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UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Luis Valladares Arenas,

Petitioner,

v.

Pamela Bondi, Attorney General of the
United States;

Kristi Noem, Secretary of the Department
of Homeland Security;

Todd M. Lyons, Acting Director of U.S.
Immigration and Customs Enforcement;

Christopher D. McGregor, Acting Field
Office Director of U.S. Immigration and
Customs Enforcement, Enforcement and
Removal Operations, Phoenix;

Respondents.

No. 2:25-at-99911

PETITION FOR WRIT OF
HABEAS CORPUS

28 U.S.C. § 1331

1 Petitioner Mr. Valladares Arenas, by and through his undersigned counsel, hereby petitions
2 for a writ of habeas corpus seeking (1) his immediate release from immigration detention, pursuant
3 to 28 U.S.C. § 1331, 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 2241, the Immigration and
4 Nationality Act, the Administrative Procedure Act, the Due Process Clause of the Fifth Amendment
5 to the U.S. Constitution, and the Suspension Clause of Article I, Section 9, Clause 2 to the U.S.
6 Constitution; (2) a permanent injunction barring Respondents from violating Petitioner's due
7 process rights and circumventing this Court's jurisdiction by unlawfully revoking his Order of
8 Supervision without providing meaningful notice and an opportunity to respond to the revocation,
9 pursuant to 28 U.S.C. § 1331, 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. § 2241, the Immigration and
10 Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth
11 Amendment to the U.S. Constitution; and (3) a permanent injunction barring Respondents from
12 violating Petitioner's due process rights and circumventing this Court's jurisdiction by unlawfully
13 removing him to a third country without a meaningful opportunity to be heard on a potential fear-
14 based claim for relief, pursuant to 28 U.S.C. § 1331, 28 U.S.C. §§ 2201 and 2202, 28 U.S.C. §
15 2241, the Immigration and Nationality Act, and the Due Process Clause of the Fifth Amendment
16 to the U.S. Constitution.

17 Respectfully submitted,

18 Dated: November 25, 2025

/s/ Benjamin T. Wiesinger

Counsel for Petitioner

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INTRODUCTION¹

1
2 1. Petitioner Mr. Valladares Arenas is a citizen and national of Cuba who is in the
3 custody of the United States Department of Homeland Security (DHS), Immigration and Customs
4 Enforcement (“ICE”) (Government), despite having complied with all the obligations of his Order
5 of Supervision (“OSUP”). Petitioner was arrested in front of his long-term partner and four-month-
6 old baby at the Phoenix Sky Harbor International Airport. Agents making the arrest informed
7 Petitioner that they would attempt to remove him to a third country, Mexico. Exhibit 1, Declaration
8 of Jehan Laner (hereinafter Laner Decl.), ¶ 2. Mr. Vallardes Arenas is not a citizen of Mexico, nor
9 does he have any connection to the country.

10 2. On November 20, 2025, an attorney submitted a request to ICE for a legal call with
11 Mr. Valladares Arenas Exhibit 1, Declaration of Jehan Laner (hereinafter Laner Decl.), ¶¶ 4–8. The
12 attorney was refused a legal call. *Id.* The attorney then submitted a request to ICE to be served with
13 any notices or orders issued by ICE, and that Petitioner be given a Credible/Reasonable Fear
14 Interview. *Id.* at ¶ 9, Exhibit 3, Nov. 20, 2025, Request for Fear Interview (hereinafter Request for
15 Fear Interview). Among other critical positions, that request explained Mr. Valladares Arenas fears
16 removal to Mexico and demanded ICE comply with its obligations to provide him with sufficient
17 notice and meaningful opportunity to reopen removal proceedings upon a potential designation of
18 any third country for removal. *Id.* In other words, the attorney asked that ICE give him his statutory
19 and constitutional opportunity to explain to an IJ why his life or freedom would be threatened by
20 removal to a specific third country. *Id.* Respondents have not yet responded to this request.

21 3. Respondents appear ready to immediately remove Mr. Valladares Arenas. It is
22 apparent that if Respondents remove Mr. Valladares Arenas to a third country, they will do so
23 unlawfully, brazenly ignoring their statutory, regulatory, and due process obligations. DHS
24 regulations require that noncitizens be given sufficient notice and the opportunity to meaningfully
25 respond and contest revocation of OSUP, however, no such notice or opportunity was given to
26 petitioner. 8 C.F.R. §§ 241.4 and 241.13. On July 9, 2025, DHS adopted a policy memorandum

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¹ Petitioner’s counsel apologizes for any errors in this filing. We are filing as quickly as possible given the circumstances.

1 stating that they would remove non-citizens to third countries with only 24 hours or less notice and
2 no meaningful opportunity to assert a fear-based claim. *See* Exhibit 3 (July 9, 2025 Third Country
3 Removals Memo).

4 4. Ninth Circuit precedent is clear: “Failing to notify individuals who are subject to
5 deportation that they have the right to apply for asylum in the United States and for withholding of
6 deportation to the country to which they will be deported violates both INS regulations and the
7 constitutional right to due process.” *Andriasian v. I.N.S.*, 180 F.3d 1033, 1041 (9th Cir. 1999)
8 (finding that “last minute” designation of alternative country without meaningful opportunity to
9 apply for protection “violate[s] a basic tenet of constitutional due process”). *See also Najjar v.*
10 *Lynch*, 630 Fed. App’x. 724 (9th Cir. 2016) (same). This Court should join a host of other recent
11 courts in enjoining Respondents from circumventing the Court’s jurisdiction, INS regulations, and
12 due process by removing Mr. Valladares Arenas to a third country without mandatory protections.
13 *See, e.g., Vaskanyan v. Janecka*, No. 5:25-CV-01475-MRA-AS, 2025 WL 2014208, at *6 (C.D.
14 Cal. June 25, 2025) (holding “third-country removals are subject to the same mandatory protections
15 that exist in removal or withholding-only proceedings”).

16 5. Therefore, Mr. Valladares Arenas petitions this Court for a writ of habeas corpus
17 pursuant to 28 U.S.C. § 2241 to enjoin Respondents from unlawfully revoking his OSUP or
18 effectuating a third country removal without mandatory statutory, regulatory, and due process
19 protections.

20 JURISDICTION AND VENUE

21 6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, as Mr.
22 Valladares Arenas is currently in federal immigration custody and seeks habeas corpus relief for
23 ongoing violations of the U.S. Constitution, federal statutes, and applicable regulations. *See, e.g.,*
24 *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001) (“We conclude that § 2241 habeas corpus
25 proceedings remain available as a forum for statutory and constitutional challenges to post-
26 removal-period detention.”) This case arises under the INA, 8 U.S.C. § 1101 et seq., the regulations
27 implementing the INA, the Foreign Affairs Reform and Restructuring Act of 1998 (FARRA), Pub.
28 L. No. 103-277, div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1998) (codified as Note

1 to 8 U.S.C. § 1231), and the regulations implementing the FARRA. This Court has jurisdiction
2 pursuant to the Administrative Procedures Act (“APA”), 5 U.S.C. §§ 701-706. Jurisdiction also
3 exists under 28 U.S.C. § 1331, as this action arises under the laws and Constitution of the United
4 States.

