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10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA (Las Vegas)**

12 **EMAN ZAERI**

13 *Petitioner,*

14 v.

15 **KRISTI NOEM,**

16 in her official capacity as  
17 Secretary, U.S. Department of  
18 Homeland Security; 245 Murray Lane  
19 SW, Washington, DC 20528;

20 **U.S. DEPARTMENT OF HOMELAND  
21 SECURITY**

22 **PAMELA J. BONDI,**

23 in her official capacity as  
24 Attorney General of the United States,  
25 950 Pennsylvania Avenue, NW,  
26 Washington, DC, 20530;

27 **TODD LYONS,**

28 in his official capacity as Acting  
Director and Senior Official  
Performing the Duties of the Director  
for U.S. Immigration and Customs  
Enforcement, 500 12th Street, SW,  
Washington, DC 20536;

**JASON KNIGHT,**

in his official capacity as Acting Field  
Office Director, Salt Lake City Field  
Office Director, U.S. Immigration &

Case No.:

Agency No: A 

**VERIFIED PETITION  
FOR A WRIT OF HABEAS  
CORPUS PURSUANT  
TO 28 U.S.C. § 2241**

1 Customs Enforcement, 2975 Decker  
2 Lake Drive Suite 100, West Valley  
City, UT 84119-6096;

3 **MARCOS CHARLES,**

4 in his official capacity as Acting  
5 Executive Associate Director,  
6 Enforcement and Removal  
7 Operations, U.S. Immigration &  
Customs Enforcement, 500 12th  
Street, SW, Washington, DC 20536;

8 **U.S. IMMIGRATION AND CUSTOMS**  
9 **ENFORCEMENT**

10 **JOHN MATTOS,**

11 in his official capacity as Warden,  
12 Nevada Southern Detention Facility,  
2190 E. Mesquite Ave.  
Pahrump, NV 89060;

13 *Respondents.*

14  
15 **INTRODUCTION**

16 1. Eman Zaeri (“Petitioner” “Mr. Zaeri”) is a 41-year old resident of the United  
17 States. He has lived in this country since 2003, when he was admitted as a refugee fleeing  
18 religious persecution from Iran. He is a former Lawful Permanent Resident who was ordered  
19 removed by an Immigration Judge on August 18, 2020 and granted deferral of removal under  
20 the Convention Against Torture (CAT). Mr. Zaeri was released under an Order of Supervision  
21 (OSUP) on August 19, 2020. Immigration and Customs Enforcement (ICE), without revoking  
22 his OSUP, arrested and detained Mr. Zaeri on June 25, 2025 even though he cannot be removed  
23 to his country of origin. Mr. Zaeri has complied with his order of release, and there has been no  
24 change in circumstances since he was granted CAT relief. In violation of Due Process and in a  
25 departure from longstanding agency policy and practice, ICE is refusing to release him despite  
26 his removal not being reasonably practicable or foreseeable.  
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1           2.       ICE served Mr. Zaeri with a Warning for Failure to Depart upon his arrest on  
2 June 25, 2025. Mr. Zaeri was ambushed and taken by officers from his home despite having  
3 complied with his order of release. ICE has made no effort to remove the Petitioner from the  
4 United States since re-detaining him, as they are well aware that he cannot be removed to Iran  
5 due to his CAT protection, nor have they proffered a third country of removal. In addition, Mr.  
6 Zaeri is unable to obtain travel documents due to the lack of diplomatic relations between Iran  
7 and the United States. Contrary to these facts, ICE issued Mr. Zaeri with a decision to continue  
8 his detention after the 90-day period on September 19, 2025, claiming that they expect to  
9 effectuate his removal in the foreseeable future without providing any evidence of progress in  
10 that regard.  
11

12           3.       Mr. Zaeri files this Petition for a Writ of Habeas Corpus (“Petition”) because the  
13 Respondents’ actions violate the Due Process Clause of the Fifth Amendment to the U.S.  
14 Constitution, the Immigration and Nationality Act and implementing regulations, the  
15 Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative  
16 agencies to follow their own rules, procedures, and instructions.  
17

18           4.       ICE previously found that Petitioner was neither a flight risk nor danger to the  
19 community when it released Petitioner from ICE detention on August 19, 2020 under an order  
20 of supervision. Since then, Petitioner has fully abided by the order’s terms, including attending  
21 regularly scheduled check-ins with ICE.  
22

23           5.       Without prior warning, and for no legitimate reason, ICE agents arrested Mr.  
24 Zaeri from his home in Las Vegas, Nevada on June 25, 2025, just days after the United States  
25 conducted missile strikes on Iran’s nuclear facilities. The proximity in time of Petitioner’s and  
26 scores of other Iranian nationals’ arrests to these events is no coincidence. Mr. Zaeri and those  
27  
28



1 agencies of the United States, and a substantial part of the events or omissions giving rise to the  
2 claim occurred in this district. *See* 28 U.S.C. § 1391(e).

