetts previously issued  
3 a nationwide preliminary injunction blocking such third country removals without notice  
4 and a meaningful opportunity to apply for relief under the Convention Against Torture,  
5 in recognition that the government's policy violates due process and the United States'  
6 obligations under the Convention Against Torture. *D.V.D., et al. v. U.S. Department of*  
7 *Homeland Security, et al. v.*, 778 F. Supp. 3d 355, No. 25-10676-BEM (D. Mass. Apr.  
8 18, 2025). The U.S. Supreme Court has since granted the government's motion to stay  
9 the injunction on June 23, 2025, just before the Court published *Trump v. Casa*, No.  
10 24A884 (June 27, 2025), limiting nationwide injunctions. Thus, the Supreme Court's  
11 order, which is not accompanied by an opinion, signals only disagreement with nature,  
12 and not the substance, of the nationwide preliminary injunction. *See Nguyen v. Scott*, --  
13 F. Supp. 3d --, No. 25-CV-01398, 2025 WL 2419288, \*22 (W.D. Wash. Aug. 21, 2025)  
14 (noting that the "Supreme Court did not decide *D.V.D.* on the merits, nor did it even  
15 necessarily rule on the class's likelihood of success on its due process and APA claims,"  
16 and concluding that absent any "explanation of its reasoning," the court could not  
17 "ascertain from the Supreme Court's emergency order whether it found the government  
18 likely to succeed on its jurisdictional or substantive claims").

19  
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22 84. Thus, if Mr. Barakat were to be removed to any third country it would  
23 violate his due process rights unless he is first provided with constitutionally adequate  
24 notice and a meaningful opportunity to apply for protection under the Convention Against  
25 Torture. In the absence of any other injunction, intervention by this Court is necessary to  
26 protect those rights. *See, e.g., Cruz-Medina v. Noem*, Case No. 25-CV-1768-ABA (D.  
27  
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1  
2 Md. Oct. 7, 2025) (preliminarily enjoining removal of petitioner to third country pending  
3 opportunity for an Immigration Judge to review DHS adjudication of fear claim, after  
4 petitioner was re-detained after release on OSUP).

5  
6 **FIRST CAUSE OF ACTION**

7 **5 U.S.C. § 706(a)(2)(A) | Unlawful Revocation of OSUP and Detention**

8 85. Petitioner re-alleges and incorporates herein by reference, as if set forth  
9 fully herein, the allegations in all the preceding paragraphs.

10 86. Petitioner was previously permitted to remain at liberty, subject to an  
11 OSUP, by Respondents because removal was not foreseeable, and he did not pose a  
12 danger or flight risk. Respondents have authority to revoke the OSUP and detain  
13 Petitioner only if circumstances have changed as to reasonable foreseeability, danger, or  
14 flight risk. 8 C.F.R. § 241.13(i)(2); 8 C.F.R. § 1231(a)(6). Respondents have made no  
15 allegation of changed circumstances, no less provided Petitioner with a pre-deprivation  
16 opportunity for rebuttal.  
17

18  
19 87. Respondents' actions are arbitrary, capricious, an abuse of discretion, and  
20 contrary to law. 5 U.S.C. § 706(a)(2)(A). The fact that a decision-making process  
21 involves discretion does not prevent an individual from having a protectable liberty  
22 interest. *Young v. Harper*, 520 U.S. at 150; *Ortega-Rangel v. Sessions*, 313 F. Supp. 3d  
23 993, 1001 (N.D. Cal 2018) (Corley, J.). Just like people on pre-parole, parole, probation  
24 status, bail, or bond have a liberty interest, so too does Petitioner have a liberty interest  
25 in remaining out of custody on his OSUP. *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 2019  
26 WL 6251231 (N.D. Cal. 2019). He should therefore be immediately released and in the  
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1  
2 future provided a full and fair hearing before an Immigration Judge where the  
3 government bears the burden of showing that circumstances have changed such that his  
4 removal is reasonably foreseeable, and otherwise evidence of his dangerousness and  
5 flight risk. *Id.*

6  
7 **SECOND CAUSE OF ACTION**

8 **Violation of Procedures for Revocation of OSUP and Detention**

9 88. Petitioner re-alleges and incorporates herein by reference, as if set forth  
10 fully herein, the allegations in all the preceding paragraphs.