5 7. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202, and
6 the Court has supplemental remedial authority under the All Writs Act, 28 U.S.C. § 1651, to issue
7 such writs as may be necessary to preserve its jurisdiction and protect Petitioner’s rights. The
8 Government has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

9 8. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and
10 28 U.S.C. § 1391(b)(2) and (e)(1) because Mr. Valladares Arenas was arrested in Maricopa County
11 and, on information and belief, is detained in Florence, Arizona.

12 **PARTIES**

13 9. Petitioner Mr. Valladares Arenas is a native and citizen of Cuba who was arrested
14 by ICE at the Phoenix Sky Harbor International Airport and is in ICE custody. From November
15 20–November 22, 2025, Petitioner was held at the ICE-ERO Phoenix Field Office. Petitioner was
16 moved to the Florence Service Processing Center, 3250 N. Pinal Parkway, Florence, AZ 85132 on
17 November 22, 2025.

18 10. Respondent Christopher D. McGregor is the Acting Field Office Director of the ICE
19 Enforcement and Removal Operations (“ERO”) Phoenix Office. In that capacity, he is charged with
20 overseeing all ICE detention centers in Arizona and has the authority to make custody
21 determinations regarding individuals detained there. Respondent McGregor is a legal custodian of
22 Mr. Valladares Arenas. Respondent McGregor has immediate physical custody of Mr. Valladares
23 Arenas as he is detained at the Florence Service Processing Center, 3250 N. Pinal Parkway,
24 Florence, AZ 85132, which is run by ICE. Mr. Valladares Arenas brings this action against
25 Respondent McGregor in his official capacity.

26 11. Respondent Todd Lyons is the Acting Director of the Immigration and Customs
27 Enforcement (“ICE”). In that capacity, he is charged with overseeing all ICE detention and has the
28 authority to make custody determinations. Respondent Lyons is a legal custodian of Mr. Valladares

1 Arenas. Mr. Valladares Arenas brings this action against Respondent Lyons in his official capacity.

2 12. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland
3 Security. DHS oversees ICE, which is responsible for the administration and enforcement of
4 immigration laws and has supervisory responsibility for and authority over the detention and
5 removal of non-citizens throughout the United States. Respondent Noem is the ultimate legal
6 custodian of Mr. Valladares Arenas. Mr. Valladares Arenas brings this action against Respondent
7 Noem in her official capacity.

8 13. Respondent Pam Bondi is the Attorney General of the United States. As the Attorney
9 General, she oversees the immigration court system, including all IJs and the Board of Immigration
10 Appeals, and has authority over immigration detention. Mr. Valladares Arenas brings this action
11 against Respondent Bondi in her official capacity.

12 LEGAL FRAMEWORK

13 **I. STATUTES AND REGULATIONS GOVERNING REVOCATION OF** 14 **ORDERS OF SUPERVISION**

15 14. 8 U.S.C. § 1231 governs the detention and removal of noncitizens following a final
16 order of removal. A noncitizen who has been ordered removed but has been released “shall be
17 subject to supervision under regulations prescribed by the Attorney General.” 8.U.S.C. §
18 1231(a)(3); *see also id.* § 1231(a)(6).

19 15. 8 C.F.R § 241.4 and 8 C.F.R. § 241.13 are the regulations that govern the detention
20 and release of removable noncitizens. These regulations also establish the procedures that must be
21 followed if a noncitizen’s order of supervision is revoked. *See* 8 C.F.R § 241.4(l); *id.* § 241.13(i).
22 Government agencies are required to follow their own regulations. *United States ex rel Accardi v.*
23 *Shaughnessy*, 347 U.S. 260, 268 (1954); *United States v. Ramos*, 623 F.3d 672, 683 (9th Cir. 2010).

24 16. Pursuant to 8 C.F.R. § 241.4(l) and § 241.13(i), a noncitizen released on an Order
25 of Supervision must be provided notice of the reasons for the revocation. *See* 8 C.F.R. §§
26 241.4(l)(1), 241.13(i)(3). Furthermore, the governing regulations require the reasons to be given
27 “upon revocation.” 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).

28 17. Under the governing regulations, an “initial informal interview” is also required

1 upon detention. 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3). The purpose of the informal interview is
2 “to afford [the noncitizen] an opportunity to respond to the reasons for revocation stated in the
3 notification.” 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).

4 18. Under the governing regulations, only certain government officials may revoke the
5 release of a noncitizen and return him to custody. Under 8 C.F.R. § 241.4(l), the Executive
6 Associate Commissioner, and in some instances the district director, is exclusively permitted to
7 revoke the release of a noncitizen. *See* 8 C.F.R. § 241.4(l)(2). The title of Executive Associate
8 Commissioner is now outdated, but the contemporary counterpart is the Executive Associate
9 Director of ICE. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 144 (W.D.N.Y. 2025) (explaining
10 title switch and citing 8 C.F.R. § 1.2); *Santamaria Orellana v. Baker*, 2025 WL 2841886, *5 (D.
11 Md. Oct. 7, 2025) (agreeing and citing *Ceesay*).

12 II. REQUIREMENTS FOR AND REASONABLE FORESEEABILITY OF 13 LAWFUL THIRD COUNTRY REMOVAL

14 19. If ICE identifies an alternative country of removal, the “noncitizen must be given
15 sufficient notice of a country of deportation that, given his capacities and circumstances, he would
16 have a reasonable opportunity to raise and pursue his claim for withholding of deportation.” *Aden*
17 *v. Nielsen*, 409 F. Supp. 3d 998, 1009 (W.D. Wash. 2019). *See Jama v. ICE*, 543 U.S. 335, 348
18 (2005) (“If [non-citizens] would face persecution or other mistreatment in the country designated
19 under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding
20 of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see*
21 8 CFR §§ 208.16(c)(4), 208.17(a) (2004)”).

22 20. Ninth Circuit precedent is clear: “Failing to notify individuals who are subject to
23 deportation that they have the right to apply for asylum in the United States and for withholding of
24 deportation to the country to which they will be deported violates both INS regulations and the
25 constitutional right to due process.” *Andriasian*, 180 F.3d at 1041 (finding that “last minute”
26 designation of alternative country without meaningful opportunity to apply for protection
27 “violate[s] a basic tenet of constitutional due process”). *See also Najjar*, 630 Fed. App'x. 724 (“In
28 the context of country of removal designations, last minute orders of removal to a country may

1 violate due process if an immigrant was not provided an opportunity to address his fear of
2 persecution in that country.”) In practice, the “guarantee of due process includes the right to a full
3 and fair hearing, an impartial decisionmaker, and evaluation of the merits of his or her particular
4 claim.” *Aden*, 409 F. Supp. 3d at 1010 (ordering the same for non-citizen petitioner and holding
5 ICE “has an affirmative obligation to make a determination regarding a noncitizen’s claim of fear
6 before deporting” them). This is because “third-country removals are subject to the same mandatory
7 protections that exist in removal or withholding-only proceedings.” *Vaskanyan*, 2025 WL 2014208,
8 at *3–9 (citation omitted). *See also A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1368 (2025) (“notice
9 roughly 24 hours before removal, devoid of information about how to exercise due process rights
10 to contest that removal, surely does not pass muster”).

