**UNITED STATES DISTRICT COURT**
**MIDDLE DISTRICT OF ALABAMA**

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| ZU PING CHEN<br><br>Petitioner,<br><br>vs.<br><br>MELLISSA B. HARPER, Field Office Director *New Orleans Field Office*, and TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement*, and KRISTI NOEM, *Secretary of Homeland Security,* and PAMELA BONDI, *U.S. Attorney General*<br><br>Respondents. | Case No.: 3:25-cv-00970-BL-JTA |

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE (ECF 38)**

Petitioner, Zu Ping Chen, by and through undersigned counsel, respectfully submits this Memorandum in Reply to the Respondents' Opposition to Motion for Temporary Restraining Order (TRO). ECF Doc. 38. This Reply addresses Respondents' arguments against Petitioner's request for immediate release from unlawful detention, which was initiated following the revocation of his Order of Supervision. The Court previously issued an Order to Show Cause (ECF 33), which unequivocally shifted the burden to Respondents to justify Petitioner's detention. This Reply demonstrates that Respondents have utterly failed to meet their evidentiary and legal obligations and therefore this Court must release Petitioner immediately. Respondents' opposition relies on a misapplication of law, a disregard for procedural due process, and a complete absence of factual evidence to support their actions. As discussed herein, Respondents misinterpret the applicable legal framework for post-removal-order detention, particularly the principles established in *Zadvydas v. Davis*, 533 U.S. 678 (2001) (*Zadvydas*), and fail to acknowledge the

procedural due process violations inherent in Petitioner's re-detention. Petitioner, a Chinese national subject to a final order of removal since 2003, has resided in the U.S. for over 25 years under an Order of Supervision (OSUP) with perfect compliance. His sudden detention on February 24, 2026, without notice or hearing, and the subsequent revocation of his OSUP, are arbitrary and unlawful.

## I. FACTUAL BACKGROUND

Petitioner Zu Ping Chen, a 42-year-old Chinese national, has resided in Auburn, Alabama for over two decades with his wife and two U.S. citizen children. He owns and operates a buffet restaurant and is an active member of his local church community. Mr. Chen entered the United States in August 1999 through the Port of Savannah, Georgia. A Notice to Appear was issued on August 14, 1999, and he was ordered removed to China on April 25, 2000. However, China has refused to issue travel documents for Mr. Chen for over 25 years.

In 2003, following a lengthy period of detention after his final removal order, Mr. Chen was released on an Order of Supervision (OSUP) and consistently complied with its terms for 22 years. In October 2024, he was detained during a routine ICE check-in, and during ICE transport, he sustained a broken collarbone, which now causes chronic pain requiring ongoing medical and chiropractic care. He was released on October 30, 2024, under a renewed OSUP. On December 16, 2025, Mr. Chen was again detained in Montgomery, Alabama, and his OSUP conditions were amended to include an ankle monitor and participation in the Intensive Supervision Appearance Program (ISAP). On February 24, 2026, during a scheduled check-in at the Montgomery ICE office, Mr. Chen's OSUP was formally revoked, and he was taken into custody. He was not provided advance written notice or an opportunity to be heard before this revocation. He was also not provided an opportunity to be heard through an "informal interview" as required by the regulation on February 24, while his attorney, Brian Boghani accompanied him to the check-in.

## II. RESPONDENTS' RIPENESS ARGUMENT MISCONSTRUES THE NATURE OF PETITIONER'S DUE PROCESS CLAIMS AND THE APPLICABILITY OF *ZADVYDAS*

### A. Petitioner's Claims Are Ripe Because They Challenge the Lawfulness of Detention from Its Inception

Respondents contend that Petitioner Zu Ping Chen's claims are not ripe for review because he has been in ICE custody for less than a month, asserting that this period falls "far short" of the six-month presumptively reasonable detention period established by *Zadvydas v. Davis*, 533 U.S. 678 (2001). This argument fundamentally misinterprets the Supreme Court's holding in *Zadvydas* and ignores the undisputed facts of Petitioner's decades-long immigration history. The six-month "presumptively reasonable period" for post-removal-order detention begins from the date the final order of removal becomes effective, not from each subsequent re-detention or revocation of an Order of Supervision (OSUP). Petitioner's final order of removal was issued in 2003, meaning the six-month clock began over two decades ago, not on February 24, 2026.

The Supreme Court in *Zadvydas* held that 8 U.S.C. § 1231(a)(6) implicitly limits an alien's detention to a period "reasonably necessary to bring about that alien's removal from the United States" and does not permit indefinite detention. *Id.*, at 701. Here, Petitioner has been subject to a final order of removal since 2003, and China has consistently refused to issue travel documents for him for over 25 years. This prolonged inability to effectuate removal, spanning decades, far exceeds any reasonable interpretation of the *Zadvydas* six-month presumption.

