

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

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MOWAFK SHAHLA,

*Petitioner,*

v.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

Case No. 3:25-cv-01404

**SCOTTY RHODEN**, in his official capacity as Warden, Baker County Detention Center;

**GARRETT RIPA**, in his official capacity as Field Office Director, Miami Field Office, U.S. Immigration and Customs Enforcement;

**KRISTI NOEM**; in her official capacity as Secretary of the U.S. Department of Homeland Security,

**PAM BONDI**, in her official capacity as Attorney General of the United States,

*Respondents.*

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**INTRODUCTION**

1. This case challenges the unlawful detention of MOWAFK SHAHLA ("Petitioner" or "Mr. Shahla," who is currently in the custody of the Baker County Sheriff's Office and the Immigration and Customs Enforcement ("ICE") at the Baker County Detention Center located in Macclenny, Florida. Petitioner, who was issued deferred action, is neither a flight risk nor a danger to the community, however on or about Wednesday, November 12, 2025. ICE

detained him, despite having deferred action, without notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules.

2. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously released Petitioner from ICE detention on an order of supervision. Since then, Petitioner has abided by the order's terms, including attending regularly scheduled check-ins with ICE.

3. Petitioner has a pending U Visa Petition filed on February 17, 2017. On March 22, 2022, USCIS made a bona fide determination finding that Petitioner's application for U nonimmigrant status was bona fide and Petitioner warranted deferred action and employment authorization. *Exhibit A - USCIS Bona Fide Determination.*

4. On May 19, 2025, Petitioner appeared as instructed at a regularly scheduled Order of Supervision ("OSUP") appointment at ICE's office located at 13077 Veveras Drive, Jacksonville, Florida 32258. Petitioner was given another check-in appointment date on May 19, 2026 at 9:00 am.

5. On Wednesday, November 12, 2025, Respondents sought out Petitioner, suddenly revoked Petitioner's order of supervision and arrested him with no advance notice. Petitioner is currently detained at the Baker County Detention Facility.

6. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, and the Administrative Procedure Act, which obligates administrative agencies to follow their own rules, procedures, and instructions.

7. Petitioner brings this action for injunctive and habeas relief ordering Respondents to release him.

### PARTIES

8. Petitioner, MOWAFAK SHAHLA has lived in the United States for approximately 37 years. Prior to Petitioner's detention on or about November 12, 2025, he was residing in Duval County, Florida. Petitioner is currently detained at the Baker County Detention Facility.

9. Respondent, SCOTTY RHODEN is sued in his official capacity as Warden of Baker County Detention Center, where Petitioner is currently detained.

10. Respondent GARRETT RIPA is sued in his official capacity as the ICE Field Office Director for Miami, which includes the Baker County Detention Center.

11. Respondent, KRISTI NOEM is sued in her official capacity as the Secretary of the Department of Homeland Security.

12. Respondent PAM BONDI is sued in her official capacity as the Attorney General of the United States.

### **JURISDICTION AND VENUE**

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. §1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

14. Venue is proper in this district because Respondent Warden SCOTTY RHODEN is Petitioner's immediate custodian and under 28 U.S.C. §1391(e)(1) because Respondents are officers of United States agencies, Petitioner currently resides within this District, and there is no real property involved in this action.

### **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

15. Petitioner is 56 years old and came to the United States from Syria approximately 37 years ago. Petitioner has resided in the United States continuously since he first arrived in 1989, when he was 19 years old.

16. Petitioner obtained lawful permanent residence through his marriage to a United States citizen and he remained a lawful permanent resident for 13 years.

17. In 1997, Petitioner was charged in a thirteen count federal indictment related to Food Stamp Fraud and Bank Fraud in Jacksonville, Florida. Petitioner was convicted of one count of Unauthorized Use or Transfer of Food

Stamps, in violation of 7 U.S.C. §2024(b) and one count of Bank Fraud, in violation of 18 U.S.C. §§1344 and 2. Petitioner was sentenced to five months incarceration followed by three years of supervised release.

