UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

ACISCLO VALLADARES URRUELA, Petitioner, v. GARRETT RIPA, Field Office Director Miami Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States, Respondents.	Case No: **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This case challenges the unlawful detention of Petitioner Acisclo Valladares Urruela ("Petitioner" or "Mr. Valladares"), who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Miramar Field Office.[1] Petitioner, a native and citizen of Guatemala, is neither a flight risk nor a danger to the community. Indeed, this Court previously ordered his release from custody on bond, and Respondents themselves released him from immigration custody last year. Since then, nothing has changed. And yet, on November 7, 2025, ICE re-detained Petitioner without: 1) providing notice or an opportunity to be heard; 2) providing the basis for his re-detention; 3) providing proof that revocation was ordered by an ICE employee

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[1] Based on information and belief, Petitioner will be transferred to the Krome North Service Processing Center or the Broward Transitional Center.

with authority to do so; or 4) making the findings required by law – all in violation of agency rules and regulations.

2. Petitioner is a former Guatemalan government minister who has been granted immigration relief in the United States. He faces imminent and life-threatening danger if removed. At great personal risk, he voluntarily traveled to the United States where federal authorities paroled him to assist with their criminal investigations involving high-ranking Guatemalan officials and private-sector actors engaging in corruption. Petitioner's cooperation with the United States Attorney's Office and the Federal Bureau of Investigation was substantial, credible, and instrumental.

3. That cooperation is publicly known in Guatemala and Petitioner has consequently faced threats from powerful figures implicated by his disclosures—many of whom currently hold or control positions within the Guatemalan government. As a result, Petitioner, with the **express** agreement of the Department of Homeland Security ("DHS"), was granted a withholding of removal by an immigration judge because he established a clear probability of future persecution if returned to Guatemala.

4. Petitioner was released from custody by DHS upon the grant of withholding of removal pursuant to an order of supervision because DHS assessed that he was not a flight risk or a danger to the community. Indeed, Petitioner's withholding-agreement with DHS was premised on the understanding that he would be released from immigration custody.

5. Petitioner has since fully abided by the terms of his release. But at a regularly scheduled check-in with ICE on November 7th, Respondents detained him without formally revoking his order of supervision. Respondents additionally failed to provide him with any notice or an opportunity to be heard.

6. Petitioner fears that he will be removed in violation of the order withholding his removal and returned to Guatemala, directly or indirectly.

7. Due to the government's increased use of third country removal, Petitioner fears being removed to a country that would serve only as a temporary stop before being returned to Guatemala, where he faces serious threats to his life. Upon taking Petitioner into custody, ICE indicated that he will be removed to a third country; however, ICE provided no indication of which country or whether that process had even begun.

8. Respondents' actions depriving Petitioner of his liberty violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

9. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents to release him and at the very minimum, provide him with notice and an opportunity to challenge the revocation of his release. Further, Respondents should be enjoined from deporting Petitioner without his being given a meaningful, constitutionally adequate opportunity to present a fear-based claim to any third country the government designates for his removal.

JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 2201 (declaratory relief).

11. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 2241 because Petitioner is detained at the Miramar Field Office in Miramar, Florida under the ICE

Miami Field Office's jurisdiction. As noted, based on information and belief, Petitioner will be transferred to the Krome North Service Processing Center or the Broward Transitional Center – both of which fall within the jurisdiction of this Court.

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 cause ("OSC") to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, then the Court must require the 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 significance 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. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

14. Petitioner ACISCLO VALLADARES URRUELA is a native and citizen of Guatemala. The United States paroled him within its domestic jurisdiction in 2020, and granted the withholding of his removal in 2024. He is currently in ICE custody at the Miramar Field Office in Miramar, Florida. On information and belief, Petitioner will soon be detained at the Krome North Service Processing Center or Broward Transitional Center pursuant to ICE policy and practice.

15. Respondent GARRETT RIPA is sued in his official capacity as the ICE Field Office Director for the Miami Office of Enforcement and Removal Operations. The Miami Field Office

is the Field Office that oversees the Miramar Field Office, where Petitioner is currently located. Respondent Ripa is a legal custodian of Petitioner.