11 21. Of course, an opportunity to present a fear-based claim is only meaningful if the
12 noncitizen is not deported before removal proceedings are reopened. *See Aden*, 409 F. Supp. 3d at
13 1010 (holding that merely giving petitioner an opportunity to file a discretionary motion to reopen
14 “is not an adequate substitute for the process that is due in these circumstances”); *Dzyuba v.*
15 *Mukasey*, 540 F.3d 955, 957 (9th Cir. 2008) (remanding to BIA to determinate whether designation
16 is appropriate).

17 22. Yet, since the current administration has taken office, it has been attempting to
18 increase its deportation of non-citizens to third countries by any means necessary—mostly blatantly
19 unlawful ones.

20 23. On March 23, 2025, a putative nationwide class challenged this government practice
21 in *D.V.D. v. DHS* and obtained a temporary restraining order and later a preliminary injunction for
22 a certified class, blocking third country removals without notice and a meaningful opportunity to
23 seek CAT protection. *D.V.D. v. DHS*, 778 F. Supp. 3d 355, 392–93 (D. Mass. Apr.18, 2025). Under
24 the *D.V.D.* injunction, the government was required to provide class members the following:

- 25 • Written notice of the third country in a language that the noncitizen can understand to
- 26 the individual and their attorney, if any,
- 27 • An automatic 10-day stay between notice and any actual removal,
- 28 • Ability to raise a fear-based claim for CAT protection prior to removal, and:

- 1 ○ If the noncitizen demonstrates “reasonable fear” of removal to the third country,
2 DHS must move to reopen the noncitizen’s immigration proceedings.
- 3 ○ If the noncitizen does not demonstrate a “reasonable fear” of removal to the third
4 country, DHS must provide a meaningful opportunity, and a minimum of fifteen
5 days, for the noncitizen to seek reopening of their immigration proceedings.

6 *Id.*

7 24. DHS’s third-country removal policy pales in comparison to these statutorily and
8 constitutionally necessary protections. On March 30, 2025, DHS issued “Guidance Regarding
9 Third Country Removals” that “clarified DHS policy regarding the removal of aliens with final
10 orders of removal ... to countries other than those designated for removal in ... removal orders
11 (third country removals).” Exhibit 4 (March 30, 2025, Third Country Removals Memo). If DHS
12 secures acceptance of a non-citizen’s deportation to a third country by that country, DHS will
13 inform the detainee of removal to that country, but “Immigration officers will not affirmatively ask
14 whether the alien is afraid of being removed to that country.” *Id.* If the “alien affirmatively states a
15 fear, USCIS will ... screen the alien within 24 hours of referral.” *Id.* In that scenario, “USCIS will
16 determine whether the alien would more likely than not be persecuted on a statutorily protected
17 ground or tortured in the country of removal.” *Id.* “If USCIS determines that the alien has not met
18 this standard, the alien will be removed.” *Id.*

19 25. Thereafter, the Government failed to comply with the *D.V.D.* district court’s orders
20 at multiple points while the TRO and preliminary injunction were in place. On March 31, 2025, at
21 least six *D.V.D.* class members were removed from Guantanamo to El Salvador on a DOD plane,
22 in violation of the TRO. *See D.V.D. v. DHS*, No. 1:25-cv-10676- BEM (D. Mass. Apr. 30, 2025),
23 ECF No. 86. On May 7, 2025, the government attempted to deport a flight of class members to
24 Libya without compliance with the preliminary injunction, leading to an emergency TRO motion.
25 *See D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass. May 7, 2025), ECF No. 91. On May 20,
26 2025, while the government was again in the process of removing class members in violation of
27 the preliminary injunction (this time to South Sudan), the plaintiffs moved for another emergency
28 TRO, leading the district court order that the government to retain custody of the class members

1 and provide the preliminary injunction's protections. *See D.V.D. v. DHS*, No. 1:25-cv-10676-BEM
2 (D. Mass. May 20, 2025), ECF No. 116. On or around June 1, 2025, the Government deported a
3 group of six individuals to third-country South Sudan without affording mandatory protections. *See*
4 *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (Sotomayor, J., dissenting) ("In matters
5 of life and death, it is best to proceed with caution. In this case, the Government took the opposite
6 approach. ... in clear violation of a court order, it deported six more to South Sudan, a nation the
7 State Department considers too unsafe for all but its most critical personnel.") On June 23, 2025,
8 the Supreme Court issued a summary order that did not provide reasoning, but granted the
9 Government's request to stay the district court's preliminary injunction in *D.V.D.* *See DHS v.*
10 *D.V.D.*, No. 24A1153, 2025 WL 1732103 (U.S. June 23, 2025).

11 26. On May 16, 2025, in another case, the Supreme Court considered the Government's
12 attempt to remove two Venezuelan nationals who are members of a designated foreign
13 terrorist organization on a day's notice. *See A. A. R. P.*, 145 S. Ct. at 1368. There, the Supreme
14 Court held: "notice roughly 24 hours before removal, devoid of information about how to exercise
15 due process rights to contest that removal, surely does not pass muster." *Id.*

16 27. Nevertheless, DHS felt emboldened by the Supreme Court's stay of the injunction
17 in *D.V.D.* and adopted a third country removal policy that clearly runs afoul of mandatory statutory
18 and constitutional protections and the Supreme Court's views in *A. A. R. P.*

19 28. On July 9, 2025, ICE's Acting Director Todd Lyons issued a policy memo that states
20 some non-citizens will be deported to third countries with *literally no notice* whatsoever: "If the
21 United States has received diplomatic assurances from the country of removal that aliens removed
22 from the United States will not be persecuted or tortured, and if the Department of State believes
23 those assurances to be credible, the alien may be removed without the need for further procedures."

24 Ex. 3. Otherwise, ICE's new standard procedure is:

- 25 • serve a notice of removal on the detainee—not their counsel if they have any;
- 26 • not affirmatively ask whether the non-citizen is afraid of being removed to the third
- 27 country;
- 28 • if the non-citizen was "provided reasonable means and opportunity to speak with an

1 attorney,” then remove them to the third country in as few as **6 hours** after serving the
2 notice of removal;

- 3 • if the non-citizen does not affirmatively state a fear of persecution or torture, regardless
4 of whether they had the opportunity to speak to counsel, then remove them in as few as
5 24 hours after serving the notice of removal;
- 6 • if the non-citizen does affirmatively state a fear if removed to the third country, USCIS
7 will screen the non-citizen within 24 hours and unless the non-citizen—again without
8 any mention of counsel—fails to establish they “would more likely than not be
9 persecuted on a statutorily protected ground or tortured in the country of removal,”
10 remove them as soon as possible;
- 11 • only if a non-citizen affirmatively states a fear of removal to a third country and they on
12 less than 24 hours notice establish they are more likely than not to be persecuted or
13 tortured upon removal will USCIS refer the matter to immigration court for further
14 proceeding ... or “Alternatively, ICE may choose to designate another country for
15 removal.