11 89. Respondents must notify Petitioner of the reason for revocation of the  
12 OSUP and detention. 8 C.F.R. § 241.13(i)(3). The regulations also require Respondents  
13 to afford Petitioner an initial interview promptly after his detention at which he can  
14 respond to the purported reasons for revocation. *Id.* The regulations further provide that  
15 revocation of release on an OSUP must be determined by the Executive Associate  
16 Commissioner. 8 C.F.R. § 241.4(l).

17  
18 90. Respondents have not provided Petitioner with adequate and timely notice  
19 of the reasons for revocation. Respondents also have not timely provided Petitioner with  
20 an initial interview or an opportunity to respond. Nor have Respondents identified which  
21 ICE official made the determination to revoke Petitioner's OSUP.  
22  
23

24 **THIRD CAUSE OF ACTION**

25 ***Accardi Doctrine* | Violation of the INA and Applicable Regulations**

26 91. Petitioner re-alleges and incorporates herein by reference, as if set forth  
27 fully herein, the allegations in all the preceding paragraphs.  
28

1  
2 92. The INA provides for detention during the ninety (90) day “removal  
3 period” that begins immediately after a noncitizen’s order of removal becomes final. 8  
4 U.S.C. § 1231(a)(1). After the ninety (90) day removal period, the INA and its applicable  
5 regulations provide that detaining noncitizens is generally permissible only upon notice  
6 to the noncitizen and after an individualized determination of dangerousness and flight  
7 risk. *See* 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4(d), (f), (h) & (k).

9 93. Respondents are not permitted to detain Petitioner based on his prior order  
10 of removal and without any determination of whether circumstances have changed such  
11 that his removal is reasonably foreseeable, and a determination of his danger and flight  
12 risk, by an Immigration Judge. This is especially true where, as here, Petitioner received  
13 a determination from the agency issuing him Form I-220B that permitted him to remain  
14 out of custody in the first place. 8 C.F.R. § 241.13(i)(2)-(3).

#### 15 16 **FOURTH CAUSE OF ACTION**

##### 17 **Procedural Due Process – Unconstitutionally Indefinite Detention**

##### 18 **U.S. Const. amend. V**

19  
20 94. Petitioner re-alleges and incorporates herein by reference, as if set forth  
21 fully herein, the allegations in all the preceding paragraphs

22  
23 95. The Due Process Clause of the Fifth Amendment forbids the government  
24 from depriving any “person” of liberty “without due process of law.”

25  
26 96. Other than as punishment for a crime, due process permits the government  
27 to take away liberty only “in certain special and narrow nonpunitive circumstances ...  
28 where a special justification ... outweighs the individual’s constitutionally protected

1 interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690. Such special  
2 justification exists only where a restraint on liberty bears a “reasonable relation” to  
3 permissible purposes. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *see also Foucha v.*  
4 *Louisiana*, 504 U.S. 71, 79 (1992). In the immigration context, those purposes are  
5 “ensuring the appearance of aliens at future immigration proceedings and preventing  
6 danger to the community.” *Zadvydas*, 533 U.S. at 690 (quotations omitted).  
7  
8

9 97. Those substantive limitations on detention are closely intertwined with  
10 procedural due process protections. *Foucha*, 504 U.S. 78-80. Noncitizens have a right to  
11 adequate procedures to determine whether their detention in fact serves the purpose of  
12 ensuring their appearance or protecting the community. *Id.* at 79; *Zadvydas*, 533 U.S.  
13 692. Where laws and regulations fail to provide such procedures, the habeas court may  
14 assess whether the noncitizen’s immigration detention is reasonably related to the  
15 purposes of ensuring his appearance or protecting the community, *Zadvydas*, 533 U.S. at  
16 699, or require release.  
17  
18