16. Respondent KRISTI NOEM is sued in her official capacity as the DHS Secretary. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.

17. Respondent PAMELA BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Petitioner.

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision

18. "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 Clause protects." *Id.* at 690.

19. Under the substantive due process doctrine, a restraint on liberty like the revocation of a noncitizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has recognized only two legitimate immigration detention objectives: (1) preventing danger to the community; and (2) preventing flight prior to removal. *See Zadyydas,* 533 U.S. at 690-92 (discussing

constitutional limitations on civil detention).

20. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a noncitizen'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).

21. The Supreme Court "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). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process suffice. *Id.* at 985. Moreover, only where "one of the variables in the *Mathews [v. Eldrige]* equation—the value of pre-deprivation safeguards—is negligible in preventing the kind of deprivation at issue" such that "the State cannot be required constitutionally to do the impossible by providing pre-deprivation process," can the government avoid providing pre-deprivation process. *Id.*

Statute and Regulation Govern Procedures for Revoking an Order of Supervision

22. 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).

23. A noncitizen may only be detained past the 90-day removal period following a removal order if he is found to be "a risk to the community," "unlikely to comply with the order of removal" or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).

24. But even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and

no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas*, 533 U.S. at 699-700.

25. Regulations purport to give additional reasons beyond those listed at § 1231(a)(6), why an order of supervision may be revoked and a noncitizen 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 noncitizen "violates any of the conditions of release").

26. Regulations permit only certain officials to revoke an order of supervision including: the ICE Executive Associate Director; a field office director; or an official "delegated [with] 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)) (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*, 781 F. Supp. 3d at 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).

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

The APA Sets Minimum Standards for Final Agency Action

28. The APA authorizes judicial review of final agency action. 5 U.S.C. § 704.

29. Final agency actions are those that (1) "mark the consummation of the agency's decisionmaking 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).

30. ICE's revocation of an order of supervision is a final agency action subject to this Court's review.

31. The revocation here marked the consummation of ICE's decisionmaking process regarding Petitioner's custody.

32. 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 his rights under the Constitution, statute, and regulation.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

33. 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."); *Haitian Refugee Ctr. v. Civiletti*,

503 F. Supp. 442, 455 (S.D. Fla. 1980), *modified sub nom. Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023 (5th Cir. 1982) ("Indeed, departures from the statute, and regulations, and the standardized operating procedures must be studied quite closely since such departures, especially if willful, systematic, and cumulative, may amount to a breach of the fundamental fairness which due process guarantees.") (citing *Accardi*, 347 U.S. at 268).

34. *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. 199, 235 (1974) (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).

Protections Under Withholding of Removal

35. Removal to a country where a noncitizen faces persecution is prohibited "if the Attorney General decides that the [noncitizen's] life or freedom would be threatened in that country because of the [noncitizen's] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

36. When an Immigration Judge ("IJ") grants withholding of removal, the IJ issues a removal order and simultaneously withholds that order with respect to the country (or countries) for which the noncitizen has demonstrated a sufficient risk of persecution. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 531-32 (2021).

37. A noncitizen with a final withholding grant cannot be removed to the country from which he demonstrated a sufficient likelihood of persecution. *See* 8 U.S.C. § 1231(b)(3)(A). While ICE is authorized to remove noncitizens who were granted withholding to alternative countries,

see 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute imposes restrictive criteria for identifying appropriate countries. 8 U.S.C. § 1231(b)(2)(D)-(E).

38. Additionally, Congress provided that all countries to which DHS seeks to deport a noncitizen to are subject to the withholding statute. *See* 8 U.S.C. § 1231(b)(3) (referencing 8 U.S.C. §§ 1231(b)(1) and (b)(2)).

STATEMENT OF FACTS

Cooperation with the United States Government

39. Petitioner is a former Guatemalan government minister with a history of public service to his home country. He has held positions of authority within the Guatemalan government as well as with one of the largest companies in Guatemala.

