

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS**

FIKRET AVDULOVIC,)	
)	Case No. 25-5873
Petitioner,)	
)	PETITION FOR WRIT OF
v.)	HABEAS CORPUS
)	
RANDALL TATE Warden, Montgomery)	
Processing Center, BRET BRADFORD,)	
Houston Field Office Director, TODD LYONS,)	
Acting Director U.S. Immigrations and Customs)	
Enforcement, and KRISTI NOEM, U.S. Secretary)	
of Homeland Security,)	
)	
Respondents.)	
)	

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Fikret Avdulovic is a Bosnian national with a final order of removal from December 14, 2009 and is now administratively final. Petitioner was detained while his removal proceedings were pending and was not released from immigration detention until June 21, 2010 when he was served with an Order of Supervision.
2. Petitioner faithfully complied with the terms of his Order of Supervision and further cooperated with requests from ICE to apply for travel documents back to Bosnia.
3. On November 12, 2025, Petitioner appeared for his mandatory check-in appointment with U.S. Immigration and Customs Enforcement ("ICE"). At that appointment, ICE purported to revoke his Order of Supervision without notice or cause and arrested him. Petitioner is now detained in the Montgomery Processing Center.

4. The 90-day removal period provided by 8 U.S.C. § 1231(a) has long passed. Petitioner has further complied in all respects with his order of supervision and the revocation of that order as well as Petitioner's detention were in violation of the law.
5. Petitioner has now been detained well in excess of 180 days, in violation of the 90-day removal period provided by 8 U.S.C. § 1231(a). Accordingly, to vindicate Petitioner's constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

JURISDICTION

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).
7. This Court has jurisdiction to hear this case under 28 U.S.C. § 2201, the Declaratory Judgment Act, and 28 U.S.C. § 1331, Federal Question Jurisdiction; and because the individual Defendants are United States officials. 28 U.S.C. § 1346(a)(2).
8. The Court has authority to enter a declaratory judgment and to provide temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, 28 U.S.C. §§ 2201-2202, the All Writs Act 28 U.S.C. § 1651, the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2), and the Court's inherent equitable powers.
9. Venue is proper because Petitioner is currently detained in Conroe, Texas, and is detained in the Southern District of Texas.

THE PARTIES

10. The Petitioner, Fikret Avdulovic, is currently detained at the Montgomery Processing Center.
11. Respondent Bret Bradford is the Houston Field Office Director for U.S. Immigration and Customs Enforcement ("ICE").
12. Respondent Todd Lyons is the Acting Director for U.S. Immigration and Customs

Enforcement.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”).
14. Respondent Randall Tate is the Warden of the Montgomery Processing Center and is petitioner’s immediate custodian.
15. All Respondents are named in their official capacities.

RELEVANT LEGAL DOCTRINES

Revocation of Supervised Release and Arrest

16. Federal regulations governing enforcement actions by immigration officers require that “[a] warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii).
17. Federal regulations governing enforcement actions by immigration officers require that “[a] warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii).
18. Where an individual with a final removal order has been released on supervision, 8 C.F.R. § 241.4(l)(2) provides that only the Executive Associate Commissioner or a district director may revoke supervised release, and the district director may do so only “when, in the district director’s opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner.” That regulation also requires that an individual whose supervised release is revoked be informed as to the reasons why and be given a prompt post-deprivation opportunity to be heard as to why his supervised release should be restored.

Post Removal Order Detention

19. An order of removal becomes final when the Board of Immigration Appeals completes their review or the time to seek review has expired. *Johnson v. Guzman Chavez*, 594 U.S. 523, 534–35 (2021).
20. Under 8 U.S.C. § 1231(a), the government may detain a noncitizen for removal during the 90-day “removal period,” which begins when the removal order becomes administratively final. 8 U.S.C. § 1231(a)(1)(A)-(B)(i).
21. This period may be extended if the noncitizen fails or refuses to make timely application in good faith for travel or other documents necessary to effectuate their departure or conspires or acts to prevent their removal. 8 U.S.C. § 1231(a)(1)(C). It may also be extended if the noncitizen is removable for certain criminal offenses or a determination is made that they are a risk to the community or unlikely to comply with the order of removal. 8 U.S.C. § 1231(a)(6).
22. Even for those who “may” be detained beyond the initial removal period, the regulations call for a custody review both prior to the expiration of the removal period and periodically thereafter. 8 C.F.R. §§ 241.4(k)
23. Beyond that point, the Government may in some situations continue detaining them for as long as is “reasonably necessary” to secure their removal. *Id.*; 8 U.S.C. § 1231(a)(6). But, under *Zadvydas*, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized.” 533 U.S. at 699.
24. The Supreme Court has recognized a constitutional limitation on post-removal- period detention: such detention is permissible only when there is a “significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).
25. Although *Zadvydas* contemplated a presumptive six-month period in which post-order

detention might be constitutionally permissible, that presumption is subject to rebuttal. *Id.* at 699; *see also Villanueva v. Tate*, 2025 WL 2774610, at *10 (S.D. Tex. Sept. 26, 2025)(“[T]he presumption of constitutionality during that six-month period is rebuttable.”).