### 3 REQUIREMENTS OF 28 U.S.C. § 2243

4 11. The Court must grant the petition for writ of habeas corpus or order Respondents  
5 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an  
6 order to show cause is issued, the Respondents must file a return “within three days unless for  
7 good cause additional time, not exceeding twenty days, is allowed.” *Id.*

8  
9 12. Habeas corpus is “perhaps the most important writ known to the constitutional  
10 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
11 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for  
12 the writ usurps the attention and displaces the calendar of the judge or justice who entertains it  
13 and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,  
14 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).  
15

### 16 PARTIES

17 13. Mr. Zaeri is a citizen of Iran who has resided in the United States since 2003. He  
18 has been in immigration detention since June 25, 2025.  
19

20 14. Respondent Kristi Noem is the Secretary of the Department of Homeland  
21 Security. She is responsible for the implementation and enforcement of the Immigration and  
22 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.  
23 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.  
24

25 15. Respondent Department of Homeland Security (DHS) is the federal agency  
26 responsible for implementing and enforcing the INA, including the detention and removal of  
27 noncitizens. Respondent DHS is a legal custodian of Petitioner.  
28

1           16.     Respondent Pamela Bondi is the Attorney General of the United States. She is  
2 responsible for the Department of Justice, of which the Executive Office for Immigration  
3 Review (EOIR) and the immigration court system it operates is a component agency. She is  
4 sued in her official capacity.  
5

6           17.     Respondent Department of Justice (DOJ) is the federal agency responsible for  
7 adjudicating removal and related bond cases. EOIR, and its components the immigration courts  
8 and Board of Immigration Appeals (BIA) is a division of DOJ.

9           18.     Respondent Todd Lyons is the Acting Director and Senior Officer Performing  
10 the Duties of the Director of ICE. Respondent Lyons is responsible for ICE's policies, practices,  
11 and procedures, including those relating to the detention of immigrants during their removal  
12 procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is sued in  
13 his official capacity.  
14

15           19.     Respondent ICE is the subagency of DHS that is responsible for carrying out  
16 removal orders and overseeing immigration detention. Respondent ICE is a legal custodian of  
17 Petitioner.  
18

19           20.     Respondent Jason Knight is the Acting Director of the Salt Lake City Field  
20 Office of ICE Enforcement and Removal Operations, a federal law enforcement agency within  
21 the Department of Homeland Security ("DHS"). ERO is a directorate within ICE whose  
22 responsibilities include operating the immigration detention system. In his capacity as ICE ERO  
23 Salt Lake City, Acting Field Office Director, Respondent Knight exercises control over and is a  
24 custodian of immigration detainees held at NSDC. At all times relevant to this Complaint,  
25 Respondent Knight was acting within the scope and course of his employment with ICE. He is  
26 sued in his official capacity.  
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1 *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). “The fundamental  
2 requirement of [procedural] due process is the opportunity to be heard at a meaningful time and  
3 in a meaningful manner.” *Id.* at 333 (citation modified).

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

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

11 29. But even where initial detention past the 90-day removal period is authorized, if  
12 “removal is not reasonably foreseeable, the court should hold continued detention unreasonable  
13 and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and  
14 should be conditioned on any of the various forms of supervised release that are appropriate in  
15 the circumstances . . . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

16 30. Regulations purport to give additional reasons, beyond those listed at §  
17 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained  
18 past the removal period: “(1) the purposes of release have been served; (2) the alien violates any  
19 condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of  
20 the alien, or any other circumstance, indicates that release would no longer be appropriate.” 8  
21 C.F.R. § 241.4(l)(2); *see also id.* § 241.13(i) (permitting revocation of an order of supervision  
22 only if a non-citizen “violates any of the conditions of release”). Because “[r]egulations cannot  
23 circumvent the plain text of the statute[.]” courts question whether these regulations are ultra  
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1 vires of statutory authority. *See, e.g., You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018)  
2 (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal  
3 period only if person is a risk to the community, unlikely to comply with the order of removal,  
4 or was ordered removed on specified grounds).

