IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CHANDA ROEUN, Petitioner, v. WARDEN of the Prairieland Detention Center; JOSHUA JOHNSON, Acting Dallas Field Office Director of ICE; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, Attorney General of the United States, Respondents.	Case No. _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Petitioner CHANDA ROEUN ("Roeun" or "Petitioner") files this Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (the "Petition"), and respectfully shows the Court as follows:

INTRODUCTION

1. Petitioner, Chanda Roeun, by and through undersigned counsel, hereby files the instant petition for writ of habeas corpus and complaint for declaratory and injunctive relief to compel his immediate release from Prairieland Detention Center, an immigration detention facility where he has been held by the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), since being unlawfully re-arrested on October 8, 2025, without at any point having been provided a due process hearing to determine whether his re-detention is

justified. Roeun's removal from the United States is not reasonably foreseeable, and since being re-arrested, he has not received any process to which he is legally entitled.

2. Roeun is a forty-five-year-old husband to a U.S. citizen and a father to three U.S. citizen children. Roeun has resided in the United States since he was admitted as a refugee in 1984, when he was just a child.

3. When he was a teenager, Roeun pled guilty to second-degree robbery, and was sentenced to six years in prison, after which he was transferred directly into immigration custody and ultimately ordered removed to Cambodia in 2004. After the Immigration and Naturalization Service (INS) determined he was unable to be removed, Roeun was released on an order of supervision (OSUP) in January 2005.

4. Roeun has abided by the terms of his OSUP for over 20 years, including by appearing for every check-in with the INS and then Immigration and Customs Enforcement (ICE). Since his release, he has never been arrested again or convicted of any crime.

5. Roeun has been living as a valued member of his community in the United States since being issued an OSUP. Indeed, he has been able to marry, raise children, and build a routine for himself and his family. Roeun is the primary caretaker for his three children, including his six-year-old son, who has autism and requires rigid structure and routine in his daily life. In addition, Roeun struggles with multiple health conditions that he requires regular care for, including pre-diabetes and chronic obstructive pulmonary disease (COPD).

6. Nevertheless, when Roeun arrived for his check-in at the ICE office at the 300 N. Los Angeles Federal Building on October 8, 2025, without any advance notice or cause, or the opportunity for a hearing before a neutral arbiter, ICE remanded Roeun into custody. ICE failed to provide Roeun with any explanation as to why he was being arrested, nor has he been provided with an explanation of his confinement since that time. There is absolutely no evidence of any

change relevant to his detention status, removability, or danger to the community. On information and belief, his OSUP has never been otherwise revoked, withdrawn, or cancelled.

7. Furthermore, Roeun has never been ordered removed to any third country, nor has he been notified of any such potential removal. Roeun thus seeks to additionally prevent ICE from summarily removing him to a third country without first being provided constitutionally complaint procedures – in this instance, notice of any potential third country removal and an adequate opportunity to apply for fear-based relief as to that country.

8. Given the Supreme Court's recent decision in *U.S. Dep't of Homeland Sec., et al. v. D.V.D., et al.*, No. 24A1153, 2025 WL 1732103 (Jun. 23, 2025) – which stayed the nationwide injunction that had precluded Respondents from removing noncitizens to third countries without notice and an opportunity to seek fear-based relief – ICE appears emboldened and intent on implementing its campaign to send noncitizens to far corners of the planet to which they have absolutely no connection, in violation of clear statutory obligations set forth in the Immigration and Nationality Act (INA), binding treaty law, and constitutional due process. In the absence of said nationwide injunction, individual lawsuits like Roeun's are the only method by which to challenge these illegal third-country removals.

9. In recent months, individuals in identical or substantially similar circumstances as Roeun have been re-detained absent notice and a hearing even though ICE could not (and still cannot) physically remove them from the country, resulting in district courts granting habeas and other forms of relief. *See, e.g., Sagastizado v. Noem*, No. 5:25-CV-00104, 2025 WL 2957002 (S.D. Tex. Oct. 2, 2025) (granting injunctive relief to habeas petitioner who the government sought to remove to a third country prior to an IJ's review of his negative reasonable fear determination); *Villanueva Herrera v. Tate*, No. H-25-3364, 2025 WL 2774610 (S.D. Tex. Sept. 26, 2025) (granting habeas relief and ordering immediate release of petitioner re-detained by ICE without

notice or opportunity to respond, and ordering that if and when the government identifies a country to remove petitioner to, sufficient time must be given to allow petitioner an opportunity to object); *Mahdejian v. Bradford*, No. 9:25-CV-00191, 2025 WL 2269796 (E.D. Tex. Jul. 3, 2025) (granting temporary restraining order prohibiting respondents from removing petitioner from the U.S. without notice and an opportunity to raise a fear-based claim as to a potential third country removal); *Nguyen v. Bondi*, No. EP-25-CV-323-KC, 2025 WL 3120516, at *8 (finding that detaining petitioner without an individualized assessment of his flight risk and dangerousness by an IJ deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution).

10. By statute and regulation, ICE only has the authority to re-detain a noncitizen ordered removed and previously released on an OSUP in *specific circumstances*, including where an individual violates any condition of release, or changed circumstances show that their removal is reasonably foreseeable because the country of removal has issued a travel document. 8 U.S.C. § 1231; 8 C.F.R. § 241.13(i)(1)-(2).

11. In addition to these statutory and regulatory authorities, ICE's ability to re-detain a noncitizen is limited by the Due Process Clause. It is well-established that individuals released from detention have a protected liberty interest in their freedom. In turn, to protect Roeun's liberty interest, due process requires notice and a hearing *prior to any re-detention*, at which time Roeun would be afforded the opportunity to advance arguments as to why he should not be re-detained.