16 *Id.*

17 29. Independent of the now-stayed *D.V.D.* injunction, an increasing number of courts
18 across the country have enjoined the Government from effectuating unlawful third-country
19 removals without adhering to mandatory statutory and constitutional protections. *Vaskanyan*, 2025
20 WL 2014208, at *6–9 (holding “Petitioner’s removal to a third country without due process ... is
21 likely to result in irreparable harm” and enjoining Petitioner’s removal to a third country without
22 the same protections mandated in the *D.V.D.* injunction); *J.R. v. Bostock*, No. 2:25-CV-01161-
23 JNW, 2025 WL 1810210, at *4 (W.D. Wash. June 30, 2025) (granting TRO enjoining Government
24 from removing petitioner to “any third country in the world absent prior approval from this Court”);
25 *Nguyen v. Scott*, No. 2:25-CV-01398, 2025 WL 2097979, at *3 (W.D. Wash. July 25, 2025) (same);
26 *Phan v. Beccerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at *7 (E.D. Cal. July 16, 2025)
27 (granting TRO and preliminary injunction enjoining removal of “Petitioner to a third country
28 without notice and an opportunity to be heard”); *Misirbekov v. Venegas*, No. 1:25-CV-00168, 2025

1 WL 2201470, at *2 (S.D. Tex. Aug. 1, 2025) (granting TRO barring Government “from
2 transferring, relocating, or removing Petitioner outside the Southern District of Texas without an
3 Order from the Court”); *Gomez v. Chestnut*, No. 2:25-CV-00975-GMN-BNW, 2025 WL 1695359,
4 at *4 (D. Nev. June 17, 2025) (ordering Government “shall provide 72-hours’ notice to Petitioner’s
5 counsel before it is the Government’s intent to remove Petitioner out of the country”).

6
7 **STATEMENT OF FACTS**

8 30. Petitioner Mr. Valladares Arenas was born in Cuba on [REDACTED] and is a
9 Cuban citizen. He is not a citizen of any country besides Cuba, nor does he have ties to any other
10 country.

11 31. Mr. Valladares Arenas was brought to the U.S. as a young child of about four years
12 old with his father who was fleeing Cuba due to [REDACTED] Ex. 1 (Laner Decl.), ¶ 11.

13 32. Mr. Valladares Arenas grew up in Arizona attending elementary, middle, and high
14 school in local Arizona schools. Ex. 1, ¶ 12. He suffered through addiction, which led him to
15 become unhoused and resulted in a 2013 conviction for attempted kidnapping in violation of
16 Arizona Revised Statutes (“A.R.S.”) §§ 13-1001, 13-1304. *See* Ex. 1, ¶ 13. Following this
17 conviction, he was placed in removal proceedings in February 2016. Exhibit 5, April 19, 2015,
18 Removal Order (Removal Order). Mr. Valladares Arenas was unrepresented in proceedings and
19 was ordered removed to Cuba on April 19, 2016. *Id.* Because Mr. Valladares Arenas was unable to
20 be removed to Cuba, he was released from custody.

21 33. On February 23, 2018, Petitioner was convicted of Theft of Means of Transportation
22 under A.R.S. § 13-1814; Attempted Theft of Means of Transportation under A.R.S §§ 13-1001, 13-
23 1814, and 13-703; Possession of a Deadly Weapon by Prohibited Possessor under A.R.S. §§ 13-
24 3202A4 and 13-703; and Attempt to Possess a Dangerous Drug under A.R.S. §§ 13-1001 and 13-
25 3407. Following his release from criminal custody, ICE placed petitioner on an OSUP.

26 34. Mr. Valladares Arenas took advantage of the rehabilitative programing in prison and
27 overcame his substance addiction and has reintegrated with his family and community. Exh. 1, ¶
28 13. Petitioner completed his probation and paid his restitution. *Id.*, ¶ 14.

1 35. Mr. Valladares Arenas has been working for a pool plastering company for the last
2 two years. *Id.*, ¶ 10. This past year in recognition of his skill and leadership he was promoted to the
3 foreman of the company. *Id.*, ¶ 17.

4 36. Mr. Valladares Arenas and his long-term committed partner welcomed their son this
5 July. *Id.*, ¶ 16. He is a present father and shares primary caregiving duties with his partner,
6 especially when she has work obligations. *Id.*

7 37. Among his friends and family, he is known as someone who is responsible and
8 dependable. *Id.*, ¶ 18. He's become the resident handyman for his friends and family, as someone
9 who can build and fix things for their houses. *Id.* His mother is elderly, and he supports her and
10 helps her maintain her home. *Id.* He gives charity to the unhoused and feels this is especially
11 important given his previous struggles. *Id.*, ¶ 19.

12 38. Mr. Valladares Arenas attended his ICE check-ins, possessed a valid work permit,
13 and was in compliance with all of his immigration obligations before ICE arrested him without
14 notice on November 20, 2025. Exhibit 6, Jun. 1, 2025, Employment Authorization Document.

15 39. On the morning of November 20, 2025, Mr. Valladares Arenas was arrested in front
16 of his long-term partner and their four-month-old baby as they left the Southwest ticket counter at
17 the Phoenix Sky Harbor International Airport. Exh. 1, ¶ 2. The ICE agents told Mr. Valladares
18 Arenas that they would deport him to Mexico. *Id.* The agents did not tell Mr. Valladares Arenas
19 where they were taking him.

20 40. The same morning, Mr. Valladares Arenas's partner contacted an immigration
21 attorney. *Id.* Attorney Laner attempted to contact Mr. Valladares Arenas at the Phoenix ICE-ERO
22 office and was informed that he was not there yet. *Id.*, ¶ 5. Attorney Laner called back about an
23 hour later and was told to file Form G-28, Notice of Entry of Appearance, to speak with Mr.
24 Valladares Arenas. *Id.*, ¶ 6. Attorney Laner submitted her G-28 via email and requested a legal call
25 with Petitioner. *Id.*, ¶ 6. Attorney Laner did not receive a legal call and called the ICE-ERO office
26 again. Attorney Laner was denied a legal call and received conflicting responses, including that Mr.
27 Valladares Arenas was not in their custody while simultaneously being told that the office "does
28 not set up legal calls." *Id.*, ¶ 8. Petitioner's long-term partner was able to contact him and was able

1 to confirm that Petitioner was at the Phoenix ICE-ERO office. *Id.*, ¶ 8.