Moreover, unlike cases where an alien obstructs their own removal, thereby precluding relief under *Zadvydas* (e.g., *Glushchenko v. U.S. Dep't of Homeland Sec.*, 566 F.Supp.3d 693, 709-710 (W.D. Tex. 2021), Petitioner has a documented history of perfect compliance with his OSUP for 22 years. His detention is not due to his own actions but to the foreign government's refusal to accept him. The Court's Order to Show Cause (ECF 33) correctly shifted the burden to

Respondents to justify Petitioner's detention, recognizing that the *Zadvydas* framework is applicable. Respondents' ripeness argument, based on a misapplication of the six-month presumption, is therefore without merit and does not warrant dismissal of Petitioner's claims.

### B. *Zadvydas* Does Not Permit a Six-Month "Reset" After Decades of Non-Removability and Prior Supervision

Moreover, Respondents' ripeness theory improperly assumes that the six-month presumption recognized in *Zadvydas* "restarts" each time ICE chooses to re-detain a noncitizen under a decades-old final order. That is not how the post-order detention framework operates. The ninety-day "removal period" is defined by statute and begins on the latest of three triggering events listed in 8 U.S.C. § 1231(a)(1)(B); it does not recommence years later simply because ICE revokes supervision and takes the person back into custody. In *Alam v. Nielsen*, 312 F. Supp. 3d 574, 582–83 (S.D. Tex. 2018), the court rejected DHS's contention that a "most recent removal period" began when Alam's supervised release was revoked, holding that detention more than a decade after the final order of removal was "beyond the removal period" and governed by § 1231(a)(6), not by a newly-reset ninety-day clock.

The Immigration and Nationality Act authorizes the detention of a noncitizen for a 90-day "removal period" following a final order of removal. Beyond that period, 8 U.S.C. § 1231(a)(6) permits continued detention for certain categories of individuals, including those deemed a risk to the community or unlikely to comply with a removal order. However, in *Zadvydas*, the Supreme Court recognized that this authority is not boundless. Applying the canon of constitutional avoidance to prevent the statute from authorizing indefinite detention, the Court held that § 1231(a)(6) "limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States". As explained in Petitioner's Complaint, the 90-day "removal period" under § 1231(a)(1) runs once from the date the removal order became

final and does not restart upon later re-detention, *see Bailey v. Lynch*, No. 16-2600, 2016 WL 5791407, at *2–4 (D.N.J. Oct. 3, 2016); *Diaz-Ortega v. Lund*, No. 1:19-CV-670-P, 2019 WL 6003485, at *3–4 (W.D. La. Oct. 15, 2019). District courts applying *Zadvydas* uniformly measure the presumptively reasonable six-month period from the time post-order custody first began, not from each subsequent episode of re-detention under the same final order. This approach is consistent with *Zadvydas's* core holding that § 1231(a)(6) does not permit "indefinite" or "potentially permanent" detention once there is no significant likelihood of removal in the reasonably foreseeable future.

Respondents' attempt to reset the *Zadvydas* clock with each re-detention would render the Supreme Court's protections meaningless, allowing ICE to indefinitely detain individuals by simply releasing and re-detaining them every 179 days. Such an interpretation is contrary to the spirit and letter of *Zadvydas*, which sought to prevent potentially permanent detention. It is also contrary to the plain language of 8 U.S.C. § 1231which only says "removal period" in singular form, meaning the removal period happens only once, it is not a recurring event or "periods." Petitioner has provided "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," given China's consistent refusal to issue travel documents for over two decades. Once the government was ordered to show cause, the burden therefore rests squarely on Respondents to rebut this showing, a burden they have failed to meet by merely asserting that Petitioner's current detention is less than six months.

To the extent Respondents rely on the Eleventh Circuit's ripeness precedents under *Zadvydas*, such as *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), those decisions address only the first instance of post-removal-order custody and hold that a § 1231(a)(6) challenge is not ripe until six months of initial detention have elapsed; they do not authorize ICE to restart

the constitutional clock years or decades later by re-detaining a noncitizen who has long been under a final order and on supervision, and nothing in § 1231(a)—which repeatedly refers to a single "removal period"—contemplates serial, resettable removal periods.

