

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT CINCINNATI

IN THE MATTER OF:

BASHIR JAMA ISSE

Petitioner,

vs.

Case No. 1:25-cv-872

JUDGE Jeffery P. Hopkins

MAGISTRATE Peter B. Silvain, Jr.

DHS FILE NO. A 

**Kevin Raycraft** in his official capacity  
as Field Office Director of Enforcement  
and Removal Operations, Detroit Field Office,  
Immigration and Customs Enforcement;

**Kristi Noem**, in her official capacity as Secretary,  
U.S. Department of Homeland Security;

**Todd Lyons**, in his official capacity as Acting  
Director of U.S. Immigration and Customs  
Enforcement;

**Pamela Bondi**, in her official capacity as  
Attorney General of the United States;

**Richard Jones**, in his official capacity  
as Sheriff of Butler County Jail

Respondents.

AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO  
28 U.S.C. §2241 AND COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF

## INTRODUCTION

1. This case challenges the unlawful detention of Bashir Jama Isse (“Petitioner” or “Mr. Isse”), who is currently in the custody of U.S. Immigration and Customs Enforcement (“ICE”) at the Butler County Jail, in Hamilton, Ohio.

2. ICE previously found that Petitioner was neither a flight risk nor danger to the community when it released Petitioner from ICE detention in 2015 under an Order of Supervision (“OSUP”). Since then, Petitioner has fully abided by the order’s terms, including attending regularly scheduled check-ins with ICE once per year.

3. Mr. Isse is married to a United States citizen, Hayat Abdullahi Omar, who filed an I-130 immigrant visa petition on his behalf. Their case was scheduled for an interview on the I-130 spousal petition at USCIS in Columbus, Ohio, on May 21, 2025. When Mr. Isse went to the Columbus, Ohio, USCIS Field Office on May 21, 2025, for his I-130 interview, he was detained by ICE.

4. Respondents’ actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act (“INA”) and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

5. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents to release him.

## PARTIES

6. Petitioner, Mr. Isse, has lived in the United States for over 10 years. Prior to Petitioner’s detention on or about May 21, 2025, he was residing in Columbus, Ohio. Petitioner is currently detained by ICE in the Butler County Jail, in Hamilton, Ohio.

7. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner.

8. Respondent Kevin Raycraft is sued in his official capacity as the ICE Acting Field Office Director for Detroit, Michigan, which includes the Northeast Ohio Correctional Center. of ICE's Enforcement and Removal Operations division. As such, Mr. Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal.

9. Respondent Richard Jones is sued in his official capacity as Sheriff of the Butler County Jail, where Petitioner is currently detained. As such, Mr. Jones is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

10. Respondent U.S. Department of Homeland Security ("DHS") is a federal agency headquartered in Washington, D.C. and the parent agency of ICE.

11. Respondent ICE is a component agency of DHS.

### **JURISDICTION AND VENUE**

12. 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.*

13. Venue is proper in this district because Respondent Richard Jones 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**

14. Mr. Isse is a native and citizen of Ethiopia. Mr. Isse was born in Degehabur, Ethiopia on [REDACTED]. See Ex. A, Ethiopian birth certificate. On September 22, 2015, Mr. Isse applied for admission to the United States at the Hidalgo, Texas, point of entry to seek asylum. See Ex. B, I-862 Notice to Appear. The Arlington, Virginia, Asylum Office conducted a credible fear interview of Mr. Isse on October 14, 2015, which returned a positive result as Mr. Isse was detained and tortured by Ethiopian government officials on account of [REDACTED] and Mr. Isse was placed in INA §240 removal proceedings. Id. Also see Ex. C, Asylum Officer's Notes from Credible Fear Interview.