2 41. Concerned that ICE was blocking Petitioner's right counsel, Attorney Laner then
3 submitted a request via email to ICE to be served with any notices or orders issued by ICE, and that
4 Petitioner be given a Credible/Reasonable Fear Interview. *Id.*, ¶ 9. Among other critical positions,
5 that request explained Mr. Valladares Arenas fears removal to Mexico and demanded ICE comply
6 with its obligations to provide him with sufficient notice and a meaningful opportunity to reopen
7 removal proceedings upon a potential designation of any third country for removal. *Id.*, Exhibit 2,
8 Request for Fear Interview. Respondents have not yet responded to this request.

9 42. On November 22, Mr. Valladares Arenas's long term partner spoke with him and
10 was told he was moved to a facility in Florence, Arizona. Exh. 1, ¶ 10. Mr Valladares Arenas's
11 location is not yet updated on the ICE Online Detainee Locator, the main system for the public to
12 find his whereabouts.

13 43. Upon information and belief, it appears Respondents are preparing to remove Mr.
14 Valladares Arenas to a third country without providing a meaningful opportunity to be heard on his
15 fear-based claims.

16 44. As Respondents were notified through the Credible/Reasonable Fear Interview
17 request, Mr. Valladares Arenas would apply for fear-based protection and withholding of removal
18 as to certain third countries. Ex. 2. Respondents have not yet provided any meaningful notice—and
19 no notice to counsel, so it is difficult for Mr. Valladares Arenas to explain the basis for his fear-
20 based claim as to a specific country.

21 45. The United States Department of State issues Country Reports on Human Rights
22 Practices for various countries. These Country Reports could illustrate part of the basis for
23 Petitioner's hypothetical fear-based protection claims. If Respondents provide notice of a particular
24 third country they seek to remove Mr. Valladares Arenas to, Petitioner's counsel will evaluate and
25 supplement the record with Mr. Valladares Arenas's basis for a fear-based claim if applicable.

26 46. Further, Mr. Valladares Arenas may have cause to open his underlying removal
27 order as he was unrepresented and may not have fully been advised of his rights. Petitioner's
28 counsel is requesting Petitioner's full immigration file to investigate the underlying order.

ARGUMENT

I. REVOCATION OF PETITIONER’S ORDER OF SUPERVISION IS UNLAWFUL UNDER THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

47. "Noncitizens, even those subject to a final removal order, have constitutional rights just like everyone else in the United States." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 144 (W.D.N.Y. 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 393 (2001)). In this case, Petitioner has met the "serious question" standard, as he has sufficiently demonstrated that he was denied due process under the Fifth Amendment.

48. 8 U.S.C. § 1231 governs the detention and removal of noncitizens following a final order of removal. A noncitizen who has been ordered removed but has been released "shall be subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3); *see also id.* § 1231(a)(6).

49. 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 are the regulations that govern the detention and release of removable noncitizens. These regulations also establish the procedures that must be followed if a noncitizen’s order of supervision is revoked. *See* 8 C.F.R. § 241.4(l); *id.* § 241.13(i). Government agencies are required to follow their own regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *United States v. Ramos*, 623 F.3d 672, 683 (9th Cir. 2010). In this case, Respondents repeatedly violated the governing regulations, thereby amounting to a denial of Petitioner’s due process rights.

A. PETITIONER WAS DENIED NOTICE OF THE REASONS FOR REVOCATION.

50. Pursuant to 8 C.F.R. § 241.4(l) and § 241.13(i), a noncitizen released on an Order of Supervision must be provided notice of the reasons for the revocation. *See* 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). Furthermore, the governing regulations require the reasons to be given "upon revocation." 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).

51. Here, ICE refused to give Mr. Valladares Arenasa legal call or give his attorneys any forms, documents, or notices. Exh. 1, ¶¶ 8–9. A Notice of Revocation must list specific reasons for the revocation of OSUP, in order to allow a noncitizen to respond. *See Bui v. Warden of Otay*

1 *Mesa Detention Facility*, 2025 WL 2988356, at *4 (S.D. Cal. Oct. 23, 2025) (finding generic
2 statement that “your case has been reviewed” insufficient notice); *Esmail v. Noem*, 2:25-cv-08325-
3 WLH-RAO, 2025 WL 3030590, at *5 (C.D. Cal. Sept. 12, 2025) (finding generic statement that
4 petitioner’s “case had been reviewed” insufficient notice); *Sarail A. v. Bondi*, 2025 WL 2533673,
5 at *10 (D. Minn. Sept. 3, 2025) (finding exact same language to be insufficient notice); *M.S.L. v.*
6 *Bostick*, 2025 WL 2430267, at *2, 10-11 (D. Or. Aug. 21, 2025) (finding virtually identical
7 language to be insufficient notice); *Yang v. Kaiser*, 2025 WL 2791778, at *6 (E.D. Cal. Aug. 20,
8 2025) (finding exact same language to be insufficient notice).

9 52. In addition, any notice of revocation given to Mr. Valladares Arenas at this point
10 will be untimely. As it will not be served until *after* DHS already re-detained Petitioner. *See* 8
11 C.F.R. § 241.4(l)(1) (requiring notice “upon revocation”); *id.* § 241.13(i)(3) (same);
12 *Constantinovici v. Bondi*, 2025WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (finding petitioner was
13 not given any reasons for his re-detention prior to his arrest and therefore any later notice was
14 untimely); *M.S.L.*, 2025 WL 2430267, at *11 (same).

15 53. In short, because Mr. Valladares Arenas was not given any notice with specific
16 reasons for the revocation of his release at the time he was detained, it violated the governing
17 regulations and Mr. Valladares Arenas’s constitutional right to due process.

18 **B. PETITIONER WAS DENIED AN OPPORTUNITY TO RESPOND TO THE**
19 **REASONS FOR THE REVOCATION.**

20 54. Under the governing regulations, an “initial informal interview” is also required
21 upon detention. 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3). The purpose of the informal interview is
22 “to afford [the noncitizen] an opportunity to respond to the reasons for revocation stated in the
23 notification.” 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3).

24 55. We know that an initial informal interview was not conducted because he was in
25 fact taken into formal ICE custody, and Mr. Valladares Arenas was no provided with notice or the
26 specific factual reasons for his reasons for his re-detention. Therefore, he could not have had an
27 actual “opportunity to respond to the reasons for revocation stated in the notification” since none
28 were given to him. 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3). Any interview that may have taken

1 place is meaningless and does not serve the intended purpose because there was insufficient notice.