18. Petitioner was placed in removal proceedings in 1997 based on his criminal conviction, however, he was granted a 212(h) waiver and was able to adjust his status to that of a Lawful Permanent Resident on April 30, 2002 based on the marriage to a U.S. citizen.

19. On February 23, 2007, Petitioner was the victim of a violent carjacking in Duval County, Florida. Petitioner had just arrived home from work when he was attacked approaching his front door. Two assailants approached Petitioner and he was struck in the head with an unknown object causing him serious injury. The assailants took \$65,000 in checks that Petitioner obtained from customers that cashed checks at Petitioner's store. Petitioner was hospitalized and although he fully cooperated with law enforcement, the assailants have still not been identified.

20. On April 26, 2011, Petitioner was charged with Conspiracy to Defraud the United States and two counts of Unlawful Procurement and/or Attempt to Procure Naturalization and Citizenship related to conduct that occurred in 2009. On May 29, 2013, Petitioner was adjudicated guilty of the three counts and sentenced on June 13, 2013 to one year and one day on each count to run concurrently.

21. On June 30, 2014, Petitioner was placed in removal proceedings and he was ordered removed on December 1, 2014. Because Petitioner is a citizen of Syria and because ICE could not obtain a travel document from Syria, Petitioner was released on an Order of Supervision (OSUP).

22. On February 17, 2017, Petitioner filed Form I-918, Petition for U Nonimmigrant status based on his cooperation with law enforcement as the victim and witness of a qualifying crime in the investigation of the 2007 carjacking.

23. On March 22, 2022, the United States Citizenship and Immigration Service (USCIS) granted Petitioner deferred action and employment authorization subsequent to finding that Petitioner warranted a favorable exercise of discretion. USCIS granted deferred action while Petitioner has been placed on a waitlist until a visa becomes available to him and his petition is adjudicated.

24. USCIS has recently announced that on October 1, 2025, new U nonimmigrant visas would become available and USCIS would resume approving eligible Form I-918 Petitions filed on or before April 30, 2017. *Exhibit B - USCIS I-918 website printout from November 18, 2025.*

25. To date, Petitioner has not received a decision on his Form I-918, which was filed on February 17, 2017. However, USCIS is adjudicating cases filed during the time frame when Petitioner filed his Form I-918.

26. On May 19, 2025, Petitioner appeared for his latest OSUP appointment at ICE's immigration office located at 13077 Veveras Drive, Jacksonville, Florida 32258. Petitioner's OSUP was not revoked and he was given a future check-in date of May 19, 2026.

27. On Wednesday, November 12, 2025, without notice and despite being given a future check-in date, ICE agents drove to a location near Petitioner's home to arrest and detain him. Petitioner had no criminal charges pending and was not made aware of any changed circumstances which led to the arrest. Petitioner was in compliance with the terms of his OSUP.

28. On November 14, 2025, Petitioner filed a mandamus action in the Middle District of Florida requesting an order directing USCIS to make a decision on Petitioner's pending U visa petition, *Shahla v. Edlow*, Case #3:25-cv-01394.

29. Petitioner has significant health issues related to cardiovascular disease. *Exhibit C - Letter from Doctor*. Petitioner was diagnosed with severe cardiac blockages. Petitioner had a stent placed in his artery on April 21, 2025. Two weeks later, on May 5, 2025, Petitioner underwent a second procedure where four more stents were placed in Petitioner's other artery. Petitioner requires regular medication and blood pressure monitoring. Petitioner also suffers from severe sleep apnea and requires the use of a CPAP machine.

30. Since ICE released Petitioner on an order of supervision many years ago, Petitioner has complied with the conditions of the order, including periodic

check-ins with ICE. *See Exhibit D - Form I-220B (Record of OSUP appointments)*. No circumstances have changed that make Petitioner a flight risk or danger to the community. Petitioner has received no notice that his deferred action has been terminated or revoked.