15. Mr. Isse was detained by ICE at the Stewart Detention Center in Lumpkin, Georgia, where on November 12, 2015, he applied pro se for asylum, withholding of removal, and withholding of removal under the Convention Against Torture. See Ex. D, Mr. Isse's I-589 application. Although Mr. Isse is a native and citizen of Ethiopia, he is ethnically Somali. Despite consistently indicating his Ethiopian nationality to the DHS, Mr. Isse was charged in removal proceedings with being a citizen of Somalia. Exs. B-D. On November 17, 2015, still pro se, Mr. Isse withdrew his applications for asylum, withholding of removal, and withholding of removal under the Convention Against Torture and was ordered removed to Somalia. See Ex. E, Order of the Immigration Judge. Thereafter, Mr. Isse was released from ICE detention.

16. On August 19, 2016, Mr. Isse married Ms. Nimo Khalif in Columbus, Ohio. Mr. Isse has two children born in Ohio of this marriage in 2017 and 2019, and the marriage terminated in divorce in Columbus, Ohio, on March 28, 2022. See Ex. F, Divorce Decree, redacted. Also see Ex. G, Children's Birth Certificates, redacted. On June 23, 2024, in Franklin County, Ohio, Mr. Isse married his current spouse, Ms. Hayat Omer, who is a United States citizen. See Ex. H, Marriage Abstract. Also see Ex. I, Naturalization Certificate. On October 4, 2024, Ms. Omer filed an I-130

immigrant visa petition on Mr. Isse's behalf, and he applied for adjustment of status to legal permanent residency on the basis of said petition. See Ex. J, USCIS Receipts for I-130 and I-485.

17. Since ICE released Petitioner on an order of supervision after the Immigration Judge ordered him removed on November 17, 2015, Petitioner has complied with all conditions of the order, including annual in-person check-ins with ICE. No circumstances have changed that make Petitioner a flight risk or danger to the community. On the contrary, his community ties have strengthened since 2015 as he is the father of two United States citizen minor children and has an immigrant visa petition pending filed by his United States citizen spouse.

18. On May 21, 2025, Mr. Isse and his wife appeared at the USCIS Field Office in Columbus, Ohio, for their interviews on their I-130 immigrant visa petition and I-485 application for adjustment of status, and Mr. Isse was detained by ICE at that time. See Ex. K, Affidavit of Mr. Isse's spouse. Mr. Isse was taken to Butler County Jail in Hamilton, Ohio. Mr. Isse filed a motion to reopen his removal case, which was denied by the Stewart Immigration Court on August 1, 2025. See Ex. L, Aug. 1, 2025, Order of Immigration Judge.

19. Upon information and belief, the official responsible for revoking Petitioner's order of supervision did not first refer the case to the ICE Executive Associate Director, did not make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director, and had not been delegated authority to revoke an order of supervision.

20. Upon information and belief, at no time following Petitioner's arrest did ICE explain why it revoked Petitioner's order of supervision or give Petitioner an opportunity to respond to those reasons.

21. Upon information and belief, at the time ICE revoked Petitioner's order of supervision, the agency had not secured travel documents necessary for his removal from the United States.

22. Mr. Isse remains detained at the Butler County Jail. Mr. Isse's United States citizen spouse is suffering great economic, psychological, and physical hardship due to his detention. See Ex. K. Prior to his detention, Mr. Isse supported his spouse through his work as a truck driver. Mr. Isse's United States citizen children are also experiencing hardship due to his detention. Despite the divorce, Mr. Isse maintains a close relationship with his two minor children. See Ex. M, Affidavit of Mr. Isse's Ex-Spouse. While Mr. Isse is only required to pay \$450 per month in child support to his ex-spouse, he would typically pay approximately \$1000 per month voluntarily. *Id.* More than six months have elapsed since Mr. Isse was taken into custody by ICE. Mr. Isse has been cooperative with the DHS, yet the DHS has not obtained a travel document to effectuate his removal. Therefore, Mr. Isse asserts herein that his prolonged and unjustified detention is illegal and contrary to Due Process.

23. On December 10, 2025, ICE conducted its 180-day panel interview of Mr. Isse. On December 16, 2025, the Columbus ICE office informed undersigned counsel that the decision to detain or release Mr. Isse was pending with the Detained Unit Chief at ICE Headquarters. No further information regarding that decision has been provided.