2 56. In sum, the requirement that Mr. Valladares Arenas be afforded an “informal initial
3 interview” for purposes of responding to the reasons for the revocation cannot have been met. The
4 Respondents’ actions violated the governing regulations and Mr. Valladares Arenas’s rights under
5 the Due Process Clause. *See Yang*, 2025 WL 2791778 at *5 (concluding that “a failure to provide
6 an informal hearing is alone sufficient” to grant a TRO); *Phan v. Beccerra*, 2025 WL 1993735, at
7 *4 (E.D. Cal. July 16, 2025) (finding petitioner likely to succeed on claim that re-detainment was
8 unlawful because no informal interview was provided); *Hoac v. Becerra*, 2025 WL 1993771, at *4
9 (E.D. Cal. July 16, 2025) (same).

10 **II. PETITIONER’S DETENTION IS ARBITRARY AND CAPRICIOUS**
11 **UNDER THE APA**

12 57. Mr. Valladares Arenas’s detention is arbitrary and capricious under the APA, 5
13 U.S.C. § 701 *et seq.* Under the APA, courts must “hold unlawful and set aside agency action ...
14 found to be—arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the
15 law” or “without observance of procedure required by law.” 5 U.S.C. § 706(2). Agency action is
16 “arbitrary and capricious if the agency relied on factors which Congress has not intended it to
17 consider, entirely failed to consider an important aspect of the problem, offered an explanation for
18 its decision that ran counter to the evidence before the agency, or is so implausible that it could not
19 be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n*
20 *of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). “[A]n agency’s action can
21 only survive arbitrary or capricious review where it has articulated a satisfactory explanation for its
22 actions including a rational connection between facts found and the choice made.” *Alliance for the*
23 *Wild Rockies v. Petrick*, 68 F.4th 475, 493 (9th Cir. 2023) (internal quotation marks and citation
24 omitted). A court “may not infer an agency’s reasoning from mere silence.” *Arrington v. Daniels*,
25 516 F.3d 1106, 1112 (9th Cir. 2008) (internal quotation marks and citation omitted). “An agency
26 may not, for example, depart from a prior policy *sub silencio* or simply disregard rules that are still
27 on the books.” *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009) (citation omitted).

28 58. Furthermore, Petitioner has a right to set aside agency action that violated agency

1 procedures, rules, or instructions as arbitrary and capricious under the *Accardi* doctrine. *See United*
2 *States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 226 (1954) (“If petitioner can prove the
3 allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing”).
4 Under this doctrine, agencies are bound to follow their own rules that affect the fundamental rights
5 of individuals, even those that limit otherwise discretionary decisions. *See id.* (holding that BIA
6 must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235
7 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their
8 own procedures . . . even where the internal procedures are possibly more rigorous than otherwise
9 would be required.”).

10 59. Respondents’ failure to follow its own regulations in 8 C.F.R. §§ 241.4(l), 241.13(i)
11 was in violation of the *Accardi* doctrine and was arbitrary and capricious, constituting a violation
12 of the APA. Moreover, the agency has articulated no reasons for deciding to revoke Mr. Valladares
13 Arenas’s OSUP. Any future reasoning the agency gives for its decision to revoke Mr. Valladares
14 Arenas’s OSUP will be a post-hoc rationalization. *Sw. Ctr. for Biological Diversity v. U.S. Forest*
15 *Serv.*, 100 F.3d 1443,1450 (9th Cir. 1996) (holding letter dated after a decision was made could not
16 be used as a post-hoc rationalization to justify the agency’s action). On this record, ICE’s decision
17 to revoke the OSUP was arbitrary and capricious.

18 60. ICE’s failure to follow its own regulations in its decision to detain Mr. Valladares
19 Arenas was arbitrary and capricious. As described above petitioner was given no reasoning for the
20 revocation of his OSUP, despite the regulations requiring the agency to provide notice and
21 reasoning of the revocation. 8 C.F.R. § 241.4(l)(1); *id.* § 241.13(i)(3). Therefore, the revocation of
22 Mr. Valladares Arenas’s OSUP and his continued detention are arbitrary and capricious making his
23 detention unlawful.

24 **III. REMOVAL OF MR. VALLADARES ARENAS TO ANY THIRD COUNTRY**
25 **WITHOUT MANDATORY PROCEDURAL PROTECTIONS IS**
26 **UNLAWFUL**

27 61. The “Due Process Clause applies to all ‘persons’ within the United States, including
28 aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533
U.S. at 693-94 (“Indeed, this Court has held that the Due Process Clause protects an alien subject

1 to a final order of deportation.”) Accordingly, it is black letter law that Mr. Valladares Arenas must
2 be provided a meaningful opportunity to apply for protection prior to removal to a third country.

3 62. To “establish a procedural due process violation, the plaintiff must identify a
4 protected liberty or property interest and allege that the defendants, acting under color of state law,
5 deprived [him] of that interest without constitutionally adequate process.” *D.V.D.*, 778 F.Supp.3d
6 at 387 (cleaned up). The “basic purport of the constitutional requirement is that, before a significant
7 deprivation of liberty or property takes place at the state’s hands, the affected individual must be
8 forewarned and afforded an opportunity to be heard ‘at a meaningful time and in a meaningful
9 manner.” *Id.* (cleaned up).

10 63. In the immigration context, “Congress clearly established the right to deferral or
11 withholding of removal based on a legitimate fear-based claim.” *Id.* See also *Jama v. ICE*, 543 U.S.
12 335, 348 (2005) (explaining that individuals who “face persecution or other mistreatment in the
13 country designated” as their place of removal “have a number of available remedies,” by statute,
14 regulation, and under international law, to “ensur[e] their humane treatment”). Moreover, “[i]t is
15 well established that the Fifth Amendment entitles aliens to due process of law’ in the context of
16 removal proceedings.” *Trump v. J. G. G.*, 145 S. Ct. 1003, 1006 (2025) (citing *Reno v. Flores*, 507
17 U.S. 292, 306 (1993)). This means “notice must be afforded within a reasonable time and in such
18 a manner as will allow them to actually seek habeas relief in the proper venue before such removal
19 occurs.” *Id.* To be sure, “there can be no disagreement that the same constitutional guarantees apply
20 to withholding-only relief.” *D.V.D.*, 778 F.Supp.3d at 387.

21 64. That is why the Ninth Circuit held that “[f]ailing to notify individuals who are
22 subject to deportation that they have the right to apply for asylum in the United States and for
23 withholding of deportation to the country to which they will be deported violates both INS
24 regulations and the constitutional right to due process.” *Andriasian*, 180 F.3d at 1041 (finding that
25 “last minute” designation of alternative country without meaningful opportunity to apply for
26 protection “violate[s] a basic tenet of constitutional due process”). See also *Najjar*, 630 Fed. App’x.
27 724 (“In the context of country of removal designations, last minute orders of removal to a country
28 may violate due process if an immigrant was not provided an opportunity to address his fear of

1 persecution in that country.”)

2 65. In practice, the “guarantee of due process includes the right to a full and fair hearing,
3 an impartial decisionmaker, and evaluation of the merits of his or her particular claim.” *Aden*, 409
4 F. Supp. 3d at 1010 (ordering the same for non-citizen petitioner and holding ICE “has an
5 affirmative obligation to make a determination regarding a noncitizen's claim of fear before
6 deporting” them). This is because “third-country removals are subject to the same mandatory
7 protections that exist in removal or withholding-only proceedings.” *Vaskanyan*, 2025 WL 2014208,
8 at *6 (citing *D. V.D.*, 778 F.Supp.3d).