12. Absent an order from this Court, Roeun will remain indefinitely and unlawfully detained. Accordingly, this Court should grant his petition for writ of habeas corpus and issue appropriate declaratory and injunctive relief. Roeun also requests that this Court order the government not to transfer him outside of this District or remove him to a third country without sufficient process throughout the duration of this proceeding.

JURISDICTION

13. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 2201 (Declaratory Judgment Act); and 28 U.S.C. § 1331 (federal question). This Court also has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

14. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Administrative exhaustion is a prudential rather than jurisdictional requirement for habeas review in this context. *See Garner v. U.S. Dept. of Labor*, 221 F.3d 822, 825 (5th Cir. 2000) (excusing exhaustion "when the claimant advances a constitutional challenge unsuitable for determination in an administrative proceeding, or when the unexhausted remedy is plainly inadequate").

15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

16. Venue is proper because, as of today, Roeun is detained at Prairieland Detention Center in Alvarado, Texas, which is within the jurisdiction of this District. 28 U.S.C. § 2241(a).

17. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to Roeun's claims occurred in this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

PARTIES

I. PETITIONER

18. Petitioner, Chanda Roeun, is currently detained at Prairieland Detention Center in Alvarado, Texas, where he has been since his arrest on October 8, 2025. Roeun is in the custody, and under the direct control, of Respondents and their agents.

II. RESPONDENTS

19. Respondent Warden is sued in their official capacity as the Warden of Prairieland Detention Center, where Petitioner is currently detained. Respondent Warden has immediate physical custody over Petitioner pursuant to the facility's contract with ICE to detain noncitizens, and is thereby a legal custodian of Petitioner.

20. Respondent Joshua Johnson is sued in his official capacity as Acting Field Office Director for the Dallas Field Office of ICE. Prairieland Detention Center is located within the jurisdiction of the ICE Dallas Field Office, which has legal authority over all individuals in ICE custody there. As Acting Field Office Director, Respondent Johnson is a custodian of Petitioner with legal authority to produce and release him.

21. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE, a component agency of DHS. ICE is responsible for enforcing U.S. immigration laws, including detention of alleged noncitizens in removal proceedings, which the agency chooses to accomplish through imprisonment and removal of noncitizens with final orders of removal. As ICE's Acting Director, Respondent Lyons is a custodian of Petitioner, with legal authority to produce and release him.

22. Respondent Kristi Noem is sued in her official capacity as the Secretary of DHS. Respondent Noem is responsible for overseeing DHS and its sub-agency, ICE, and has ultimate responsibility over detention of alleged noncitizens in civil immigration custody, including Petitioner. Respondent Noem is a legal custodian of Petitioner.

23. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States. Respondent Bondi is responsible for overseeing the Department of Justice (DOJ), and thereby the Executive Office for Immigration Review (EOIR) and the immigration court system it operates.

STATEMENT OF FACTS

24. Petitioner, Chanda Roeun, was born in 1980 in a refugee camp in Thailand, to Cambodian parents who fled the Khmer Rouge regime shortly before he was born. Ex. A to Appx. Emer. Mot. & Memo. In Support For TRO & Prelim. Injunction.[1] Roeun has no birth certificate, but believes he was born in [redacted] of 1980. *Id.* In June of 1984, when he was only four years old, he and his family entered the United States as refugees, and eventually settled down in Los Angeles, California.[2] *Id.*

25. In 1999, when he was a teenager, Roeun agreed to plead guilty to second-degree robbery in Los Angeles[3] and was sentenced to six years in prison, after which he was transferred directly to immigration custody. *Id.* In 2004, an Immigration Judge (IJ) ordered Roeun removed to Cambodia – even though Roeun has never even set foot in the country. *Id.* In fact, Roeun's initial Notice to Appear from 2004 indicates that he is "a native of Thailand and a citizen of Thailand." *Id.* at Ex. C.

26. After over six months in immigration detention, the INS determined Roeun was unable to be removed, and in January of 2005, released Roeun under an order of supervision (OSUP). *Id.* at Ex. A.

27. Shortly after his release, Roeun met his wife, a United States citizen, to whom he has now been happily married for two decades. *Id.* They have three children together, currently

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[1] All exhibits in support of this Petition are being filed with the Appendix to the corresponding Emergency Motion and Memorandum In Support For Temporary Restraining Order and Preliminary Injunction (hereinafter referred to as "Appx.").

[2] Only upon information and belief is the fact that Roeun's parents are Cambodian nationals based on what his parents told him growing up. Appx. at Ex. A. While his marriage certificate lists his country of birth as Cambodia, the Notice to Appear from 2004 actually listed his country of birth and citizenship as Thailand. Appx. at Ex. C. Being that his country of birth is not definite and Roeun has no travel documents to either country (and was not required to obtain them), he is not a citizen of either country and is thus, not removable to either country in the reasonably foreseeable future.

[3] A motion to vacate Roeun's criminal conviction was filed in November of 2025, and remains pending.

aged fourteen, nine, and six, and Roeun manages all of their care while his wife works as an employee of the federal judiciary. *Id.* at Ex. A & H. Roeun is particularly active in his youngest child's life as the primary caretaker due to the fact that the child has autism and requires substantial individualized care. *Id.* at Ex. A.

28. For the past 20 years, Roeun has been required to attend INS and then ICE check-ins once or twice a year. *Id.* He has never missed a check-in. *Id.*

29. This year, Roeun's annual check-in took place on July 31, 2025. *Id.* Roeun was surprised at this check-in to be given another reporting date just a few months later, in September. *Id.* When he appeared for this second check-in, on September 11, 2025, ICE placed Roeun on an ankle monitor and informed him that he would be detained at his next check-in, which was scheduled for September 30, 2025. *Id.*

30. Roeun appeared on September 30, 2025 for his check-in, but was informed by an ICE officer at that time that his "travel documents were not ready." *Id.* The officer told Roeun to return on December 2, 2025, and in the interim to inform ICE if he planned on traveling outside the state of California. *Id.*

31. In accordance with ICE's instructions, Roeun went back to the ICE office on October 8, 2025 to inform the officers that he had a trip to Las Vegas planned with his family to visit his wife's side of the family. *Id.* In response, ICE detained him and provided him with a piece of paper indicating that his OSUP was being revoked because he failed to obtain his travel documents to Cambodia. *Id.* at Ex. A & G.