Mr. Chen's final order has been outstanding since 2000, and China has refused to issue travel documents for him for over twenty-five years, leading DHS to place him on an Order of Supervision in 2003 and leave him in supervised status for more than two decades. In that posture, the six-month presumption has long since expired and the *Zadvydas* burden has long since shifted to the government to justify continued post-order detention with concrete evidence of a significant likelihood of removal in the reasonably foreseeable future. Mr. Chen has more than satisfied his initial burden to show that his removal is not significantly likely in the reasonably foreseeable future. The government, other than stating that it wishes to execute the removal order has not provided a single document with its Response that rebuts that presumption. Having already found good reason to issue its March 5, 2026 Order to Show Cause and to require Respondents to explain why the writ should not be granted, the Court has properly placed the evidentiary burden on Respondents to come forward with concrete evidence of a significant likelihood of removal in the reasonably foreseeable future—evidence they conspicuously failed to provide in their show-cause response. No passport, no travel document, no agreement with China to issue one.

Respondents' attempt to treat his February 24, 2026 arrest as the start of a brand-new six-month window is incompatible with the statutory text, with the afore-mentioned cases (there are many more authorities), and with *Zadvydas's* constitutional-avoidance rationale, and it cannot defeat ripeness in a case where the underlying removal order and post-order non-removability have persisted for more than twenty years.

## III. RESPONDENTS FAIL TO DEMONSTRATE THAT PETITIONER HAS NOT MET THE PRELIMINARY INJUNCTION STANDARD

Respondents assert that Petitioner has failed to establish the four factors required for a preliminary injunction: a substantial likelihood of success on the merits, irreparable harm, that the threatened injury to Petitioner outweighs damage to Respondents, and that the injunction is in the public interest. This generalized opposition overlooks the profound liberty interests at stake and the procedural posture established by the Court.

To obtain a preliminary injunction, a petitioner must demonstrate (1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered unless the injunction issues; (3) that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) that the injunction, if issued, would not be adverse to the public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

In cases involving the deprivation of liberty, irreparable harm is presumed. *Aguilar v. Decker*, 482 F.Supp.3d 139, 149 (S.D. N.Y. 2020). "Several courts in this circuit have concluded that the deprivation of an alien's liberty is, in and of itself, irreparable harm." *Sajous*, 2018 WL 2357266, at *12 (S.D.N.Y. May 23, 2018) (cleaned up). Likewise, when petitioner has asserted a constitutional violation, a presumption of irreparable harm attaches. *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996). The loss of constitutional freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury. *Elrod v. Burns*, 427 U.S. 347, 373 (1976). Furthermore, the public interest is always served by upholding constitutional rights. *Aguilar v. Decker*, at 150.

Petitioner has demonstrated a substantial likelihood of success on the merits of his due process claims, APA, *Accardi* and regulatory violations by ICE/DHS. As detailed below, Respondents have failed to provide a constitutionally adequate justification for his detention,

particularly concerning the revocation of his OSUP without a prior hearing and the absence of a bond hearing with the burden on the government. The Court's Order to Show Cause (ECF 33) placed the burden squarely on Respondents to justify Petitioner's detention. Their failure to meet this burden, as evidenced by the arguments presented, directly supports Petitioner's likelihood of success.

The irreparable harm factor is unequivocally met. Petitioner is currently detained, representing a direct and ongoing deprivation of his fundamental liberty interest. *L.G. v. Choate*, 744 F.Supp.3d 1172, 1183 (D. Colo. 2024). This is not a speculative injury; it is an actual and immediate loss of freedom, which courts consistently recognize as irreparable harm. *Aguilar v. Decker*, 149. The balance of equities also favors Petitioner. His continued detention, without adequate procedural safeguards, inflicts severe personal and familial. In contrast, Respondents have articulated no legitimate governmental interest that outweighs Petitioner's liberty interest, especially given his decades of compliance with supervision and the lack of evidence that he poses a flight risk or danger. The public interest is best served by ensuring that the government adheres to constitutional mandates and avoids arbitrary detention. *Aguilar v. Decker*, 150. There is no public interest in the perpetuation of unlawful agency action and government agencies must follow the law. *League of Women Voters of the United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016). Granting a preliminary injunction would uphold the rule of law and protect fundamental rights, while imposing minimal burden on the government, which can still pursue lawful removal proceedings. Therefore, Respondents' general assertion that Petitioner fails to meet the preliminary injunction standard is unavailing, as Petitioner has clearly established the requisite factors, particularly the irreparable harm of unlawful detention and the public interest in upholding due process.

## IV. RESPONDENTS' DUE PROCESS ARGUMENT INCORRECTLY LIMITS PETITIONER'S ENTITLEMENT TO PROCESS BEYOND *ZADVYDAS*

Respondents argue that Petitioner has received all the process to which he is entitled and that *Zadvydas* does not demand more, suggesting that Petitioner cannot show a presumptively unreasonable detention until late August. This argument misconstrues the scope of due process protections and the specific nature of Petitioner's challenge to the revocation of his OSUP and subsequent detention.