40. Petitioner's efforts to serve the Guatemalan people led to his recognition by the United States government, including the U.S. Ambassador to Guatemala, as an ally. This resulted in a close working partnership with the United States for many years.

41. During his time serving in government and in the private sector, Petitioner was exposed to corruption throughout Guatemala's public and private sectors. He, himself, engaged in conduct, at the behest of his superiors, that he deeply regrets.

42. Petitioner learned of criminal investigations against him and others in Guatemala by the United States government. Because of his partnership with the United States government in Guatemala, Petitioner traveled to the United States, despite significant danger to himself and his family, in August 2020, to volunteer his assistance and cooperation with the ongoing criminal investigation by U.S. authorities against powerful Guatemalans and companies. He did so knowing that he himself would be subject to criminal prosecution.

43. Although the U.S. government brought criminal charges against Petitioner, in recognition of his non-danger and non-flight risk, he was released on bond for the duration of his three-year proceedings, including the time in-between his plea agreement and sentencing. He consistently complied with all conditions of his release.

44. Pursuant to a plea agreement, Petitioner pled guilty to one count of conspiracy to commit money laundering in violation of 18 U.S.C. § 1956(h). He was sentenced to a term of imprisonment of ten months with no fine. Petitioner's sentence was substantially less than the maximum penalty of ten years imprisonment and a $500,000 fine for the offense—a recognition of Petitioner's character and cooperation with the government.

45. Petitioner's consistent cooperation with the U.S. Attorney's Office and Federal Bureau of Investigations rendered Petitioner a whistleblower; and because of his cooperation, he has been subject to threats of violence and death by powerful individuals and government officials in Guatemala. The risk to his life was recognized by the federal district court judge presiding over Petitioner's criminal proceedings, as well as U.S. government officials.

Petitioner's Immigration Proceedings

46. On September 20, 2023, DHS issued a final administrative removal order charging Petitioner subject to removal.

47. Petitioner demonstrated a credible fear of persecution or torture if returned to Guatemala and was placed in proceedings before an immigration judge.

48. After Petitioner served his term of imprisonment, he was transferred to immigration custody on or about June 2024.

49. Petitioner filed an application for relief from removal in the form of withholding of removal, as well as protection under the Convention Against Torture. He presented evidence

demonstrating that his cooperation with U.S. government was publicly known in Guatemala, and that he has been subjected to threats to his life by powerful individuals in Guatemala.

50. On October 15, 2024, pursuant to a stipulated agreement between Petitioner and DHS, an IJ granted Petitioner's application for withholding of removal, thus finding that Petitioner demonstrated a clear probability of future persecution and precluding his removal to Guatemala. No other country was designated for removal by the IJ. *See* Exhibit A.

51. On October 16, 2024, DHS released Petitioner from custody pursuant to an order of supervision. *See* Exhibit B. Petitioner therefore spent approximately five months in immigration custody and remained in either federal or immigration custody for over one year after the final administrative order of removal. Petitioner has maintained compliance with the conditions of his release.

52. Despite this fact, on November 7, 2025, at Petitioner's regularly scheduled check-in at the Miramar Field Office, DHS re-detained him without formally revoking his order of supervision and without explanation.

CAUSES OF ACTION

COUNT ONE
Violation of the Fifth Amendment of the U.S. Constitution
Substantive Due Process

53. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 52.

54. When ICE issued Petitioner an order of supervision, it found that he was neither a danger to the community nor a flight risk, and that his removal was not reasonably foreseeable.

55. When Respondents re-detained Petitioner, he had been in full compliance with every condition of the order of supervision. No change in circumstances warrants his re-detention or the revocation of the order of supervision.

56. The government's only interest in holding an individual in immigration detention can be to prevent danger to the community or to ensure a noncitizen's removal can be effectuated. *See Zadvydas*, 533 U.S. at 690.

57. The government can make no showing that ICE has detained Petitioner due to his danger to the community, flight risk, or a change in the foreseeability of his removal to Guatemala, as his circumstances have not changed since his release from ICE custody over a year ago. Additionally, Petitioner cannot be removed to Guatemala based on his successful fear-based claim of persecution. Respondents' unspecified assertion that removal to a yet-to-be-named third country will be facilitated does not demonstrate that removal is foreseeable.