32. Upon information and belief, Roeun has never violated any of the terms of his OSUP. Indeed, he has complied with all terms, including appearing for every check-in and never being arrested by police. *Id.* No ICE officer has *ever* told Roeun that he needed to seek his own travel documents. *Id.* at Ex. A. In fact, for the past 20 years, ICE officers have frequently told

Roeun that they were requesting documents for him and that the Cambodian consulate had yet to provide them. *Id.*[4] Roeun does not know anything about the process for obtaining travel documents to Cambodia, does not speak the language, and has no family or friends there. *Id.* Roeun has never even set foot in Cambodia. *Id.*

33. Roeun has not spoken to any ICE officer about his immigration case since his re-detention. *Id.* ICE has not given Roeun any information about why he was re-detained, or given him any information about what country ICE is trying to send him to. *Id.* Notably, during his initial detention years ago, an INS officer told him that Thailand would not accept him, because he was born in a refugee camp. *Id.*

34. Immediately after he was detained on October 8, 2025, Roeun was taken to a cell in the same federal building (located at 300 N Los Angeles St, Los Angeles, CA 90012) where he had his check-ins, with nowhere to sleep but a thin mat, and no privacy even when using the bathroom. *Id.* There was only one toilet in the room he shared with about thirty other men, some of whom had been there for many days, and he was not able to shower or change his clothes. *Id.* Such conditions were particularly harmful to Roeun, as he suffers multiple, significant health issues with his kidneys and lungs (discussed further below), yet Roeun was barely given his required and necessary medication, and was only fed small, microwaved burritos and chips. *Id.*

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[4] Repatriation requests to Cambodia are decided on a case-by-case basis, and the Royal Government of Cambodia will only accept an individual for repatriation after the individual has met with the consulate. *See* Appx. at Ex. F. Removals to Cambodia have historically been low. *See* IMMIGRATION AND CUSTOMS ENFORCEMENT, *Fiscal Year 2024, Appendix* (Dec. 19, 2024), available at https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf. Only one removal flight to Cambodia has departed since January 2025. HUMAN RIGHTS FIRST, ICE Flight Monitor (Oct. 2025), available at https://humanrightsfirst.org/wp-content/uploads/2025/10/US-Immigration-Enforcement-Flight-Report_Sep2025.pdf

35. A few days later, on October 13, 2025, in the middle of the night, ICE removed Roeun from the Los Angeles federal building and put him on a flight to Texas. *Id.* Roeun was the only noncitizen transferred to Texas on this flight. *Id.*

36. Prior to his re-detention, Roeun has suffered from chronic obstructive pulmonary disease (COPD) amongst other illnesses, including but not limited to proteinuria, hyperlipidemia, membranous glomerulonephritis, epididymal cyst, HGB E trait, prediabetes, and a history of lung lobectomy. *Id.* at Ex. A & H.

37. Since his arrival at the Prairieland Detention Center in Texas, Roeun's health has exponentially deteriorated. *Id.* at Ex. A. He has lost about ten pounds in just over a month because his body cannot properly digest the food in the detention center. *Id.* Due to his chronic illnesses such as COPD, Roeun is deeply fearful that he will contract a lung infection at the detention center due to the sheer number of people being detained there, as any common cold or flu could cause permanent damage to his lungs. *Id.*

38. In addition to his rapidly deteriorating physical health, Roeun's mental health has declined even more. Because he was transferred to Texas, he has no friends or family nearby who can visit him. *Id.* His wife, who is only able to speak to him by phone, has had to assume Roeun's responsibilities at home in addition to her demanding federal job. *Id.* & Ex. H. Roeun has not even told his mother that he is currently detained, and he has instructed his family to keep his detention unknown to her, as she recently suffered a stroke and learning of his current condition "will break her." *Id.* at Ex. A.

LEGAL FRAMEWORK

I. LAW AND PROCEDURE GOVERNING THIS PETITION AND COMPLAINT

39. The U.S. Constitution guarantees availability of the writ of habeas corpus to "every individual detained within the United States," including those in immigration-related detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004); *Zadvydas*, 533 U.S. at 687. A writ under 28 U.S.C.

§ 2241 may issue if, among other things, a person is "in custody under or by color of the authority of the United States," or is "in custody in violation of the Constitution or laws or treaties of the United States." 8 U.S.C. § 2241(c).

40. A court's role is at its "most extensive in cases of pretrial and noncriminal detention," particularly where there has been "little or no previous judicial review of the cause" of said detention. *Boumediene v. Bush*, 553 U.S. 723, 780 (2008).

41. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, this Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added). The writ or OSC shall be directed to the person having custody of the person detained. *Id.*

42. Once the government files its return, the Court shall set a "hearing, not more than five days after the return unless for good cause additional time is allowed." *Id.*

A. Exhaustion of Remedies Is Not Required.

43. As an initial matter, "[t]here is no statutory requirement to exhaust remedies" for noncitizens challenging the lawfulness of their detention; rather, "under the INA[,] exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal." *Padron Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 WL 2950096, at *6 (S.D. Tex. Oct. 3, 2025) (quoting *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at *6 (W.D. Tex. Sept. 22, 2025); *see also Garcia-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) (same).