The Fifth Amendment's Due Process Clause applies to all persons within the United States, including aliens, regardless of their status, and freedom from imprisonment lies at the heart of the liberty it protects. *Zadvydas,* at 690. *Padilla v. U.S. Immigration & Customs Enforcement*, 704 F.Supp.3d 1163, 1172 (W.D. Wash. 2023). Detention without due process is unconstitutional unless ordered in a criminal proceeding with adequate procedural safeguards or a special justification outweighs the individual's liberty interest. *Zadvydas,* at 690. While *Zadvydas* established a six-month presumptively reasonable period for post-removal-order detention under 8 U.S.C. § 1231(a)(6), it did not, and could not, preclude other due process challenges to the lawfulness of detention itself, particularly concerning the procedures leading to detention. Indeed, *Johnson v. Arteaga-Martinez,* 596 U.S. 573 (2022), explicitly left open "as-applied constitutional challenges" to prolonged detention.

Petitioner's detention stems from the revocation of his OSUP on February 24, 2026, which he contends was procedurally flawed and lacked due process. See *Bogdani Declaration.* The issue is not merely the length of detention after a valid removal order, but the validity of the detention itself from its inception. The Court's Order to Show Cause (ECF 33) requires Respondents to justify the detention now, not in six months. The *Mathews v. Eldridge* balancing test, which considers the private interest affected, the risk of erroneous deprivation, and the government's

interest, is the appropriate framework for evaluating such procedural due process claims. *J.G. v. Warden*, 501 F.Supp.3d 1331, 1336 (M.D. Ga., Nov. 16, 2020); *Lopez v. Decker*, 978 F.3d 842, 852 (2nd Cir. 2020); *L.G. v. Choate*, 1181; *Miranda v. Garland*, 34 F.4th 338, 359 (4th Cir. 2022).

Applying the *Mathews* factors, Petitioner's fundamental liberty interest in freedom from physical restraint is paramount (*L.G. v. Choate*, 1183). The risk of erroneous deprivation is high when an OSUP is revoked and detention imposed without a prior hearing before a neutral decision-maker, especially for an individual with a decades-long history of compliance (*Lopez v. Decker*, 978 F.3d 842, 853 (2nd Cir. 2020). The government's interest in summary detention of a long-term resident who has consistently complied with supervision for over two decades, and for whom China has refused travel documents for 25 years, is minimal compared to Petitioner's liberty interest. Courts have consistently found that internal agency reviews are insufficient to satisfy due process for prolonged detention.

Respondents' argument that Petitioner must wait until late August to challenge his detention is a misapplication of *Zadvydas* and an attempt to circumvent the immediate due process inquiry mandated by the Court. The Court's Order to Show Cause (ECF 33) requires Respondents to justify the detention now, and their failure to provide constitutionally adequate process for the OSUP revocation and subsequent detention means they have not met this burden. Therefore, this ground does not warrant dismissal because Petitioner's due process claims challenge the lawfulness of his detention from its inception, requiring immediate justification from Respondents, which they have failed to provide.

## V. RESPONDENTS' JURISDICTIONAL BAR ARGUMENT UNDER 8 U.S.C. § 1252 IS INAPPLICABLE TO PETITIONER'S CONSITUTIONAL CLAIMS

Respondents contend that this Court lacks jurisdiction to review ICE's decision to revoke the OSUP and subsequent removal actions, citing 8 U.S.C. § 1252(g) and § 1252(a)(2)(B)(ii) as jurisdictional bars to claims arising from decisions to commence proceedings, adjudicate cases, execute removal orders, or discretionary decisions like OSUP revocation. This argument mischaracterizes Petitioner's claims and ignores the well-established scope of federal habeas jurisdiction. Federal courts derive their authority to review the lawfulness of detention from 28 U.S.C. § 2241. The Supreme Court has consistently held that § 1252 does not eliminate habeas jurisdiction over constitutional claims or questions of law regarding the extent of the government's detention authority. *Zadvydas,* 687-688.

### A. Section 1252(g) Applies Only to Three Discrete Actions, None of Which Are At Issue Here

Section 1252(g) provides that, except as provided in the section, no court shall have jurisdiction to hear any claim "arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien". The Supreme Court has held that this provision must be read narrowly and applies only to these three specific discretionary actions. It is not a broad bar on all claims related to immigration matters. Based on *Reno v. American-Arab Anti–Discrimination Comm. (AADC)*, 525 U.S. 471, 482 (1999) and subsequent cases, the § 1252(g) bar is narrowly construed to those three discrete *discretionary* actions of the attorney general (to *commence* proceedings, *adjudicate* cases or *execute* removal orders). *Id.* *1-2. This provision is a narrow bar. *See also Madu v. U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006) (finding that the petitioner did not challenge "INS's exercise of discretion. Rather he [brought] a constitutional challenge to his detention and impeding removal.").