31. Upon arrest, ICE transferred Petitioner to the Baker County Detention Facility, where he is currently detained.

### **LEGAL FRAMEWORK**

#### **Detention and Removal of Petitioners with Deferred Action**

32. 8 U.S.C. §1184(p)(2) authorizes 10,000 U visas per fiscal year. Because the number of petitioners exceeds the number of visas each year, petitioners are placed on a waiting list until a visa becomes available to them. 8 C.F.R. §214.14(d)(2). USCIS has the discretion to grant deferred action and employment authorization to petitioners who are on the waiting list. *Id.*

33. USCIS has developed a procedure for granting deferred action and employment authorization. 3 USCIS-PM C.5. First, USCIS determines whether a petitioner has properly filed a Form I-918 Petition for U Nonimmigrant Status along with required evidence. *Id.* USCIS then reviews background and security checks. *Id.* If USCIS determines that the petitioner does not pose a risk to national security or public safety and that the petitioner does warrant a positive discretionary decision, USCIS will issue a Bona Fide Determination Employment

Authorization Document (“BFD EAD”) and will grant deferred action. 8 U.S.C. §1182(a)(3); see also *USCIS Policy Manual Vol. 3, Part C, §5(C)(1)*.

34. USCIS will revoke the grant of deferred action under two circumstances: “if it determines the BFD EAD or favorable exercise of discretion are no longer warranted, or the prior BFD EAD and deferred action were granted in error.” *Id.*

35. Deferred action is an act of administrative discretion designed “[t]o ameliorate a harsh and unjust outcome,” where the government “may decline to institute proceedings, terminate proceedings, or decline to execute a final order of deportation.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 484 (1999).

36. USCIS recognizes that deferred action is a “form of prosecutorial discretion to defer removal action (deportation) against an alien for a certain period of time.” *USCIS Practice Manual Vol. 1, Part H, Ch. 2, §A.4*.

37. Approval of the U visa petition results in the removal being “deemed cancelled by operation of law as of the date of USCIS’ approval of the Form I-918.” 8 C.F.R. §214.14(c)(5)(i).

38. Petitioner has presumably been detained by ICE pursuant to 8 U.S.C. §1231(a), which authorizes the Attorney General to remove an alien ordered removed “within a period of 90 days...,” and 8 U.S.C. §1231(a)(2), which authorizes the Attorney General to “detain the alien.”

39. However, because Petitioner has been granted deferred action and has been provided no notice that such deferred action has been terminated, his detention and removal are unlawful.

#### **Revocation of an Order of Supervision**

40. A noncitizen with a final order of removal “who is not removed within the removal period . . . shall be subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3)

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

42. If the noncitizen is subject to the specified grounds listed in 8 U.S.C. § 1231(a)(6), and “removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances. . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

43. 8 C.F.R. § 241.4(l)(2) provides the regulations for detention past the 90 day removal period, which include: (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)

44. 8 C.F.R. §241.13(i) permits revocation of an order of supervision only if a non-citizen “violates any of the conditions of release.”

45. The regulations also establish who may revoke an order of supervision and define the procedures for doing so. 8 C.F.R. §241.4(l)(2) states that an OSUP may be revoked by an ICE Executive Associate Director, a field office director, or an official “delegated the function or authority . . . for a particular geographic district, region, or area.” The procedures for revoking an OSUP include first making findings that “revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner.” 8 C.F.R. § 241.4(l)(2).

46. Once a decision to revoke an OSUP has been made, ICE must give notice to the noncitizen listing the reasons for revocation and must provide a prompt interview and opportunity for the noncitizen to respond. 8 C.F.R. § 241.4(l)(1).

## **CLAIMS FOR RELIEF**

### **Count One**

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

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

48. Petitioner has deferred action pursuant to a pending U visa application before USCIS which is ripe for a decision. ICE detained Petitioner with no change in circumstance in contradiction to USCIS' grant of deferred action and while he was awaiting a decision on his pending U visa petition.

49. Additionally, when ICE issued Petitioner an order of supervision, it found that he is neither a danger to the community nor a flight risk.