44. Where, as here, Roeun is not seeking to appeal a final order of removal, but rather is challenging the unlawfulness of his detention based on statutory and constitutional grounds, there is no requirement that he exhaust any administrative remedy prior to seeking habeas relief.

See Petgrave v. Aleman, 529 F. Supp. 3d 665, 672 n.14 (S.D. Tex. 2021) ("[E]xhaustion is not required 'where the available administrative remedies are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action.'") (quoting *Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018)). Nor is exhaustion required where a habeas petition presents "constitutional questions that 'neither [an] Immigration Judge nor th[e] Board [of Immigration Appeals] may rule on.'" *Id.* Accordingly, this Court may consider Roeun's petition for a writ of habeas corpus without regard to exhaustion.

B. Relevant Statutes and Rules Governing ICE Detention of Noncitizens with Final Removal Orders.

45. When a noncitizen is ordered removed pursuant to 8 U.S.C. § 1231, "the INA requires that removal generally occur within ninety days." *Trejo v. Warden*, No. EP-25-CV-401-KC, 2025 WL 2992187, at *4 (W.D. Tex. Oct. 24, 2025); *Nguyen v. Bondi*, No. EP-25-CV-323-KC, 2025 WL 3120516 at *7 (W.D. Tex. Nov. 7, 2025). After the expiration of the 90-day removal period, ICE may release noncitizens on an order of supervision (OSUP). 8 U.S.C. § 1231(a)(3). Alternatively, noncitizens "*may* be detained beyond the removal period" if they meet certain criteria, such as being inadmissible or deportable under specified, statutory categories. 8 U.S.C. § 1231(a)(6) (emphasis added).

46. Once a noncitizen is released from ICE custody under an OSUP, the only bases for effectuating re-detention are if the noncitizen "violates any conditions of release," or "on account of changed circumstances, the [agency] determines that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(1)-(2).

47. To re-detain a noncitizen on the latter basis, ICE must adduce specific facts supporting "(1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future." *Kong v. United States*, 62 F.4th 608, 619-20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)).

48. The regulations implementing 8 U.S.C. § 1231 require that, upon revocation, the noncitizen be notified of the reasons for the revocation of their release. 8 C.F.R. § 241.13(i)(3). In addition, ICE "will conduct an initial informal interview promptly after his return to [] custody to afford the [noncitizen] an opportunity to respond to the reasons for the revocation stated in the notification." 8 C.F.R. § 241.13(i)(3). Notably, 8 U.S.C. § 1231 also outlines the statutory process for designating countries to which noncitizens may be removed. 8 U.S.C. § 1231(b)(1)-(3). Critically, the statute contains specific carve-out provisions prohibiting removal of persons to countries where they face persecution or torture. *See* 8 U.S.C. § 1231(b)(3)(A). Separately, with respect to the Convention Against Torture (CAT), a binding international treaty, the implementing regulations allow for removal to a third country only where a noncitizen "is not likely to be tortured." 8 C.F.R. §§ 208.17(b)(2), 1208.17(b)(2).

49. For individuals in removal proceedings, the designation of a country (or countries) of removal on the record provides notice and an opportunity for a noncitizen who fears persecution or torture in the designated country (or countries) to file an application for protection. *See* 8 C.F.R. § 1240.10(f); 8 C.F.R. § 1240.11(c)(1)(i).

50. Here, there is no evidence that Roeun is able to be removed to Cambodia, or any other country for that matter. He has no birth certificate, no passport, and has previously been told by INS that he would not be accepted into Thailand, because he was born in a refugee camp there. *See generally* Appx. at Ex. A; *Cf. Nguyen v. Noem*, No. 6:25-CV-057-H, 2025 WL 2737803 (N.D. Tex. Aug. 10, 2025) (habeas relief denied where ICE had secured travel documents for petitioner to return to his country of birth). Given that the statutes and implementing regulations governing Roeun's detention and any potential removal to a third country clearly provide for due process that Roeun has yet to be afforded, this Court "need not decide the procedural due process issue."

outlined below, if it does not wish to. *Puertas-Mendoza v. Bondi*, No. SA-25-CA-00890-XR, 2025 WL 3142089, at *4 (W.D. Tex. Oct, 22, 2025).

II. THE CONSTITUTIONAL PROTECTIONS OF NONCITIZENS' DUE PROCESS AND OTHER RIGHTS.

51. Detention and re-detention under all sections of the INA, including 8 U.S.C. § 1231, must comport with the Due Process Clause of the Fifth and Fourteenth Amendments, which apply to "all persons" within the United States, including noncitizens, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693; *see also Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)); *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976).

52. In addition, procedural due process requires that the government be constrained before it acts in a way that deprives individuals of liberty. *Mathews*, 424 U.S. at 332. Such due process protections requires that the person being deprived receive both notice and an opportunity to be heard prior to the deprivation, as well as a method by which to challenge the deprivation. *Id.*

53. Relatedly, freedom from physical restraint is a liberty interest that is protected by substantive due process. *Zadvydas*, 533 U.S. at 690. Indeed, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Id.* Where the state deprives an individual of his liberty, it must have "a constitutionally adequate purpose for the confinement." *Jones v. U.S.*, 463 U.S. 354, 361 (1983) (internal quotation marks omitted). In the instant case, ICE not only lacks a "constitutionally adequate purpose," but it has no statutory authority whatsoever. Where detention exceeds statutory authorization, the government actor clearly cannot meet the "constitutionally adequate purpose" test and the deprivation of liberty violates due process of law. *See, e.g., Benham v. Edwards*, 678 F.2d 511, 531 (5th Cir. 1982), vacated on other grounds, *Ledbetter v. Benham*, 463 U.S. 1222 (1983) ("The continued detention of such an acquittee, in the absence of statutory

authorization for such restraint, would violate due process of law."). Such a fundamental deprivation arising out of a statutory violation is grounds for termination.