Mr. Chen's Petition does not challenge any of those three actions. He does not contest the decision to commence or adjudicate his case, nor does he challenge the abstract discretionary authority of the government to execute a lawful removal order. Rather, he challenges the manner of that execution and the legality of his detention. In other words, he is challenging his re-detention at this juncture, without a travel document, in violation of federal law, federal regulations, and other legal doctrines because ICE has not complied with the statutory and regulatory requirements needed to revoke his OSUP. As other courts have recognized, a challenge to unlawful detention is distinct from a challenge to the government's decision to execute a removal order. A claim that detention is statutorily or constitutionally unauthorized is a collateral matter that does not fall within the heartland of § 1252(g).

The Court has jurisdiction to review whether ICE adhered to its own policies and procedures. Federal courts consistently distinguish between unreviewable challenges to the execution of a removal order and reviewable challenges to the lawfulness of detention. See, e.g., *Maldonado v. Olson*, No. 25-cv-3142, 2025 WL 2374411, at 6 (D. Minn. Aug. 15, 2025) (holding a due process challenge to detention is not barred by § 1252(g)); *Barrios v. Ripa*, No. 1:25-cv-22644-GAYLES, 2025 WL 2280485 (S.D. Fla. Aug. 8, 2025) (distinguishing between challenges to discretionary execution and reviewable challenges to the manner of execution).[1]

The Supreme Court has repeatedly affirmed that habeas corpus jurisdiction under 28 U.S.C. § 2241 is preserved absent a clear, unambiguous, and express statement of congressional intent to

[1] Consistent with this narrow reading of § 1252(g), courts have squarely held that habeas challenges to detention following OSUP revocation are not barred because they attack custody, not the discretionary decision to execute a removal order. In *Ahmad v. Whitaker*, No. C18 287 JLR BAT, 2018 WL 6928540 (W.D. Wash. Dec. 4, 2018), the court rejected the government's argument that § 1252(g) foreclosed review of an OSUP revocation, explaining that the petitioner "does not attack ICE's decision to execute his removal order; he challenges his detention prior to his removal," and holding that "[s]uch claims may be brought through a habeas petition" under 28 U.S.C. § 2241. The same is true here: Mr. Chen challenges only the legality of his current detention and Respondents' failure to follow their own post-order custody regulations, not the abstract authority to remove him at some future point.

repeal it. Neither § 1252(g) nor § 1252(b)(9) contains such an express repeal of § 2241 jurisdiction for collateral detention challenges. In fact, courts have held that the very structure and language of § 1252, including the heading of subsection (b) ("Requirements for review of orders of removal"), indicate that the section is intended to consolidate appeals of removal orders, not to eliminate the historic habeas remedy for unlawful custody. Interpreting these provisions to bar Mr. Davidson's claims would "immunize the INS's implementation of federal immigration laws from due process challenges," *Nguyen v. Fasano*, 84 F.Supp.2d 1099 (M.D. Pa., May 17, 2000), an outcome that "would raise difficult constitutional issues." *Walters v. Reno*, 145 F.3d 1032, 1052 (9th Cir.1998), cert. denied, 526 U.S. 1003 (1999) (quoting *Catholic Social Services, Inc. v. Reno*, 134 F.3d 921, 927 (9th Cir.1997). This Court should decline to adopt a construction that would do so.

Petitioner's constitutional challenge to the procedures used also falls squarely within the federal courts' habeas jurisdiction under 28 U.S.C. § 2241 and is explicitly preserved by Supreme Court precedent (*Zadvydas,* at 687-688). The Court's Order to Show Cause (ECF 33) itself demonstrates the Court's exercise of jurisdiction to inquire into the lawfulness of detention, underscoring that such constitutional challenges are cognizable.

Therefore, this ground does not warrant dismissal because Petitioner's claims are constitutional challenges to the procedures of his detention, which are cognizable under federal habeas jurisdiction and not barred by 8 U.S.C. § 1252.

## VI. RESPONDENTS' ARGUMENT REGARDING THE ABSENCE OF PRE-REVOCATION NOTICE OR HEARING REQUIRMENT FAILS TO SATISFY DUE PROCESS

### A. ICE Applied the Wrong Regulatory Framework: Mr. Chen's Revocation Is Governed by 8 C.F.R. § 241.13, Not § 241.4(l), and the Misapplication Is an Accardi-Type Due Process Violation

The post-order detention regulations distinguish between two very different situations. Ordinary post-order custody in the months immediately following the ninety-day removal period is governed by 8 C.F.R. § 241.4. By contrast, 8 C.F.R. § 241.13 establishes "special review procedures" for noncitizens who, after the removal period has expired, have provided "good reason to believe there is no significant likelihood of removal … in the reasonably foreseeable future." In such indefinite-detention cases, § 241.13 assigns custody jurisdiction to the Headquarters Post-Order Detention Unit (HQPDU), not to local field offices. 8 C.F.R. § 241.13(a)–(c).