26. Even during the presumptively reasonable six-month period, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized.” *Zadvydas*, 533 U.S. at 699.

Habeas Corpus

27. A petitioner is entitled to habeas relief if they demonstrate that their detention violates the United States Constitution or federal law. 28 U.S.C. § 2241; *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973)(“The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody.”); *Villanueva*, 2025 WL 2774610, at *4 (a habeas petitioner must show they are “in custody in violation of the Constitution or laws or treaties of the United States.”)(quoting 28 U.S.C. § 2241(c)(3)).

28. In a habeas proceeding the petitioner “bears the burden of proving that he is being held contrary to law; and because the habeas proceeding is civil in nature, the petitioner must satisfy his burden of proof by a preponderance of the evidence.” *Id.* (quoting *Skaftouros v. United States*, 667 F.3d 144, 158 (2d Cir. 2011); also citing *Bruce v. Estelle*, 536 F.2d 1051, 1058 (5th Cir. 1976)).

29. The writ of habeas corpus is “available to every individual detained within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004)(citing U.S. Const., Art I, § 9, cl. 2).

30. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 20 U.S.C. § 2243. If an order to show

cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” Id.

Due Process

31. The Due Process Clause of the Fifth Amendment guarantees that no person in the United States shall be deprived of liberty without due process. U.S. Const. amend. V. These substantive and procedural due process protections apply to all people, including noncitizens, regardless of their immigration status. *Trump v. J.G.G.*, 604 U. S. ---145 S. Ct. 1003, 1006 (2025) (*per curiam*) (“It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993))).
32. The Due Process Clause provides heightened protection against government interference with certain fundamental rights—and freedom from detention lies at the heart of the Due Process Clause’s protections. *Zadvydas*, 533 U.S. at 690.
33. An agency’s failure to follow their own regulations may also constitute a denial of due process. *Francois v. Garland*, 120 F.4th 459, 465 (5th Cir. 2024); *Puertas-Mendoza v. Bondi*, No. SA-25-CA-00890-XR, 2025 WL 3142089, at *4 (W.D. Tex. Oct. 22, 2025)(citing same).

FACTS

34. Petitioner is a Bosnian national who was placed into removal proceedings and ordered removed on or about December 14, 2009. Exhibit 1—EOIR Case Information.
35. Petitioner was released from detention on June 21, 2010. Exhibit 2—Order of Supervision.
36. Petitioner has at all times complied with his order of supervision and attempted to cooperate with securing travel documents to return Bosnia. Exhibit 3—Sworn Declaration of Fikret Avdulovic.

37. On information and belief, his order of supervision was revoked, and he was detained without cause by U.S. Immigration and Customs Enforcement agents on November 12, 2025.
38. At no time was Petitioner informed as to the reasons for revoking the order of supervision nor was he given the required interview to demonstrate reasons why it should be revoked.
39. Importantly, Petitioner's criminal history was already known and available to U.S. Immigration and Customs Enforcement at the time the Order of Supervision was issued. Petitioner has not been arrested or charged with any crimes since the issuance of his Order of Supervision and has complied with all incident terms.
40. Petitioner is currently in custody in the Southern District of Texas, and one or more of the Respondents is his immediate custodian. Exhibit 4—Detention Information.
41. On information and belief, Petitioner's removal is not likely in the reasonable, foreseeable future as ICE has not obtained a travel document from Russia or an agreement with and travel document for a third country and is unlikely to be able to do so.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

42. Petitioner incorporates all preceding paragraphs by reference.
43. On information and belief, Petitioner is currently being detained by federal agents contrary to the law and in violation of his constitutional rights to due process of law.
44. Petitioner's due process rights have been violated in that his custody has not been reviewed since he has been detained and, if any review has been conducted, he has not been informed and provided proper notice as required by the regulations.
45. Respondents are failing to follow their own regulations, consider the required factors, and conduct a custody determination that could result in Petitioner's release. Petitioner's detention

could continue indefinitely if not periodically reviewed and Respondents have deprived Petitioner of due process by failing to provide even the meager process allowed for under the regulations.