54. To comport with due process, immigration detention must bear a "reasonable relation to the purpose for which the individual [was] committed." *Zadvydas*, 533 U.S. at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Detention pursuant to 8 U.S.C. § 1231 – like other provisions of the INA which authorize civil immigration detention – has only two regulatory goals: "ensuring the appearance of [noncitizens] at future immigration proceedings and preventing danger to the community." *Id.* (citing 8 U.S.C. § 1231(a)(6)). Where a noncitizen cannot be removed, detention to prevent flight risk is minimally justified. *See id.* ("[B]y definition the first justification – preventing flight – is weak or nonexistent where removal seems a remote possibility at best").

55. And while the second justification, protecting the community, "does not necessarily diminish over time," indefinite detention when removal is not possible, *i.e.*, detention based solely on the noncitizen's status of removability itself, "bears no relation to a detainee's dangerousness." *Id.* at 691-92.

56. Thus, the-detention of a noncitizen for the mere purpose of investigating whether they may be removed also runs afoul of the Due Process Clause. *See, e.g., Morales v. Chadbourne*, 996 F. Supp. 2d 19, 29 (D.R.I. 2014) (McConnell, J.), *aff'd in part* at 793 F.3d 208 (1st Cir. 2015) (the Fourth Amendment "does not permit seizures for mere investigations"). Indeed, district courts in this Circuit, as well as around the country, regularly order release even where ICE has demonstrated they intend to seek travel documents for a particular noncitizen, as "a pending request for travel documents, alone[,]" does not meet Respondents' "burden to furnish evidence demonstrating that removal is likely in the reasonably foreseeable future." *Trejo*, 2025 WL 2992187 at *5 (collecting cases); *Balouch v. Bondi*, No. 9:25-CV-216-MJT, 2025 WL 2871914,

at *2-3 (E.D. Tex. Oct. 9, 2025) (granting habeas corpus because respondents' claims that they believe "removal is significantly likely in the reasonably foreseeable future" and that [t]ravel documents are still 'pending' does not satisfy the burden); *see also Hassoun v. Sessions*, No. 18-cv-586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019) (likelihood of removal "does not turn on the degree of the government's good faith efforts" to obtain travel documents, but rather on "whether and to what extent the government's efforts are likely to bear fruit"); *Conchas-Valdez v. Casey, et al.*, No. 25-CV-02468-DMS-JLB, 2025 WL 2884822, at *3 (S.D. Cal. Oct. 6, 2025) (ordering release where respondents did not meet their burden to show "good faith efforts" that would lead to petitioner's removal).

57. Notably, even "[a] remote possibility of an eventual removal is not analogous to a significant likelihood that removal will occur in the reasonably foreseeable future." *Balouch*, 2025 WL 2871914, at *2. Not to mention, SCOTUS has also specifically rejected the notion that removal is reasonably foreseeable as long as "good faith efforts" continue, by instead holding that such a standard would "seem to require an alien seeking release to show the absence of any prospect of removal – no matter how unlikely or unforeseeable – which demands more than our reading of the statute can bear." *Zadvydas*, 533 U.S. at 701.

58. In addition, individuals released from immigration custody under an OSUP retain a weighty liberty interest under the Due Process Clause in avoiding re-incarceration. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972); *Nguyen v. Bondi*, 2025 WL 3120516, at *7 (finding that because he spent nearly thirteen years at liberty in the U.S. pursuant to an OSUP, Nguyen possesses a strong interest in his continued freedom from detention). This liberty interest exists even where there are changed circumstances. *See Hurd v. Dist. of Columbia*, 864 F.3d 671, 683 (D.C. Cir. 2017) ("a person who is in fact free of physical confinement – even if that freedom

is lawfully revocable – has a liberty interest that entitles [them] to constitutional due process before [they] [are] re-incarcerated") (citing *Young*, 520 U.S. at 152; *Gagnon*, 411 U.S. at 782; and *Morrissey*, 408 U.S. at 482).

59. Indeed, "many courts" have recently found that "ICE's decision to release a noncitizen confers a significant liberty interest that cannot be revoked without an individualized determination by a neutral adjudicator." *Trejo*, 2025 WL 2992187 at *7 (collecting cases). Further, in the Fifth Circuit, "[f]ailure to adhere to regulations can constitute a denial of due process of law." *Puertas-Mendoza*, 2025 WL 3142089 at *4 (quoting *Francois v. Garland*, 120 F.4th 459, 465 (5th Cir. 2024); *Arzanipour v. INS*, 866 F.2d 743,746 (5th Cir. 1989)). However, the "failure of an agency to follow its own regulations" is not a "per se denial of due process unless the regulation is required by the constitution or statute." *Id.* If the regulation is not, a petitioner must demonstrate "substantial prejudice" arising from the violation." *Id.* (internal quotation marks omitted).

60. Here, the relevant regulation provides: "[u]pon revocation [of an OSUP], the alien *will* be notified of the reasons for revocation of his or her release." 8 C.F.R. § 241.13(i)(3). Roeun has clearly been substantially prejudiced by ICE's failure to inform him of the reasons his OSUP was revoked and, ultimately, the lack of any opportunity to contest those reasons, resulting in the deprivation of the liberty to which he has been entitled for over 20 years under the OSUP. *See Zhang v. Gonzalez*, 432 F.3d 339, 346 (5th Cir. 2005) (the "'fundamentals of due process' are notice, hearing, and an appeal") (quoting *Harper v. Lindsay*, 616 F.2d 849, 858 (5th Cir. 1980)). "The constitutional adequacy of the exact timing and nature of [a] required hearing must be judged by balancing the competing private and governmental interests at stake." *Haitian Refugee Center v. Smith*, 676 F.2d 1023, 1040 (5th Cir. 1982) (internal citations omitted).