Consistent with this structure, multiple courts have recognized that once removal is no longer reasonably foreseeable and the case has migrated into the "indefinite detention" posture addressed by *Zadvydas*, custody jurisdiction and review move from the local field office to HQPDU under § 241.13. The recent decision in *Santamaria Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2444087 (D. Md. Aug. 25, 2025), reinforces that §§ 241.4 and 241.13 together create a procedural framework "designed to ensure the fair processing of an action affecting an individual," and that ICE's failure to follow that framework in revoking release is itself a due-process violation under *Accardi*. There, as here, ICE summarily re-detained a long-term supervisee at a routine check-in, provided no written decision from an authorized official, gave no notice of the reasons for revocation, and never afforded the informal interview required by §§ 241.4(l)(1) and 241.13(i)(3). The court held that these regulations were "intended to provide due process" in the post-order context and that, when they are not followed, "prejudice is presumed" because an

"entire procedural framework, designed to ensure the fair processing of an action affecting an individual[,] is created but then not followed by an agency." Applying *Accardi* and Fourth Circuit precedent, the court found three separate violations—a failure to have the Executive Associate Director or a district director make the revocation decision as required by § 241.4(l)(2); a failure to issue a written decision with reasons as required by § 241.4(d); and a failure to provide notice of reasons and a prompt informal interview as required by §§ 241.4(l)(1) and 241.13(i)(3)—and granted the § 2241 petition and ordered the petitioner's release.

Mr. Chen's case presents the same constellation of defects. ICE purported to act under § 241.4(l)(2), but there is no evidence that the Executive Associate Director—or even a properly authorized district director—made the revocation decision. The only signature appears on a check-the-box Form 71-091 signed by the New Orleans Field Office Director, with a boilerplate assertion that "revocation is in the public interest and circumstances do not reasonably permit referral to the Executive Associate Director of ERO," and no contemporaneous explanation of why referral to headquarters was supposedly infeasible or what "public interest" was served in this particular case. The form does not set forth the factual reasons for continued detention, and the "Notice of Informal Interview" section is left entirely blank. Counsel's sworn declaration further confirms that ICE officers "revok[ed] [the] OSUP and [took] him into custody" at the February 24, 2026 check-in "without providing him with an opportunity to respond or to contest the OSUP revocation." Thus, as in *Santamaria Orellana*, ICE failed to (1) have the proper official exercise the revocation authority, (2) issue a written decision that sets forth the reasons for detention, and (3) provide the mandatory post-revocation notice and informal interview. Under *Accardi* and *Santamaria Orellana*, those failures to follow §§ 241.4 and 241.13 are not

harmless technicalities; they are due-process violations that independently warrant habeas relief and strongly support a finding of likelihood of success on the merits.

Courts have also emphasized that the "upon revocation" / "promptly" language in §§ 241.4(l)(1) and 241.13(i)(3) has real temporal content. In *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025), the court held that a twenty-seven-day delay between revocation and the provision of notice and an interview "cannot reasonably be construed as 'prompt' " and expressly noted that the government did not even "attempt to argue that." ICE's failure to provide Mr. Chen with any informal interview at all in the weeks since his February 24, 2026 re-detention cannot be reconciled with the regulatory command that the interview occur "upon" revocation and "promptly" after the return to custody. In this case, "upon revocation" on February 24, 2026 would have meant an interview on or very shortly after that date, not an indefinite postponement tied to his transfer to a remote detention facility.

Section 241.13 itself contains a distinct revocation standard and procedures tailored to long-term, non-removable noncitizens. It permits DHS to "revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future," and it requires that, "[u]pon revocation," the alien be notified of the reasons and afforded a prompt informal interview at which he may submit evidence showing that there is still no significant likelihood of removal. 8 C.F.R. § 241.13(i)(2)–(3). In *Ahmad v. Whitaker*, No. C18-287-JLR-BAT, 2018 WL 6928540 (W.D. Wash. Dec. 4, 2018), the court described § 241.13 as governing "the release and revocation of release for noncitizens who are indefinitely detained," and emphasized that revocation under § 241.13(i) requires both "changed circumstances" and the

informal interview contemplated by § 241.13(i)(3). None of these § 241.13 prerequisites occurred here.