19 98. Under this framework, Petitioner’s release is required because the  
20 revocation of his OSUP and his subsequent detention violate his due process rights.  
21

22 99. Further, Petitioner had a vested liberty interest in his release. Due Process  
23 does not permit the government to strip him of that liberty without a future hearing prior  
24 to any re-detention. *See Morrissey*, 408 U.S. at 487-488.

25 100. Because Petitioner’s detention is unconstitutionally indefinite, it violates  
26 due process and is unlawful. Moreover, because Petitioner faces detention without any  
27 meaningful determination of whether circumstances have changed such that his removal  
28

1 is reasonably foreseeable, and whether he poses a danger or flight risk, his detention  
2 violates due process.  
3

4 101. The revocation of Petitioner's OSUP and his detention are  
5 unconstitutionally indefinite because he cannot be removed to Syria. Thus, his removal  
6 is not reasonably foreseeable in this case, and the government has not provided him with  
7 notice, evidence, or an opportunity to be heard on this issue either before arbitrarily re-  
8 detaining him. His continued detention without any reasonably foreseeable end point is  
9 thus unconstitutionally prolonged in violation of clear Supreme Court precedent.  
10 *Zadvydas v. Davis*, 533 U.S. at 701.  
11

12 102. Moreover, because Petitioner poses no danger or flight risk, his detention  
13 was and is not reasonably related to its purposes and is unlawful.  
14

15 103. Further, because he was not provided with a hearing prior to his re-  
16 detention, and his continuing unlawful and constitutionally indefinite detention without  
17 adequate process is an ongoing violation of his due process rights, the only remedy of  
18 this violation is his immediate release from immigration detention, as well as a future  
19 hearing prior to any re-detention where DHS must prove that his detention is not  
20 unlawful.  
21

22  
23 **FIFTH CAUSE OF ACTION**

24 **Procedural Due Process – Unconstitutionally Inadequate Procedures Regarding**

25 **Third Country Removal and Transfer Outside This Judicial District**

26 **U.S. Const. amend. V**  
27  
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1  
2 104. Petitioner re-alleges and incorporates herein by reference, as if set forth  
3 fully herein, the allegations in all the preceding paragraphs.

4 105. The Due Process Clause of the Fifth Amendment requires sufficient notice  
5 and an opportunity to be heard prior to the deprivation of any protected rights. U.S. Const.  
6 amend. V; *see also Louisiana Pacific Corp. v. Beazer Materials & Services, Inc.*, 842  
7 F.Supp. 1243, 1252 (E.D. Cal. 1994) (“[D]ue process requires that government action  
8 falling within the clause's mandate may only be taken where there is notice and an  
9 opportunity for hearing.”).

10  
11 106. Petitioner has a protected interest in his life. Thus, prior to removal to any  
12 third country, Petitioner must be provided with constitutionally compliant notice and an  
13 opportunity to respond and contest that removal if he has a fear of persecution or torture  
14 in that country.

15  
16 107. For these reasons, Petitioner’s removal to any third country without  
17 adequate notice and an opportunity to apply for relief under the Convention Against  
18 Torture would violate his due process rights. The only remedy for this violation is for this  
19 Court to order that he not be summarily removed to any third country unless and until he  
20 is provided with constitutionally adequate procedures.