61. Under the test set forth in *Mathews v. Eldridge*, as an alternative or in addition to the balancing test under *Zadvydas*, courts must consider and weigh these competing interests: "the private interest to be affected by the official action; the likelihood of governmental error through the procedures used; the probable value of additional procedural safeguards; and the governmental interest at stake, including the fiscal and administrative burdens entailed by additional procedural safeguards." *Id.* (citing *Logan v. Zimmerman Brush Co.*, 455 U.S. 422, 434 (1982); *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)); *see also Trejo*, 2025 WL 2992187 at *7-10; *Sagastizado*, 2025 WL 2957002 at *12; *Rojas v. Noem*, No. EP-25-CV-443-KC, 2025 WL 3038262, at *3-4 (W.D. Tex. Oct. 30, 2025).

62. In addition, prior to any potential third-country removal, ICE must provide Petitioner with sufficient notice and an opportunity to respond and apply for fear-based relief as to that country, in compliance with the INA, due process, and the CAT. *Sagastizado*, 2025 WL 2957002 at *11-12. Currently, DHS has a policy[5] of removing or seeking to remove individuals to third countries without providing constitutionally adequate notice or any meaningful opportunity to contest that removal if the individual has a fear of persecution or torture in that country. *Id.*

63. In circumstances similar to Roeun's, other courts have recently determined that noncitizens are entitled to notice and an opportunity to be heard before removal to any third country. *See, e.g., Sagastizado*, 2025 WL 2957002 at *16 (enjoining respondents from removing petitioner to a third country unless an IJ affirms the denial of his Reasonable Fear Interview); *Villanueva Herrera*, 2025 WL 2774610 at *2 ("a noncitizen with an order withholding removal to

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[5] *See* Melissa Quinn, *Supreme Court lets Trump administration resume deportations to third countries without notice for now*, CBS NEWS (Jun. 24, 2025), available at https://www.cbsnews.com/news/supreme-court-lifts-lower-court-order-blocking-deportations-to-third-countries-without-notice/.

a particular country must be given notice of the country to which the government intends to remove him and an opportunity to apply for protection from removal to that country). Thus, it is clear that Roeun was denied the notice and opportunity to respond to which he was entitled prior to his re-detention. In addition, if Roeun were to be removed to any third country, it would violate his due process rights unless he was first provided with constitutionally adequate notice and a meaningful opportunity to apply for fear-based protection, including under the CAT.

III. THE RECENT CASES IN THIS DISTRICT (*NGUYEN*[6], *NOUANSISOUHAK*[7], AND *SUROVTSEV*[8]) ARE DISTINGUISHABLE.

64. As an initial matter, the court in all three Northern District of Texas cases found that changed circumstances existed and/or that removal was reasonably foreseeable, the same of which cannot be said for Rouen. For one, Roeun does not have any passport, and in the other three cases, either a travel document for the petitioner's country of origin had already been issued (*Nguyen* and Vietnam), the government was able to successfully argue that improved relations with the petitioner's country of origin had improved (*Surovtsev* and Ukraine), or previous barriers to removal to that country had been eliminated (*Nouansisouhak* and Laos). *See* Appx. at Ex. A. Here, in the Memorandum of Understanding between Cambodia and the U.S., the text explicitly states that if no passport is available, Cambodia would need "documentation evidencing the identity and the biographical history of the individual and his or her status as a national of the receiving State." Appx. at Ex. F. In the instant case, only upon information and belief is the fact that Roeun's parents are Cambodian nationals, and while his marriage certificate lists his country of birth as Cambodia, the Notice to Appear from 2004 actually listed his country of birth and citizenship as Thailand. *Id.* at Ex. A & C.

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[6] *Nguyen v. Noem*, No. 25-cv-57, 2025 WL 2737803 (N.D. Tex. Aug. 10, 2025).
[7] *Nouansisouhak v. Noem*, No. 3:25-CV-2222-K-BW, 2025 WL 3165161 (N.D. Tex. Oct. 9, 2025).
[8] *Surovtsev v. Noem*, No. 1:25-CV-160-H, 2025 WL 3264479 (N.D. Tex. Oct. 31, 2025).

65. Moreover, unlike the cases of *Nguyen* and *Nouansisouhak*, Roeun has not "received more procedure than he was due under 8 C.F.R. § 241.13(i)(3)." *Id.* at Ex. A. He is entitled to notice, an informal interview, and at least a limited opportunity to respond and present information regarding the changed circumstances, but has not been provided the opportunity to do so. 8 C.F.R. § 241.13(i)(3). In addition, unlike *Nguyen* and *Nouansisouhak*, Roeun *has* asserted that he had constitutional rights to notice and an informal interview, which have not occurred and said constitutional rights were violated.

66. For the same reasons, this case is also distinguishable from *Surovtsev*, as the court determined in *Surovtsev*, that the petitioner did not allege that ICE's violations of the procedural requirements amounted to a constitutional violation. In this case, to the contrary, that is exactly the allegation at issue here.