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

19  
20  
21 32. Upon revocation of an order of supervision, ICE must give a non-citizen notice  
22 of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(l)(1).

23  
24 33. The Administrative Procedure Act authorizes judicial review of final agency  
25 action. 5 U.S.C. § 704.

26 34. Final agency actions are those (1) that “mark the consummation of the agency’s  
27 decisionmaking process” and (2) “by which rights or obligations have been determined, or from  
28

1 which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation  
2 modified).

3 35. ICE’s revocation of an order of supervision is a final agency action subject to  
4 this Court’s review.

5 36. The re-detention of Petitioner here is an effective revocation which marked the  
6 consummation of ICE’s decisionmaking process regarding Petitioner’s custody.  
7

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

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

19 39. *Accardi* is not “limited to rules attaining the status of formal regulations.”  
20 *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for  
21 violation of unpublished rules and instructions to agency officials. See *Morton v. Ruiz*, 415 U.S.  
22 235 (affirming reversal of agency denial of public assistance made in violation of internal  
23 agency manual); *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing  
24 decision to admit evidence obtained by IRS agents for violating instructions on investigating tax  
25 fraud).  
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1           40.     Where a release notification issued alongside an order of supervision instructs  
2 that a non-citizen with a final order of removal will be given an opportunity to prepare for an  
3 “orderly departure,” ICE’s failure to follow that instruction is an *Accardi* violation. *See Ceesay*  
4 *v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan.  
5 29, 2018), *vacated and remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008  
6 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering  
7 release of petitioners to give an opportunity to prepare for orderly departure).  
8

9           41.     The Fifth Amendment’s Due Process Clause incorporates an equal protection  
10 component that binds the federal government to the same constitutional standards that the  
11 Fourteenth Amendment imposes on the states. *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).  
12 Under this principle, federal officers and agencies may not engage in unjustified discrimination  
13 among persons subject to their authority. Distinctions based on race, ethnicity, or national origin  
14 are inherently suspect and subject to strict judicial scrutiny, requiring that the classification be  
15 narrowly tailored to serve a compelling governmental interest. *Adarand Constructors, Inc. v.*  
16 *Peña*, 515 U.S. 200, 227 (1995); *Hernandez v. Texas*, 347 U.S. 475, 478–79 (1954). At a  
17 minimum, where no suspect classification or fundamental right is involved, governmental  
18 distinctions must bear a rational relationship to a legitimate governmental purpose. *Romer v.*  
19 *Evans*, 517 U.S. 620, 631 (1996). Courts evaluating an equal protection claim against federal  
20 immigration authorities consider whether the challenged action was motivated by an  
21 impermissible classification and whether it lacks a constitutionally adequate justification.  
22 *Washington v. Davis*, 426 U.S. 229, 239–42 (1976).  
23

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**FACTS**

1  
2 42. Petitioner has resided in the United States since 2003, and until his recent  
3 detention, lived in Las Vegas, Nevada. He was first admitted to the United States as a refugee  
4 on August 4, 2003. He subsequently adjusted his status to that of lawful permanent resident on  
5 July 7, 2005. His two brothers and parents are all U.S. citizens.  
6

7 43. On August 3, 2006, Petitioner was convicted of a felony under NRS 202.448 and  
8 subsequently placed in removal proceedings. He was sentenced to two years of probation and  
9 successfully complied with the requirements thereof. On August 18, 2020, he was ordered  
10 removed by an Immigration Judge and granted deferral of removal under CAT, preventing his  
11 deportation to Iran.  
12

13 44. On August 19, 2020, ICE released Mr. Zaeri from detention on an order of  
14 supervision, finding that he is neither a flight risk nor a danger to the community. Petitioner  
15 fully complied with the terms of his release and has not had any arrests or convictions since his  
16 felony in 2006.  
17

18 45. Despite there not being any change in circumstances or new facts suggesting that  
19 Mr. Zaeri now poses a risk, ICE arrested him on June 25, 2025. Though he was not served with  
20 a formal revocation of his order of supervision, Petitioner's re-detention without prior notice  
21 effectively constituted a revocation of his release.  
22

23 46. Petitioner was arrested just days after the United States conducted military  
24 strikes against his native Iran. In the week following Operation Midnight Hammer, ICE arrested  
25 more than twice as many Iranian nationals as it had during the entire preceding six-month  
26 period. Between January and June 2025, ICE arrested 86 Iranians, but during the week of June  
27 22, 2025, that number surged to 183. Among these individuals were Mr. Zaeri and the other  
28

1 Iranian nationals currently detained at Nevada Southern Detention Center. Petitioner was told  
2 by an ICE officer that he was unsure why he was being detained and that the field office had  
3 simply received instructions to “round up all Iranians”.