### **LEGAL FRAMEWORK**

#### **Due Process Governs Decisions to Revoke an Order of Supervision**

24. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001).

25. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. See *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

26. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

#### **Statute and Regulation Govern Procedures for Revoking an Order of Supervision**

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

28. A non-citizen 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).

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

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

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

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

**The APA Sets Minimum Standards for Final Agency Action**

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

34. Final agency actions are those (1) that “mark the consummation of the agency’s decisionmaking process” and (2) “by which rights or obligations have been determined, or from which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation modified).

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

36. The revocation here marked the consummation of ICE’s decisionmaking process regarding Petitioner’s custody.

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

**The *Accardi* Doctrine Requires Agencies to Follow Internal Rules**

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

39. *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. See *Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

40. Where a release notification issued alongside an order of supervision instructs that a non-citizen with a final order of removal will be given an opportunity to prepare for an “orderly departure,” ICE’s failure to follow that instruction is an *Accardi* violation. See *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), *vacated and remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering release of petitioners to give an opportunity to prepare for orderly departure).

### **CLAIMS FOR RELIEF**

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

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

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

43. When Respondents revoked the order of supervision, Petitioner had complied with every condition of the order and ICE had not secured necessary travel documents for removal. No change in circumstances warranted the order’s revocation.

44. 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.

45. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision, Petitioner's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

**Count Two**  
**Violation of the Fifth Amendment of the U.S. Constitution**  
**Procedural Due Process**

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

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

48. The first factor, the private interest at issue, favors Petitioner. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690.

49. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring

Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

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

51. For these reasons, 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)**  
**Contrary to Law and Constitutional Right**

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

53. 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).

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

55. Respondents' 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.

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

57. Petitioner's order of supervision was not revoked by the ICE Executive Associate Director. The officer who revoked the order did not first make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director.

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

59. Even assuming that regulations purporting to offer additional justifications for revocation of an order of supervision are not ultra vires, Respondents did not comply with them. Respondents could not make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because he had not. Nor could Respondents make findings that the purposes of release had been served or that it was appropriate to enforce a removal order, because it had yet to make final arrangements for Petitioner's removal.

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

61. The 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.

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

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

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

64. Respondents’ revocation of Petitioner’s order of supervision was arbitrary and capricious because it violated statute, regulation, and the Constitution, as described above.

65. An agency decision that “runs counter to the evidence before the agency” is also arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

66. 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 has never violated a condition of his order of supervision and no new facts or changed circumstances suggest he would.

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

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

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

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

71. Fourth, Respondents failed to consider Petitioner's substantial reliance interest, created by its instruction on Petitioner's release notification, that the agency would give an opportunity to arrange for an orderly departure once it obtained travel documents.

72. For these and other reasons, Respondents' revocation of Petitioner's order of supervision was arbitrary and capricious and should be held unlawful and set aside.

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

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

74. Under the APA, 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).

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

76. 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 then, if removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned

on any of the various forms of supervised release that are appropriate in the circumstances . . . .”  
*Zadydas v. Davis*, 533 U.S. 678, 699-700.

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

78. Respondents’ revocation of Petitioner’s order of supervision was based on ultra vires regulations, in excess of statutory authority, and should be held unlawful and set aside.

**Count Six  
Ultra Vires Action**

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

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

81. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents’ ultra vires actions.

**Count Seven  
Violation of the *Accardi* Doctrine**

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

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

84. Respondents violated agency regulations governing who and upon what findings it may properly revoke an order of supervision when it revoked Petitioner’s order. “As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release” and Petitioner



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**VERIFICATION**

Amy M. Bittner, under penalty of perjury, states the following:

1. I am an attorney admitted to practice before this Court. I am employed at Robert Brown, LLC., the attorney for the Petitioner in the foregoing complaint.
2. I affirm the truth of the contents of the foregoing Complaint upon information and belief. The sources of my information and belief are my personal knowledge of the factual and procedural history of Petitioner's case through the documents provided to me by the Petitioner's spouse.

Dated: Columbus, Ohio  
January 26, 2026

s/ Amy M. Bittner