50. When Respondents revoked the order of supervision, Petitioner had complied with the conditions of the order and ICE has not notified Petitioner that it has secured necessary travel documents for removal. No change in circumstances warranted the order's revocation.

51. Petitioner's detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

52. Because Respondents had no legitimate, non-punitive objective in arresting Petitioner after he was granted deferred action or in revoking Petitioner's order of supervision in the absence of changed circumstances, 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**

53. Plaintiffs reallege all paragraphs above as if fully set forth here.

54. There are three factors that courts should balance when determining whether procedural due process is satisfied. *Mathews v. Eldridge*, 424 U.S. 319, 333, (1979). First, the court should look at the private interest at issue. *Id.* Second, the court should look at the risk of erroneous deprivation of that interest through the procedures used. *Id.* The court should also look at the probable value, if any of additional procedural safeguards. *Id.* Third, the court should look at the governmental interest, including fiscal and administrative burdens that additional procedural requirements would require. *Id.*

55. The first *Mathews* factor, private interest, favors Petitioner. Petitioner is facing loss of liberty and deportation. There can be no higher private interest than freedom. Petitioner has a serious medical condition and faces deportation and separation from his family and friends. The private interest in this case is extraordinary.

56. The second factor, the risk of erroneous deprivation of that interest also favors Petitioner. Petitioner was arrested and detained to effect his eventual removal, despite a governmental grant of deferred action and imminent decision on his U visa petition which could provide him with a lawful status. Statutory provisions and regulations specify the procedure for revoking an order of supervision. Respondents violated Petitioner's deferred action grant and procedures for revoking an OSUP.

57. The third factor, which is the government's interest, also favors Petitioner. The government has a vested interest in the lawful execution of laws and regulations, especially when it involves loss of liberty. The orderly application of law and regulations prevents financial and administrative burdens on the government.

58. For these reasons, detaining Petitioner when he has deferred action and revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

### **Count Three**

#### **Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B)**

59. Plaintiffs reallege all paragraphs above as if fully set forth here.

60. 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).

61. Respondents' detention of Petitioner while he has deferred action and revocation of Petitioner's order of supervision was contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause, as explained above.

62. The revocation was also not in accordance with the INA and implementing regulations governing deferred action and who may lawfully revoke an order of supervision and under what circumstances.

63. Respondents failed to give Petitioner notice of the reasons for the detention despite having deferred action and notice for the revocation of his order of supervision and opportunity to be heard.

64. The detention and 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.

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

66. Respondents' detention when he has deferred action and revocation of Petitioner's order of supervision was arbitrary and capricious because it violated statute, regulation, and the Constitution, as described above.

67. Respondents' decision to detain Petitioner while he had deferred action despite no changed circumstances or termination of deferred action and when Petitioner's U visa petition will soon be adjudicated is arbitrary and capricious.

68. Furthermore, Respondents' decision to revoke Petitioner's order of supervision ran counter to the evidence before the agency that Petitioner would comply with a demand to appear for removal without detention. Petitioner

remained in compliance with his order of supervision and no new facts or changed circumstances suggest he would not appear for removal.

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

70. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even if the person is found to be a danger to the community, unlikely to comply with a removal order, or the removal order is on specified grounds listed in the statute, continued detention is unreasonable if removal “is not reasonably foreseeable.” In that case, the court should condition release on various forms of supervised release as deemed appropriate. *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

71. Respondents’ revocation of Petitioner’s order of supervision was in violation of the APA.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Enjoin Petitioner’s removal or transfer outside the jurisdiction of this

Court and the United States pending its adjudication of this petition;

- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, and the APA;
- d. Order Petitioner's immediate release;
- e. Award Petitioner costs and reasonable attorneys' fees; and
- f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

DATED: November 18, 2025

By: /s/Jeremy Lasnetski  
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**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and I have reviewed documents referenced in this Petition. On the basis of those discussions and review of those documents, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge. This verification is not made by Petitioner because Petitioner is in custody in a different county, scheduling visits with inmates at the

Petitioner's detention center are limited, and the need to file this petition is urgent.

DATED: November 18, 2025

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