4 47. Following Petitioner’s arrest and transfer to NSDC, ICE issued a custody  
5 determination to continue Petitioner’s detention past the initial 90-day period without providing  
6 any details regarding the foreseeability of his removal.  
7

8 48. Petitioner has no travel documents and no way of obtaining them. Iran does not  
9 have any embassies or consulates in the United States, and there is no third country of which  
10 Mr. Zaeri is aware that would issue him a travel document.  
11

12 49. As a result, Petitioner remains in detention. Without relief from this Court, he  
13 will face the prospect of months, or even years, in immigration custody, separated from his  
14 family and community.  
15

16 **CLAIMS FOR RELIEF**

17 **COUNT I**

18 **Violation of the Fifth Amendment of the U.S. Constitution**  
19 **Substantive Due Process**

20 50. Petitioner realleges all paragraphs above as if fully set forth here.

21 51. When ICE issued Petitioner an order of supervision, it found that he is neither a  
22 danger to the community nor a flight risk.

23 52. When Respondents revoked the order of supervision, Petitioner had complied  
24 with every condition of the order, and ICE had not secured necessary travel documents for  
25 removal. No change in circumstances warranted the order’s revocation.  
26  
27  
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1 53. Petitioner’s detention therefore does not bear a reasonable relationship to the two  
2 regulatory purposes of immigration detention: preventing danger to the community or flight  
3 prior to removal.

4 54. Because Respondents had no legitimate, non-punitive objective in revoking  
5 Petitioner’s order of supervision, Petitioner’s detention violates substantive due process under  
6 the Fifth Amendment to the U.S. Constitution.  
7

8 **COUNT II**

9 **Violation of the Fifth Amendment of the U.S. Constitution**  
10 **Procedural Due Process**

11 55. Petitioner realleges all paragraphs above as if fully set forth here.

12 56. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors  
13 to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the  
14 risk of erroneous deprivation of that interest through the procedures used, and the probable  
15 value, if any, of additional procedural safeguards; and, (3) the government’s interest, including  
16 fiscal and administrative burdens that additional or substitute procedural requirements entail.  
17

18 57. The first factor, the private interest at issue, favors Petitioner. “Freedom from  
19 imprisonment—from government custody, detention, or other forms of physical restraint—lies  
20 at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.”  
21

22 *Zadvydas v. Davis*, 533 U.S. 678, 690.

23 58. The second factor, the risk of erroneous deprivation of liberty and the probable  
24 value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations  
25 of liberty, statute specifies the limited number of reasons that an order of supervision can be  
26 revoked. Regulations specify who may lawfully revoke the order and the procedures that must  
27 be followed when doing so, including giving notice and an opportunity to be heard.  
28

1 Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not  
2 just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior  
3 to revoking an order of supervision is of great value because it reduces the probability of  
4 needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

5  
6 59. The third factor, the government's interest, also favors Petitioner. When the  
7 government ignores law that ensures notice and an opportunity to respond to a person at risk of  
8 revocation of an order of supervision, it is more likely to waste limited financial and  
9 administrative resources on unnecessary detention of people who are neither flight risks nor  
10 dangerous. This waste drags down the efficiency of the entire immigration system. And because  
11 the government must also spend resources defending against a habeas corpus petition in federal  
12 court to compel Respondents to comply with law, requiring Respondents to instead provide  
13 notice and a meaningful opportunity to respond prior to revoking an order of supervision  
14 reduces fiscal and administrative burdens on the government.  
15

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

### 20 **COUNT III**

#### 21 **Violation of the Fifth Amendment of the U.S. Constitution** 22 **Equal Protection**

23 61. Petitioner realleges all paragraphs above as if fully set forth here.

24 62. The Fifth Amendment's Due Process Clause embodies an equal protection  
25 guarantee that prohibits the federal government from subjecting individuals to differential  
26 treatment based on race, ethnicity, or national origin absent a constitutionally sufficient  
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1 justification. *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954); *Adarand Constructors, Inc. v. Peña*,  
2 515 U.S. 200, 227 (1995).