46. This Court should find that Petitioner's due process rights have been violated and order his release from Respondents' custody.

COUNT TWO
Unlawful Arrest in Violation of Federal Regulations

47. Petitioner incorporates all preceding paragraphs by reference.
48. When ICE arrested Petitioner on November 12, 2025, they flagrantly violated federal regulations.
49. Petitioner was released under a valid Order of Supervision following the expiration of his removal period. Petitioner fully complied with all requirements.
50. Respondents violated 8 C.F.R. § 241.4(I)(1), which requires that upon revocation of supervised release, "the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification."
51. Respondents provided Petitioner with no written notification of revocation, no explanation of the reasons for revocation, and no opportunity to contest the revocation.
52. Respondents further violated 8 C.F.R. § 241.4(I)(2), which provides that only the Executive Associate Commissioner or a district director may revoke supervised release, and the district director may do so only "when, in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." Upon information and belief, no such determination was made by

the Executive Associate Commissioner or district director, and no exigent circumstances existed that would have prevented referral to the proper authority.

53. These regulations were promulgated to safeguard due process rights of noncitizens, and Respondents' violations severely prejudiced Petitioner. Had these regulations been followed, Petitioner would have had a meaningful opportunity to contest the revocation of his supervised release, demonstrate his obvious compliance with the Order of Supervision, and prevent his unlawful detention.
54. Under the well-established Accardi doctrine, when an agency fails to follow its own procedures or regulations, that agency's actions are generally invalid. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)).
55. This Court must not permit Respondents to benefit from their flagrant regulatory violations.
56. As relief, Petitioner asks the Court to immediately order Respondents to release him from custody and restore his Order of Supervision on the same conditions as before the November 2025 arrest.

COUNT THREE
Unlawful Detention Beyond Removal Period

57. Petitioner incorporates all preceding paragraphs by reference.
58. Under 8 U.S.C. § 1231(a), the government may detain a noncitizen for removal only during the 90-day "removal period," which begins when the removal order becomes administratively final. 8 U.S.C. § 1231(a)(1)(A)-(B)(i). This period may be extended only if the noncitizen "fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal." 8 U.S.C. § 1231(a)(1)(C).
59. The Supreme Court has recognized a constitutional limitation on post-removal-period

detention: such detention is permissible only when there is a “significant likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). After six months of detention—the “presumptively reasonable period”—the government bears the burden of proving this likelihood if the noncitizen provides “good reason to believe” that removal is not reasonably foreseeable. *Id.*

60. Petitioner’s removal was ordered on December 14, 2009, and he was released from detention on June 21, 2010 as noted in his Order of Supervision. The 180-day *Zadvydas* presumptively reasonable period expired June 12, 2010.
61. After spending more than 180 days in detention post-removal, Petitioner remains unremovable on information and belief as Bosnian authorities have not issued him a travel document. Petitioner continues to remain in detention with no notice of removal.
62. Petitioner has established far more than a “good reason to believe” that there is no significant likelihood of his removal in the reasonably foreseeable future as he cannot legally be removed without travel documents and continues to remain in detention.
63. Under *Zadvydas*, Respondents cannot detain Petitioner indefinitely. Such detention violates both the statutory limitations of 8 U.S.C. § 1231(a)(6) and his constitutional due process rights.
64. As relief, Petitioner requests an order from this Court immediately releasing him from Respondents’ custody and placing him under an order of supervision pursuant to 8 U.S.C. § 1231(a)(3).
65. Additionally, as access to counsel is critical to preparing any potential application for relief, Petitioner asks that such order be further narrowed to prohibiting Respondents from removing him or relocating him to a detention facility outside the Southern District of Texas.

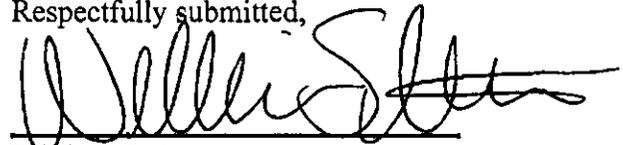
PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the Southern District of Texas;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days and setting an immediate hearing.
- (4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (6) Issue an order that Petitioner's Order of Supervision be restored and that he continue supervision under the same terms as in place prior to November 2025.
- (7) Grant any further relief this Court deems just and proper.

Date: December 8, 2025

Respectfully submitted,



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