9 66. The Government’s March 30, 2025, and July 9, 2025 policy memorandums evince
10 Respondents’ intent to unlawfully effectuate a third country removal, just as they have done with
11 many others already. ICE’s new standard procedure for third-country removals is to not ask a non-
12 citizen whether they are afraid of being removed to a specific third country. Ex. 4. If the non-citizen
13 is provided a “reasonable means and opportunity to speak with an attorney,” then they may be
14 removed within as few as 6 hours after notice of removal. *Id.* If they cannot speak to an attorney,
15 they may be removed in as few as 24 hours. *Id.* If the non-citizen affirmatively states a fear of
16 removal, USCIS is to screen them within 24 hours and unless the non-citizen—again without any
17 mention of counsel—fails to establish they “would more likely than not be persecuted on a
18 statutorily protected ground or tortured in the country of removal,” remove them as soon as
19 possible. *Id.*

20 67. As detailed above, the Government has repeatedly attempted to unlawfully remove
21 deportees to third countries:

- 22 a. March 31, 2025: unlawfully removed at least six non-citizens to El Salvador.
23 *D.V.D. v. DHS*, No. 1:25-cv-10676- BEM (D. Mass. Apr. 30, 2025), ECF No.
24 86;
- 25 b. May 7, 2025: attempted to deport a flight of non-citizens to Libya without
26 mandatory due process protections, leading to an emergency TRO motion.
27 *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass. May 7, 2025), ECF No. 91;
- 28 c. May 16, 2025: attempted to remove two Venezuelan nationals on a day’s notice.

1 *A. A. R. P. v. Trump*, 145 S. Ct. 1364, 1368 (2025);

2 d. May 20, 2025: attempted to deport non-citizens to South Sudan without
3 mandatory process. *D.V.D. v. DHS*, No. 1:25-cv-10676-BEM (D. Mass. May 20,
4 2025), ECF No. 116;

5 e. June 1, 2025: deported six non-citizens to South Sudan without mandatory
6 process. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025) (Sotomayor,
7 J., dissenting) (“In matters of life and death, it is best to proceed with caution.
8 In this case, the Government took the opposite approach. ... in clear violation of
9 a court order, it deported six more to South Sudan, a nation the State Department
10 considers too unsafe for all but its most critical personnel.”).

11 This list is not exhaustive, as Courts around the country have enjoined the Government from
12 effectuating similarly unlawful third country removals.

13 68. Here, Mr. Valladares Arenas has been told by ICE agents arresting him that he could
14 be deported to Mexico. Ex. 1, ¶ 2. However, Mr. Valladares Arenas has not been served any
15 documents or notice as to which country ICE intends to remove him.

16 69. Respondents are on notice of such fear-based claims in writing. Ex. 2. But there is
17 no indication that Respondents intend to provide Mr. Valladares Arenas with the process that he is
18 due. They do not appear to be adhering to even their own deficient policy considering their refusal
19 to acknowledge his assertion of a fear-based claim.

20 70. If given his due opportunity, Mr. Valladares Arenas would move to reopen his
21 immigration proceedings for designation of a new country of removal and seek to present his fear-
22 based claim to an IJ, if applicable. Mr. Valladares Arenas is also potentially eligible for other relief
23 if his case is reopened and counsel for Petitioner is investigating Mr. Valladares Arenas’s prior
24 removal proceedings for any underlying deficiencies, as he was unrepresented. But there is no
25 indication that Respondents intend to provide Mr. Valladares Arenas with the process that he is
26 due.

27 71. Accordingly, there can be no debate that Respondents’ actions here and general
28 policy guidance “violates both INS regulations and the constitutional right to due process,” as

1 enumerated by the Ninth Circuit and sister district courts. *Andriasian*, 180 F.3d at 1041 (“last
2 minute” designation of alternative country without meaningful opportunity to apply for protection
3 “violate[s] a basic tenet of constitutional due process”). *See also Najjar*, 630 Fed. App'x. 724
4 (similar); *Aden*, 409 F. Supp. 3d at 1010; *Vaskanyan*, 2025 WL 2014208, at *6.

5 72. Recently, an increasing number of courts in this Circuit and across the country have
6 found the Government’s “policy or practice of executing third-country removals” fail to “provid[e]
7 notice and a meaningful opportunity to present fear-based claims, and that such policy or practice
8 constitutes a deprivation of procedural due process.” *D.V.D.*, 778 F.Supp.3d at 387–89 (“The Court
9 finds it likely that Defendants have applied and will continue to apply the alleged policy of
10 removing aliens to third countries without notice and an opportunity to be heard on fear-based
11 claims—in other words, without due process.”)

12 73. This Court should join its peers in finding Respondents’ third country removal
13 process is unlawful. *D.V.D.*, 778 F.Supp.3d at 392–93 (mandating due process protections as
14 discussed above and requested herein); *Vaskanyan*, 2025 WL 2014208, at *6–9 (holding
15 “Petitioner’s removal to a third country without due process ... is likely to result in irreparable
16 harm” and enjoining Petitioner’s removal to a third country without the same protections mandated
17 in the D.V.D. injunction); *J.R.*, 2025 WL 1810210, at *4 (enjoining Government from removing
18 petitioner to “any third country in the world absent prior approval from this Court”); *Nguyen*, 2025
19 WL 2097979, at *3 (same); *Phan*, 2025 WL 1993735, at *7 (enjoining third country removal
20 “without notice and an opportunity to be heard”); *Misirbekov*, 2025 WL 2201470, at *2 (prohibiting
21 “transferring, relocating, or removing Petitioner outside the Southern District of Texas without an
22 Order from the Court”); *Gomez*, 2025 WL 1695359, at *4.

23 **CLAIMS FOR RELIEF**

24 **COUNT I**

25 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO**
26 **THE U.S. CONSTITUTION AND THE CONVENTION AGAINST TORTURE**
27 ***Procedural Due Process***

28 74. Mr. Valladares Arenas realleges and incorporates by reference the paragraphs

1 above.

2 75. Respondents have deprived Petitioner of his liberty without procedural protections
3 required by the Due Process Clause when they re-arrested and detained Petitioner in violation of
4 the governing regulations. 8 U.S.C. § 1231 governs the detention and removal of noncitizens
5 following a final order of removal. A noncitizen who has been ordered removed but has been
6 released “shall be subject to supervision under regulations prescribed by the Attorney General.” 8
7 U.S.C. § 1231(a)(3); *see also id.* § 1231(a)(6). Title 8 C.F.R § 241.4 and 8 C.F.R. § 241.13 are the
8 regulations that govern the detention and release of removable noncitizens. These regulations also
9 establish the procedures that must be followed if a noncitizen’s order of supervision is revoked. *See*
10 8 C.F.R § 241.4(l); *id.* § 241.13(i). Government agencies are required to follow their own
11 regulations. *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *United States*
12 *v. Ramos*, 623 F.3d 672, 683 (9th Cir. 2010).