Mr. Chen is precisely the sort of long-term, non-removable noncitizen for whom § 241.13 was designed. He has lived under a final removal order since 2000, and China has refused to issue travel documents for him for more than twenty-five years, leading DHS to place him on an Order of Supervision in 2003 and to leave him in supervised status for over two decades. In such circumstances, courts have consistently treated the case as falling within the § 241.13 "no significant likelihood of removal" track, with HQPDU exercising custody jurisdiction and the "changed circumstances" standard governing any return to custody. See, e.g., *Bonitto v. BICE*, 547 F. Supp. 2d 747 (S.D. Tex. 2008) (explaining that the 180-day HQPDU review under § 241.13 focuses on whether there is a "significant likelihood of removal in the reasonably foreseeable future" and that, absent such a likelihood or one of the narrow "special circumstances" in § 241.14, continued detention is not authorized). Under § 241.13(c), HQPDU is specifically tasked with conducting reviews and making determinations regarding release or continued detention under that section, underscoring that actions—including revocations—under § 241.13 should originate from, or be explicitly authorized by, HQPDU, not simply by any field-level official.

Rather than proceed under § 241.13, however, ICE invoked § 241.4(l) and treated Mr. Chen's revocation as a purely discretionary field-office decision. The February 24, 2026 Notice of Revocation of Release (ICE Form 71-091) explicitly checks the § 241.4(l) box and recites that "this is a determination that revocation is in the public interest and circumstances do not reasonably permit referral to the Executive Associate Director of ERO," with the form signed by the New Orleans Field Office Director. Respondents' opposition brief likewise characterizes the revocation as having been "pursuant to 8 C.F.R. § 241.4(l)" based on a field-office determination that

"revocation was in the public interest and release was no longer appropriate." That framing ignores both the "special review procedures" that the regulations prescribe for indefinite post-order detention and the regulatory command that § 241.13 governs revocation decisions in cases, like this one, where removal has not been significantly likely for many years.

Even assuming arguendo that § 241.4(l)(2) could apply, the regulations strictly limit which officials may exercise revocation authority and under what conditions. Section 241.4(l)(2) gives the Executive Associate Commissioner (now the Executive Associate Director of ERO) primary authority to revoke release, and permits a district director to 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." 8 C.F.R. § 241.4(l)(2). Although Mr. Chen's Form 71-091 is signed by the New Orleans Field Office Director and contains the pre-printed statement that "revocation is in the public interest and circumstances do not reasonably permit referral to the Executive Associate Director of ERO," the form is otherwise silent as to *why* referral was supposedly impossible or what specific "public interest" was being served. The same form reflects that Mr. Chen's OSUP was reissued on November 2, 2024, and that revocation occurred on February 24, 2026—meaning ICE had well over a year of lead time from his scheduled reporting dates, and at least three months from his December 2025 re-detention and January 2026 ankle-monitor placement, to seek headquarters approval if it genuinely believed revocation was warranted. Those undisputed timelines are irreconcilable with any good-faith claim that "circumstances do not reasonably permit referral" to the Executive Associate Director; on the face of the record, there was ample opportunity to obtain a headquarters revocation decision under the default chain of authority established by § 241.4(l)(2).

Nor does the record supply any articulated "public interest" basis for revoking release in Mr. Chen's circumstances. The Amended Complaint alleges—and Respondents do not meaningfully contest—that Mr. Chen has no criminal record, has resided in the United States for more than two decades, is married with U.S.-citizen children, owns and operates a restaurant employing others (including U.S. workers), and has complied with supervision requirements for over twenty years. Against that backdrop, a bare, check-the-box assertion that revocation is "in the public interest," unaccompanied by any contemporaneous explanation tying his individual equities or conduct to one of the regulatory grounds for revocation, falls far short of the reasoned discretionary judgment § 241.4(l)(2) requires. Courts applying the *Accardi* doctrine in this context have treated similar failures as procedural due-process violations. In *Rombot v. Souza*, 296 F. Supp. 3d 383, 387–89 (D. Mass. 2017), for example, the court held that ICE violated § 241.4(l)(2) where a field office director purported to revoke an OSUP without satisfying the regulation's threshold conditions and without providing the process the regulations mandate, and granted habeas relief on that basis. Here, ICE's invocation of the narrow district-director exception in § 241.4(l)(2), unsupported by any articulated public-interest rationale and contradicted by months of advance notice that would have allowed referral to the Executive Associate Director, is likewise inconsistent with the regulation's text and structure and constitutes an *Accardi*-type failure to follow the agency's own binding rules.

This is more than a technical mis-citation. Under the *Accardi* line of cases, when an agency promulgates regulations "intended to confer important procedural benefits upon individuals," it is obligated to follow them; failure to do so is itself a due-process violation. The Amended Complaint already invokes *Accardi* and its progeny on this point. Courts applying that principle in the § 241.4/§ 241.13 context have held that DHS violates due process when it relies on the wrong

regulation or bypasses required procedures in revoking an order of supervision. In *Rombot*, ICE purported to revoke release under § 241.13 based on an asserted "significant likelihood of removal in the foreseeable future," but had never made the prerequisite § 241.13 determination, had the wrong official sign the revocation, and failed to afford the informal interview mandated by §§ 241.4(l)(1) and 241.13(i)(3); the court held that ICE had "relied on an inapplicable regulation in revoking [the] OSUP," violated its own regulations, and deprived the petitioner of a meaningful custody review.