58. Because Respondents have 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.

COUNT TWO
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

59. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 52.

60. The Constitution does not permit ICE to revoke Petitioner's lawful release and re-incarcerate him without notice of the basis for the revocation of his order of supervision and a pre-deprivation hearing where he can contest that revocation. This lack of process means that Petitioner's continued re-detention violates Due Process.

61. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), instructs courts to balance three factors to determine whether procedural due process is 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 entail.

62. The first factor, the private interest at issue, 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*, 533 U.S. at 690. By living freely after his release, Petitioner developed a substantial liberty interest in avoiding re-detention. *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972).

63. Petitioner retains a weighty liberty interest even though he was under conditional release prior to his re-arrest. *See, e.g.*, *Rosado v. Figueroa*, No. cv 25-02157 PHX-DLR (CDB), 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) ("Although ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody, they have a protected liberty interest in remaining out of custody.").

64. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, the 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 violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior to revoking an

order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

65. The third factor, the government's interest, also favors Petitioner. When the government ignores laws that ensure notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. These actions force the government to spend additional resources defending against a habeas corpus petition in federal court. Had Respondents adhered to the law (*i.e.* requiring Respondents to provide notice and a meaningful opportunity to respond prior to revoking an order of supervision), then the fiscal and administrative burdens on the government would be substantially reduced.

66. For these reasons, re-detaining Petitioner and indicating the order of supervision will be revoked later without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution. *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573 *10 (S.D. Fla. Sept. 9, 2025) (holding that release is "compel[ed] because "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause."); *Momennia v. Bondi, et al.*, No. CIV-25-1067-J, 2025 WL 3011896 *8 (W.D. Okla. Oct. 15, 2025) ("Based on ICE's violations of its own regulations, the undersigned concludes that Mr. Momennia's detention is unlawful and that his release is appropriate under 28 U.S.C. § 2241(c)(3)."); *see also Yee S. v. Bondi*, 2025 WL 2879479, at *6 (D. Minn. Oct. 9, 2025) (ordering release because Petitioner has shown that ICE's re-detention of him . . . violated the law

because ICE did not comply with its own regulations under section 241.13(i)(2)"); *Roble v. Bondi*, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (holding that "[i]t goes without saying that ICE, like all government agencies, must follow its own regulations" and ordering release based on violation of 8 C.F.R. § 241.13(i)).

COUNT THREE
Violation of Administrative Procedure Act

67. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 52.

68. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A), (B).

69. 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).

70. Respondents' re-detention and intent to revoke Petitioner's order of supervision is contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause.

71. Any such revocation is not in accordance with the INA and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances.

72. Petitioner's re-detention did not occur pursuant to the revocation of his order of supervision by the ICE Executive Associate Director, or by any individual with authority to do so. The officer who re-detained Petitioner and indicated the intent to revoke the order did not first make findings that revocation was in the public interest and that circumstances did not reasonably

permit referral to the Executive Associate Director. Nor had the officer been delegated authority to revoke an order of supervision.

73. Before re-detaining Petitioner, Respondents did not make findings that Petitioner is dangerous or unlikely to comply with a removal order, as required by statute.

74. Respondents could not make findings that Petitioner's conduct indicated that release would no longer be appropriate or that Petitioner violated any condition of release, because he 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. Indeed, Petitioner *cannot* be removed by law to his country of citizenship, Guatemala.

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

76. This revocation should be held unlawful and set aside because it was contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations. *Grigorian*, 2025 WL 2604573 *9 ("The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands.") (citing *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021)).

COUNT FOUR
Violation of the *Accardi* Doctrine

77. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 52.