13 76. Respondents’ revocation Petitioner’s order of supervision and detention of
14 Petitioner without notice and hearing violates his right to procedural due process, constituting a
15 violation of the Fifth Amendment.

16 COUNT II

17 VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

18 77. Mr. Valladares Arenas realleges and incorporates by reference the paragraphs
19 above.

20 78. Under the Administrative Procedures Act (“APA”), a court “shall . . . hold unlawful
21 and set aside agency action, findings, and conclusions” that are arbitrary and capricious. 5 U.S.C.
22 § 706(2)(A). An action is arbitrary and capricious if the agency “entirely failed to consider an
23 important aspect of the problem, offered an explanation for its decision that runs counter to the
24 evidence before the agency, or is so implausible that it could not be ascribed to a difference in view
25 or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S.
26 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*,
27 463 U.S. 29, 43(1983)).

28 79. Respondents’ failure to follow its own regulations in 8 C.F.R. §§ 241.4(l), 241.13(i)

1 was in violation of the *Accardi* doctrine and was arbitrary and capricious, constituting a violation
2 of the APA. Moreover, there is no evidence justifying Mr. Valladares Arenas's re-detention. An
3 agency decision that "runs counter to the evidence before the agency" is arbitrary and capricious.
4 *Motor Vehicle Mfrs. Ass'n of U.S., Inc.*, 463 U.S. at 43. Thus, Respondents' revocation of
5 Petitioner's OSUP was arbitrary and capricious and should be held unlawful and set aside.

6 **COUNT III**

7 **VIOLATION OF IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231(a)(6)**

8 80. Mr. Valladares Arenas realleges and incorporates by reference the paragraphs
9 above.

10 81. The INA and its enacting regulations mandate that a non-citizen be provided the
11 right to assert a fear-based claim for relief from removal. *See Jama*, 543 U.S. at 348 (2005) ("If
12 [non-citizens] would face persecution or other mistreatment in the country designated under §
13 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of
14 removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, *see* 8
15 CFR §§ 208.16(c)(4), 208.17(a) (2004)"); *Andriasian*, 180 F.3d at 1041 ("Failing to notify
16 individuals who are subject to deportation that they have the right to apply for asylum in the United
17 States and for withholding of deportation to the country to which they will be deported violates . .
18 . INS regulations").

19 82. Respondents' third country removal procedures generally and as applied to Mr.
20 Valladares Arenas run afoul of the INA's statutory and regulatory protections for asserting a fear-
21 based claim in connection with removal. Therefore, Respondents have violated and intend to further
22 violate the INA.

23 **COUNT IV**

24 **VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO
25 THE U.S. CONSTITUTION AND THE CONVENTION AGAINST TORTURE**

26 *Removal to a Third Country*

27 83. Mr. Valladares Arenas realleges and incorporates by reference the paragraphs
28 above.

84. The Due Process Clause of the Fifth Amendment forbids the government from

1 depriving any person of liberty without due process of law. U.S. Const. amend. V. To comply with
2 the Due Process Clause, civil detention must “bear[] a reasonable relation to the purpose for which
3 the individual was committed,” which for immigration detention is removal from the United States.
4 *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). Furthermore, “[t]he
5 fundamental requirement of due process is the opportunity to be heard at a meaningful time and in
6 a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal quotations
7 omitted).

8 85. Respondents’ third country removal procedures generally and as applied to Mr.
9 Valladares Arenas violate the Due Process Clause because they provide for third country removal
10 without affording Mr. Valladares Arenas mandated due process protections, including the
11 opportunity to be heard on a fear claim.

12
13 **PRAYER FOR RELIEF**

14 WHEREFORE, Mr. Valladares Arenas respectfully request that this Court:

- 15 a. Assume jurisdiction over this matter;
- 16 b. Order that Petitioner shall not be transferred outside of this judicial district or removed
17 from the United States while this petition is pending;
- 18 c. Order Mr. Valladares Arenas’s immediate release from ICE custody and reinstate his
19 OSUP with the same conditions in place at the time of his unlawful re-detention;
- 20 d. Order that Mr. Valladares Arenas not be re-detained unless he receives due process as
21 required under the Due Process Clause of the Fifth Amendment;
- 22 e. Order that Mr. Valladares Arenas not be removed from the United States during the
23 pendency of this habeas;
- 24 f. Issue an Order:
- 25 (1) Declaring that removal of Mr. Valladares Arenas without meaningful notice and
26 opportunity to assert a fear-based claim violates the Immigration and Nationality Act, 8
27 U.S.C. § 1231(a)(6) and/or the Due Process Clause of the Fifth Amendment to the U.S.
28 Constitution;

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(2) Enjoining Respondents from removing Mr. Valladares Arenas to a third country unless Respondents adhere to the following procedures:

- (a) provide Mr. Valladares Arenas and his counsel a minimum of ten (10) days to raise a fear-based claim for protection prior to removal;
- (b) if L.VA. demonstrates reasonable fear of removal to the third country, Respondents must move to reopen Mr. Valladares Arenas's removal proceedings;
- (c) if Mr. Valladares Arenas is not found to have demonstrated a reasonable fear of removal to the third country, Respondents must provide a meaningful opportunity, and a minimum of fifteen (15) days for Mr. Valladares Arenas to seek reopening of his immigration proceedings.

e. Award Mr. Valladares Arenas all costs incurred in maintaining this action, including attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412, and on any other basis justified by law; and

f. Grant any other further relief this Court deems just and proper.

Dated: November 25th, 2025

Respectfully submitted,

/s/ Benjamin T. Wiesinger

Benjamin T. Wiesinger

(AZ Bar No. 025831)

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Counsel for Petitioner

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

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

Executed on this 25th day of November 2025 in Phoenix, Arizona.

/s/ Benjamin T. Wiesinger

Counsel for Petitioner

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CERTIFICATE OF SERVICE

On the 25th day of November 2025, I, Benjamin T. Wiesinger, the undersigned, served via certified U.S. Mail, return receipt requested, the attached Complaint, on each person/entity listed below addressed as follows:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Kristi Noem,
Secretary, U.S. Department of Homeland Security
U.S. Department of Homeland Security
2801 Nebraska Avenue NW
Washington, DC 20582

Todd M. Lyons
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

Christopher D. McGregor
Acting Field Office Director
U.S. Immigration and Customs Enforcement
2035 N. Central Ave.
Phoenix, AZ 85004

Served via ECF the attached Petition:
Civil Clerk
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

I declare under penalty of perjury that the foregoing is true and correct. Executed on 25th day of November 2025, at Phoenix, Arizona.

s/ Benjamin T. Wiesinger