21  
22 108. To prevent ouster of this Court’s habeas jurisdiction, the Court should,  
23 pursuant to 28 U.S.C. §§ 1651(a) (All Writs Act), 2241, issue a limited order prohibiting  
24 Respondents from transferring Petitioner outside the Court’s District or otherwise  
25 changing his immediate custodian without prior leave of Court while this action is  
26 pending.  
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1  
2 **PRAYER FOR RELIEF**

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

- 4 (1) Assume jurisdiction over this matter;
- 5 (2) Order that Petitioner's detention is unlawful in violation of *Zadvydas* because his  
6 removal is not reasonably foreseeable;
- 7 (3) Order that Petitioner's detention is unlawful in violation of 8 C.F.R. § 241.13(i)(2)  
8 because there are no changed circumstances showing that there is a significant  
9 likelihood that he may be removed in the reasonably foreseeable future;
- 10 (4) Order the immediate release of Petitioner from custody because his detention is  
11 not reasonably foreseeable in violation of *Zadvydas*;
- 12 (5) Order the immediate release of Petitioner from custody because his detention is  
13 unlawful in violation of 8 C.F.R. § 241.13(i)(2);
- 14 (6) Order the immediate release of Petitioner from custody on any other basis that this  
15 Court finds proper;
- 16 (7) Order that, prior to any future re-detention, Petitioner must be provided a hearing  
17 before an Immigration Judge where DHS bears the burden of justifying  
18 Petitioner's re-detention, and that the Immigration Judge must further consider  
19 whether, in lieu of detention, alternatives to detention exist to mitigate any risk  
20 that DHS may establish;
- 21 (8) Order that Petitioner cannot be removed to any third country without first being  
22 provided constitutionally-compliant procedures, including:  
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- a. Written notice to Petitioner and counsel of the country to which he may be removed, in a language that Petitioner can understand, provided at least 21 days before any such removal;
- b. A meaningful opportunity for Petitioner to raise a fear of return for eligibility for protection under the Convention Against Torture, including a reasonable fear interview before a DHS officer;
- c. If Petitioner demonstrates a reasonable fear during the interview, DHS must move to reopen his underlying removal proceedings so that he may apply for relief under the Convention Against Torture;
- d. If it is found that Petitioner does not demonstrate a reasonable fear during the interview, a meaningful opportunity, and a minimum of 15 days, for Petitioner to seek to move to reopen his underlying removal proceedings to challenge potential third-country removal;

(9) Order that Respondents be prohibited from transferring Petitioner outside the Court's District or otherwise changing his immediate custodian without prior leave of Court while this action is pending;

(10) Award Petitioner reasonable costs and attorney fees; and

(11) Grant such further relief as the Court deems just and proper.

Dated: November 6, 2025

Respectfully submitted,

s/Jesse Evans-Schroeder  
Jesse Evans-Schroeder, Esq.  
Counsel for Petitioner

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

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 6th day of November, 2025 in Tucson, Arizona.

/s/Jesse Evans-Schroeder  
Jesse Evans-Schroeder  
Attorney for Petitioner

County of Residence: Pinal

County of Residence: Outside the State of Arizona

County Where Claim For Relief Arose: Pinal

Plaintiff's Atty(s):

**Jesse Evans-Schroeder ,**  
Green Evans-Schroeder, PLLC  
130 W. Cushing Street  
Tucson, Arizona 85701  
5208828852

Defendant's Atty(s):

**Pamela Bondi , Attorney General of the United States**  
  
950 Pennsylvania Avenue  
Washington, D.C., 20530  
2025142000

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**IFP REQUESTED**

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**REMOVAL FROM COUNTY, CASE #**

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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:      **Petitioner challenges his re-detention in civil immigration custody and the Respondent's application of 8 U.S.C. § 1231; 8 C.F.R. § 241.4(l)(1)-(2) as proscribed by the Due Process Clause of the United States Constitution, as well as Respondent's application of 8 U.S.C. § 1231(b)(2)(C) and applications of provisions laid out under Article III of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which the U.S. is a signatory.**

VII. Requested in Complaint

Class Action:      **No**

Dollar Demand:

Jury Demand:      **No**

VIII. This case is not related to another case.

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**Signature:** Jesse Evans-Schroeder