3 63. Respondents' decision to arrest and detain Petitioner was motivated, at least in  
4 part, by his Iranian nationality, as evidenced by the timing of his arrest in the week following  
5 Operation Midnight Hammer and the contemporaneous statement by an ICE agent that officers  
6 had been instructed to "round up all Iranians."

7  
8 64. During that same week, ICE arrested more than twice as many Iranian nationals  
9 as it had in the entire preceding six-month period. Similarly situated individuals of other  
10 nationalities who had been released on orders of supervision were not subject to comparable  
11 mass revocations or re-detention.  
12

13 65. Because Respondents' enforcement actions were explicitly based on national  
14 origin, they are subject to strict scrutiny, which requires the government to show that the  
15 classification is narrowly tailored to serve a compelling governmental interest. *Parents Involved*  
16 *in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720 (2007); *Adarand Constructors, Inc.*  
17 *v. Peña*, 515 U.S. at 227.  
18

19 66. Respondents cannot satisfy this standard, as no compelling or narrowly tailored  
20 justification exists for targeting individuals for re-detention based solely on nationality. The  
21 conduct therefore violates the equal protection component of the Fifth Amendment's Due  
22 Process Clause.  
23

#### 24 COUNT IV

#### 25 Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B) 26 Contrary to Law and Constitutional Right

27 67. Petitioner realleges all paragraphs above as if fully set forth here.  
28

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

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

8 70. Respondents’ revocation of Petitioner’s order of supervision was contrary to the  
9 agency’s constitutional power under the Fifth Amendment’s Due Process Clause, as explained  
10 above.

11 71. The revocation was also not in accordance with the INA and implementing  
12 regulations governing who may lawfully revoke an order of supervision and under what  
13 circumstances, as cited and discussed in the Statutory Framework section above.

14 72. Petitioner’s order of supervision was not revoked by the ICE Executive  
15 Associate Director. The officer who revoked the order did not first make findings that  
16 revocation was in the public interest and that circumstances did not reasonably permit referral to  
17 the Executive Associate Director. Nor had the officer been delegated authority to revoke an  
18 order of supervision.

19 73. Before revoking the order, Respondents did not make findings that Petitioner is  
20 dangerous or unlikely to comply with a removal order, as required by statute.

21 74. Even assuming that regulations purporting to offer additional justifications for  
22 revocation of an order of supervision are not ultra vires, respondents did not comply with them.  
23 Respondents could not make findings that Petitioner’s conduct indicated release would no  
24

1 longer be appropriate or that Petitioner violated any condition of release, because he had not.  
2 Nor could Respondents make findings that the purposes of release had been served or that it was  
3 appropriate to enforce a removal order, because it had yet to make final arrangements for  
4 Petitioner's removal.

5  
6 75. Nor did the Respondents give Petitioner notice of the reasons for revocation and  
7 opportunity to be heard.

8 76. The revocation should be held unlawful and set aside because it was contrary to  
9 the agency's constitutional power and not in accordance with the INA and implementing  
10 regulations.

## 11 12 **COUNT V**

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

15 77. Petitioner realleges all paragraphs above as if fully set forth here.

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

18 79. Respondents' revocation of Petitioner's order of supervision was arbitrary and  
19 capricious because it violated statute, regulation, and the Constitution, as described above.

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

23 81. Respondents' decision to revoke Petitioner's order of supervision ran counter to  
24 the evidence before the agency that Petitioner would comply with a demand to appear for  
25 removal without detention. Petitioner has never violated a condition of his order of supervision  
26 and no new facts or changed circumstances suggest he would.  
27  
28

1 82. The revocation also “failed to consider important aspects of the problem” before  
2 Respondents, making it arbitrary and capricious for multiple other reasons. *Dep’t of Homeland*  
3 *Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

4 83. First, Respondents failed to consider the serious constitutional concerns raised by  
5 revoking Petitioner’s order of supervision without notice and opportunity to respond.  
6

7 84. Second, Respondents failed to consider the increased administrative burden to  
8 the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk  
9 nor a danger to the community, and for whom the agency does not have travel documents  
10 needed to effectuate removal, including financial and administrative costs incurred by the  
11 agency due to unnecessary detention.  
12

13 85. Third, Respondents failed to consider reasonable alternatives to revoking  
14 Petitioner’s order of supervision that were before the agency, like simply continuing release  
15 under the order of supervision and scheduling a future time and date to appear for removal. This  
16 alternative would vindicate the government’s interests in effectuating a removal order and save  
17 it the expense of detention not needed to guarantee Petitioner’s appearance.  
18

19 86. Fourth, Respondents failed to consider Petitioner’s substantial reliance interest,  
20 created by its instruction on Petitioner’s release notification, the agency would give an  
21 opportunity to arrange for an orderly departure once it obtained travel documents.  
22

23 87. For these and other reasons, Respondents’ revocation of Petitioner’s order of  
24 supervision was arbitrary and capricious and should be held unlawful and set aside.