78. 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, 268 (1954) ("If petitioner can prove the allegation [that agency failed

to follow its rules in a hearing] he should receive a new hearing"); *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) ("Agencies must respect their own procedural rules and regulations . . . [and] the courts retain the authority to check . . . for procedural compliance . . . ."); *Haitian Refugee Ctr. v. Civiletti*, 503 F. Supp. 442, 455 (S.D. Fla. 1980), *modified sub nom. Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023 (5th Cir. 1982) ("Indeed, departures from the statute, and regulations, and the standardized operating procedures must be studied quite closely since such departures, especially if willful, systematic, and cumulative, may amount to a breach of the fundamental fairness which due process guarantees.") (citing *Accardi*, 347 U.S. at 268).

79. 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); *Grigorian*, 2025 WL 2604573 *10; *Momennia*, 2025 WL 3011896 *8; *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).

80. Under *Accardi*, Respondents' re-detention and eventual revocation of the order of supervision should be set aside for violating agency procedures, rules, or instructions.

COUNT FIVE
Constitutionally Inadequate Procedures Regarding Third Country Removal

81. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 through 52.

82. Respondents' current policy and procedures to effectuate third country removal violate Petitioner's due process rights. And any imminent third country removal is unlawful because it fails to comport with the statutory obligations set forth by Congress in the INA .

83. ICE indicated that facilitation of removal to a third country will occur; however, it did not indicate what steps, if any, had been taken to notify Petitioner of which country he will be removed to. Nor is it constitutionally permissible for ICE to first detain Petitioner, and only then begin the process of attempting to identify a third country which will accept him. *See, e.g., Momennia*, 2025 WL 3011896 *10 ("mere intent to find a third country is too speculative to permit indefinite detention"); *see also Yee S.*, 2025 WL 2879479, at *5 (finding that "the record does not support a determination that [p]etitioner is significantly likely to be removed in the reasonably foreseeable future" when his home country of Burma was not an option for removal. ICE failed to "direct the Court to [ ] facts in the record supporting a conclusion that any specific country where [p]etitioner is not a citizen would agree to accept him." "Respondents simply repeat the vague and conclusory assertions that 'ICE is in the process of obtaining a travel document [.]'"); *Sun v. Noem*, 2025 WL 2800037, at *2-3 (S.D. Cal. Sept. 30, 2025) ("Respondents say they are 'putting together a travel document [TD] request to send to [the] Cambodian embassy,' and that '[o]nce ICE receives the TD, it will begin efforts to secure a flight itinerary for [p]etitioner.' The Court finds these kind of vague assertions—akin to promising the check is in the mail—insufficient to meet ICE's own requirement to show 'changed circumstances' or 'a significant likelihood that the alien may be removed in the reasonably foreseeable future.'") (record citations omitted); *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (same); *Roble*, 2025 WL 2443453, at *4 (same).

84. Should Respondents seek to remove Petitioner to a third country, Petitioner must be afforded the opportunity to present a fear-based claim prior to deportation to any such country

where he fears persecution or torture. The failure to do so constitutes a fundamental Fifth Amendment due process violation and implements the United States' obligations under international law. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019) ("DHS may designate a removal country outside of removal proceedings but . . . it **must provide** due process and **comply** with 8 U.S.C. § 1231(b) when doing so" (emphasis added)); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.").

85. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to apply for the withholding of removal relief and protection under the Convention Against Torture would violate his due process rights. To remedy this violation, Petitioner requests this Court to order his release and bar Respondents from summarily removing him to any third country unless and until he is provided with constitutionally adequate procedures.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Southern District of Florida;

(c) Grant temporary and permanent injunctive relief staying the Petitioner's imminent removal.

(d) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;

(e) Grant the writ of habeas corpus and order that Respondents release Petitioner from immigration detention;

(f) Order the Respondents to provide Petitioner with notice and a hearing where he can confront and oppose removal to any alternative third country that agrees to accept him, if one is identified;

(g) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(h) Grant any additional relief that this Court deems just and proper.

Dated: November 7, 2025

Respectfully submitted,

/s/ Daniel S. Gelber
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Attorneys for Petitioner

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

I represent Petitioner, ACISCLO VALLADARES URRUELA, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated this 7th day of November, 2025.

/s/ Daniel S. Gelber
DANIEL S. GELBER