67. Habeas, in addition to the declaratory and accompanied injunctive relief requested in this case, is an appropriate remedy. For instance and in addition to the habeas relief granted in *Zadvydas*, SCOTUS impliedly approved habeas as an appropriate remedy for claims under 8 U.S.C. § 1231(a) in the case of *Johnson v. Guzman Chavez*, 594 U.S. 523, 530 (2021) (in response to habeas proceedings in district court that sought a declaration that 8 U.S.C. § 1226 governed the detention, SCOTUS simply found that § 1231, not § 1226, governs the detention of aliens subject to reinstated orders of removal). Moreover, SCOTUS previously determined that immigration agencies do not have jurisdiction to adjudicate the type of due process claims that Roeun raises here. *See, e.g., Demore v. Kim*, 538 U.S. 510, 517 (2003) (holding that courts are not deprived of jurisdiction to conduct a habeas review based on an interpretation of the statutory framework governing immigration detention). The specific regulations that govern the revocation of an OSUP, such as 8 C.F.R. § 241.4, are based on the authority granted by § 1231. *See, e.g., Phu Van Ta v. Noem*, No. 5:25-cv-02902-MEMF-JDE (C.D. Cal. Nov. 11, 2025) (finding that the basis of

the federal regulations (specifically 8 C.F.R. § 241.13 derived from the holding and reasoning in *Zadvydas*)).

68. Lastly, and contrary to the foregoing cases, Roeun does not only claim a right to be free from ICE custody, but he also claims a right not to be detained without adequate process and in violation of statutory and constitutional law.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1231(a)

69. The allegations in the above paragraphs are realleged and incorporated herein.

70. The INA requires mandatory detention of individuals with final removal orders only within the 90-day removal period. 8 U.S.C. § 1231(a)(2). A noncitizen not removed within that period "shall be subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3). While 8 U.S.C. § 1231(a)(6) permits detention beyond the removal period in certain situations, "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699.

71. There is no statute that permits Respondents to re-detain an individual who has been released under an OSUP without evidence that removal is now reasonably foreseeable or that the individual has violated the conditions of their release.

72. Roeun was previously released by ICE under an OSUP two decades ago, after an individualized custody determination that considered any danger or risk of flight. He has an interest in remaining free from physical confinement where removal is not reasonably foreseeable, and where he has not violated any conditions of his release.

73. Accordingly, Roeun's re-detention violates 8 U.S.C. § 1231(a).

COUNT TWO

Violation of 8 C.F.R. § 241.13(i)(2)-(3)

74. The allegations in the above paragraphs are realleged and incorporated herein.

75. The regulations in 8 C.F.R. § 241.13(i)(2) provide for revocation "for removal" and allow revocation of release when "on account of changed circumstances, the [government] determines that there is a significant likelihood" that a noncitizen may be removed "in the reasonably foreseeable future."

76. By failing to show "changed circumstances" specific to Roeun to justify his re-detention, Respondents violate 8 C.F.R. § 241.13(i)(2).

77. ICE's own regulations clearly place the burden on the agency to show changed circumstances that make removal significantly likely in the reasonably foreseeable future. Moreover, 8 C.F.R. § 241.13(i)(3) provides that upon revocation, a noncitizen "will be notified of the reasons for revocation" of their release, and "promptly" provided an opportunity to contest those reasons.

78. By failing to provide Roeun with sufficient notice of the reasons for the revocation of his release or an opportunity to promptly contest those reasons, Respondents violate 8 C.F.R. § 241.13(i)(3).

79. Accordingly, Roeun's continued detention violates 8 C.F.R. § 241.13(i)(2)-(3).

COUNT THREE

Violation of the Fifth Amendment (Substantive Due Process)

80. The allegations in the above paragraphs are realleged and incorporated herein.

81. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of their liberty "without due process of law." U.S. CONST. AMEND. V.

82. Where the interests of the government cannot be served by detention because ICE has already determined the noncitizen is not removable in the reasonably foreseeable future and

previously released the noncitizen under an OSUP, ICE cannot then revoke that OSUP without making a showing of changed circumstances. 8 C.F.R. § 241.13(i)(2).

83. Crucially, re-detention of a noncitizen where there is "no indication" that "the government has found a country to take him" is impermissible. *Puertes-Mendoza*, 2025 WL 3142089 at *4. Further, "good faith efforts" to obtain travel documents are insufficient to show likelihood of removal in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701.

84. Roeun's re-detention violated his substantive due process rights where Respondents re-detained him without any evidence that his removal is likely in the reasonably foreseeable future.

85. In addition, since 2005, Roeun has complied with all the conditions of release imposed on him by ICE via his OSUP, demonstrating that he is neither a flight risk nor a danger. Re-arresting Roeun without any evidence that he violated any terms of his OSUP was punitive and violated his constitutional right to be free from any unjustified deprivation of his liberty.

86. Accordingly, Roeun's re-detention violates his substantive due process rights.

COUNT FOUR

Violation of the Fifth Amendment (Procedural Due Process)

87. The allegations in the above paragraphs are realleged and incorporated herein.

88. Roeun has a protected interest in his liberty that the government cannot infringe without due process of law. Roeun's private interest in his liberty, and the risk of erroneous deprivation of that liberty, far outweighs the government's interest in re-detaining him. Petitioner has abided by the conditions of his OSUP for over 20 years. During this time, he has gotten married, had three children who he is the primary caretaker for, and built a substantial community in Los Angeles. Roeun has had no contact with law enforcement since being placed on his OSUP

over two decades ago. He therefore has a vested liberty interest in his conditional release. *See Young*, 520 U.S. at 146-47.

89. Roeun has been substantially prejudiced by ICE's failure to abide by its own regulations in re-detaining him, particularly considering the weighty private liberty interest in avoiding re-incarceration he has enjoyed for the past two decades. *Puertas-Mendoza*, 2025 WL 3142089 at *4.

90. In addition, Roeun's interest in his liberty, and the risk of being erroneously deprived of that liberty, outweighs the government's interest in re-detaining him without a bond hearing. *See Mathews*, 424 U.S. at 335.

91. Accordingly, Roeun's re-detention violates his procedural due process rights.

COUNT FIVE

Violation of Fourth Amendment

92. The allegations in the above paragraphs are realleged and incorporated herein.

93. The Fourth Amendment protects "the right of the people to be secure in their persons, houses, papers, and effects, against the unreasonable searches and seizures." U.S. Const. amend. IV.