25 **COUNT VI**

26 **Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C)**  
27 **In Excess of Statutory Authority**

28 88. Petitioner realleges all paragraphs above as if fully set forth here.

1 89. Under the APA, a court shall “hold unlawful and set aside agency action . . .  
2 found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory  
3 right.” 5 U.S.C. § 706(2)(C).

4 90. “An agency . . . literally has no power to act—including under its regulations—  
5 unless and until Congress authorizes it to do so by statute.” *FEC v. Cruz*, 596 U.S. 289, 301  
6 (2022) (internal quotation marks and citation omitted).

7 91. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period  
8 for a person who is found to be a danger to the community, unlikely to comply with a removal  
9 order, or whose removal order is on certain grounds specified in the statute. Even then, if  
10 removal “is not reasonably foreseeable, the court should hold continued detention unreasonable  
11 and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and  
12 should be conditioned on any of the various forms of supervised release that are appropriate in  
13 the circumstances . . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

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

18 93. Respondents’ revocation of Petitioner’s order of supervision was based on ultra  
19 vires regulations. Therefore, it was in excess of statutory authority and should be held unlawful  
20 and set aside.

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25 **COUNT VII**

26 **Ultra Vires Action**

27 94. Petitioner realleges all paragraphs above as if fully set forth here.  
28

1 95. There is no statute, constitutional provision, or other source of law that  
2 authorizes Respondents to detain Petitioner.

3 96. Petitioner has a non-statutory right of action to declare unlawful, set aside, and  
4 enjoin Respondents' ultra vires actions.

5  
6 **COUNT VIII**

7 **Violation of the *Accardi* Doctrine**

8 97. Petitioner realleges all paragraphs above as if fully set forth here.

9 98. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that  
10 violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v.*  
11 *Shaughnessy*, 347 U.S. 260 (“If petitioner can prove the allegation [that agency failed to follow  
12 its rules in a hearing] he should receive a new hearing”).

13  
14 99. Respondents violated agency regulations governing who and upon what findings  
15 it may properly revoke an order of supervision when it revoked Petitioner's order. “As a result,  
16 this Court cannot conclude that [the revoking officer] had the authority to revoke release” and  
17 Petitioner “is entitled to release on that basis alone.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137,  
18 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); *see also, e.g., Zhu v. Genalo*, 2025  
19 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21,  
20 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered  
21 by someone without regulatory authority to do so).

22  
23 100. Respondents also violated agency instructions in Petitioner's release notification  
24 to give an opportunity to prepare for an orderly departure when they revoked Petitioner's order  
25 without advance notice.  
26  
27  
28

1 101. Under *Accardi*, Respondents' revocation of the order of supervision and decision  
2 to ignore instructions in the release notification should be set aside for violating agency  
3 procedures, rules, or instructions.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Petitioner prays that this Court grant the following relief:  
6

- 7 a. Assume jurisdiction over this matter;
- 8 b. Declare that Petitioner's detention violates the Fifth Amendment, the INA and  
9 implementing regulations, the APA, and the *Accardi* doctrine;
- 10 c. Order Petitioner's immediate release;
- 11 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act  
12 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
13 law; and
- 14
- 15 e. Grant any other such relief that this Court deems just and proper.

16 DATED this 11th day of November, 2025.

17  
18 Respectfully Submitted,

19 /s/Michael T. Shamoon  
20 Michael T. Shamoon, Esq.  
21 Nevada Bar. No. 15324

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24 Las Vegas, Nevada 89117  
25 Telephone: 702-996-7411  
26  
27  
28

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

1  
2 I am submitting this verification on behalf of Petitioner because I am one of the  
3 Petitioner's attorneys. I have discussed with Petitioner the events described in this Petition. On  
4 the basis of those discussions, I hereby verify that the statements made in this Verified Petition  
5 for Writ of Habeas Corpus are true and correct to the best of my knowledge.  
6

7  
8 Dated: November 11, 2025

/s/Michael T. Shamoon  
Michael T. Shamoon, Esq.  
Managing Partner  
Shamoon Eliades LLP  
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Las Vegas, Nevada 89117