94. When the government conditionally releases an individual, it makes "an implicit promise" that their liberty will not be revoked unless they fail to satisfy their conditions of release. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). It also conforms with the Fourth Amendment's prohibition on repeated seizures based on the same probable cause without a material change in circumstances. *Id.*; *see also U.S. v. Brignoni-Ponce*, 422 U.S. 873, 884 (1975) (applying Fourth Amendment principles from criminal context to "limit" scope of immigration agents' seizure authority); *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 817

(9th Cir. 2020) (Fourth Amendment limits apply equally to seizures in criminal and civil immigration context).

95. Roeun has the right to be free from unreasonable seizures, and as a corollary to that right, the Fourth Amendment prohibits re-arrest and re-detention on the same charge or basis without a material change in circumstances.

96. Such re-detention of Roeun violated the Fourth Amendment.

97. In fact, the circumstances related to any potential flight risk or danger to the community have not changed since Roeun's prior release from custody.

98. Moreover, ICE was without probable cause and/or reasonable suspicion that Roeun was removable or had violated any laws, and Roeun was prejudiced by this violation, which requires termination of the removal proceedings against him.

99. Accordingly, Roeun seeks a declaration that he was unlawfully detained in violation of the Fourth Amendment.

COUNT SIX

Violation of Fourteenth Amendment

100. The allegations in the above paragraphs are realleged and incorporated herein.

101. "[T]he Due Process Clause applies to all "persons" within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

102. In this case, and in connection with the Fifth Amendment violations, Roeun's due process rights were violated when his lawful resident status was revoked without any notice or opportunity to be heard. Thus, by re-detaining Roeun, ICE violated his fundamental interest in due process, as guaranteed by the Fourteenth Amendment.

COUNT SEVEN

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

Contrary to Law and Constitutional Right

103. The allegations in the above paragraphs are realleged and incorporated herein.

104. Under the Administrative Procedure Act ("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).

105. 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).

106. The revocation of Roeun's order of supervision was contrary to the Respondents' constitutional power under the Fifth Amendment's Due Process Clause, as explained above. In addition, 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 above.

107. Roeun'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. Upon information and belief, nor had the officer been delegated authority to revoke an order of supervision.

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

109. 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 Roeun 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 Roeun's removal.

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

111. 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 EIGHT

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

Arbitrary and Capricious

112. The allegations in the above paragraphs are realleged and incorporated herein.

113. 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).

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

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

116. 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). First, Respondents failed to consider the serious constitutional concerns raised by revoking Roeun's order of supervision without notice and opportunity to respond. Second, Respondents failed to consider the increased administrative burden to the agency caused by revoking the order of supervision of Roeun, 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. Third, Respondents failed to consider reasonable alternatives to revoking Roeun'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 interests in effectuating a removal order and save it the expense of detention not needed to guarantee Roeun's appearance. Fourth, Respondents failed to consider Roeun's substantial reliance interest, created by its instruction on his release notification—that Roeun was simply to "assist" ICE in attempting to obtain travel documents.

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

COUNT NINE

Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C)

In Excess of Statutory Authority

118. The allegations in the above paragraphs are realleged and incorporated herein.

119. 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).

120. "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).

121. 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 . . . ." *Zadvydas*, 533 U.S. at 699-700.

122. 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).

123. Respondents' revocation of Roeun's order of supervision was based on ultra vires regulations. As a result, it was in excess of statutory authority and should be held unlawful and set aside.

COUNT TEN

Violation of the *Accardi* Doctrine

124. The allegations in the above paragraphs are realleged and incorporated herein.

125. Under the *Accardi* doctrine, Roeun 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").

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

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

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

a. Assume jurisdiction over this matter;

b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

c. Declare that Petitioner's detention violates 8 U.S.C. § 1231(a), 8 C.F.R. § 241.13(i)(2)-(3), the Fourth, Fifth, and Fourteenth Amendments; 5 U.S.C. § 706(2)(A), (B), and (C), and/or the *Accardi* doctrine.

d. Issue a writ of habeas corpus commanding Petitioner's immediate release from Prairieland Detention Center or, in the alternative, provide Petitioner with a bond hearing within 7 days;

e. Enjoin Respondents from causing Petitioner any greater harm during the pendency of this litigation and his immigration court case, including, but not limited to,

transferring him away from pro bono counsel, unless he is transferred back to the district in which he was originally detained (Central District of California);

f. Enjoin Respondents from removing Petitioner to a third country without adequate notice of that removal and an opportunity to be heard according to the regulations and due process; and

g. Grant any further relief this Court deems just and proper.

DATED: December 5, 2025

/s/ Tracy L. McCreight

Tracy L. McCreight
State Bar No. 24037064
Email: TMcCreight@duanemorris.com
Brittany Murphree
State Bar No. 24137998
Email: bmurphree@duanemorris.com
DUANE MORRIS LLP
Las Cimas IV
900 S. Capital of Texas Hwy.,
Suite 300
Austin, TX 78746-5435
Telephone: 512.277.2300
Fax: 512.277.2301

Kristin M. Burns
State Bar No. 24036338
Email: KMBurns@duanemorris.com
DUANE MORRIS LLP
200 Crescent Court, Suite 900
Dallas, Texas 75201
Telephone: 214.257.7200
Fax: 214.257.7201

Brynna Bolt (CA SBN 339378)
bbolt@immdef.org
IMMIGRANT DEFENDERS LAW CENTER
634 S. Spring Street, 10th Floor
Los Angeles, CA 90014
Telephone: (213) 340-6583

Attorneys for Petitioner Chanda Roeun

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

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

Dated this 5th day of December, 2025.

/s/ Tracy L. McCreight
Tracy L. McCreight
Attorney for Petitioner