Courts have treated this precise sort of regulatory misstep as an *Accardi*-type due process violation warranting habeas relief. In *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017), ICE cited 8 C.F.R. § 241.13 as the basis for revoking an OSUP on the theory that there was now a "significant likelihood of removal in the foreseeable future," but it had never made the prerequisite § 241.13 determination that removal was not previously foreseeable, had the wrong official sign the revocation, and failed to afford the "initial informal interview" mandated by §§ 241.4(l)(1) and 241.13(i)(3). The court held that ICE had "relied on an inapplicable regulation in revoking [the] OSUP," violated its own binding rules under §§ 241.4 and 241.13, and deprived the petitioner of a meaningful custody review, and it ordered his release on habeas. Mr. Chen's case presents the same basic pattern: ICE invoked the wrong regulatory track, used the wrong decisionmaker, and skipped the mandatory interview, all in violation of the structure Congress and DHS adopted to implement *Zadvydas*.

The same understanding of §§ 241.4 and 241.13 underlies *Santamaria Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2444087 (D. Md. Aug. 25, 2025), another habeas case involving summary re-detention after long-term supervision. There, the court described §§ 241.4 and 241.13 as a "procedural framework designed to ensure the fair processing of an action affecting

an individual," held that those regulations were "intended to provide due process" in the post-order detention context, and found Accardi violations where ICE could not show that an authorized official had made the revocation decision under § 241.4(l)(2), had issued no written decision setting forth reasons as required by § 241.4(d), and had provided neither notice of reasons for revocation nor the informal interview required by §§ 241.4(l)(1) and 241.13(i)(3). The court granted § 2241 relief on that basis. That decision confirms that misapplying the § 241.4/§ 241.13 framework and ignoring its procedural safeguards is itself a due-process defect, not a harmless technicality.

The same *Accardi* problem exists here. Given Mr. Chen's decades-long non-removability and twenty-plus years on supervision, his case belongs in the § 241.13 "no significant likelihood of removal" framework, with HQPDU—not the local Field Office Director—making any "changed circumstances" determination and with the specific revocation procedures in § 241.13(i)(2)–(3) strictly followed. DHS instead short-circuited that process by invoking § 241.4(l) "public interest" authority at the field-office level and by skipping the § 241.13(i)(2) "changed circumstances" inquiry altogether. There are, in fact, no "changed circumstances" in this case: ICE is not in possession of travel documents, and there is no evidence that China's long-standing refusal to issue them has been reversed. In the absence of such changed circumstances, ICE had no legal authority to revoke the OSUP under § 241.13.

Compounding the problem, Mr. Chen was never afforded the "initial informal interview" required by both § 241.13(i)(3) and § 241.4(l)(1). That interview exists precisely to give a long-term supervisee an immediate opportunity to contest the asserted basis for revocation and to present evidence that removal remains not reasonably foreseeable. 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(3). The Declaration of counsel Brian Bogdany attests that ICE officers revoked the

OSUP and took Mr. Chen into custody on February 24, 2026 "without providing him with an opportunity to respond or to contest the OSUP revocation." That omission mirrors the regulatory violations found actionable in *Rombot* and *Santamaria Orellana* and underscores that Respondents did not follow the mandatory procedures their own regulations prescribe for revoking release in an indefinite-detention case.

In short, even if the Court were to accept Respondents' narrow reading of the regulatory text regarding pre-revocation notice, the larger structural problem remains. ICE placed Mr. Chen under the wrong regulatory regime, allowed a field office to do what § 241.13 assigns to HQPDU, and failed to provide both the "changed circumstances" finding and the informal interview that § 241.13 requires before revoking release in a long-term non-removability case. Under *Accardi*, those failures independently support habeas relief and weigh heavily in favor of finding a substantial likelihood of success on Petitioner's due-process claims.

**B. Even Under Respondents' Reading of the Regulations, the Absence of Pre-Revocation Notice and Hearing Fails the *Mathews v. Eldridge* Balancing Test**

Respondents assert that neither 8 C.F.R. § 241.4(l) nor § 241.13(i) require pre-revocation notice or a hearing, and that notice and an informal interview are only required "upon" or "after" revocation. This argument narrowly interprets regulatory requirements while ignoring the broader constitutional demands of due process, particularly when a fundamental liberty interest is at stake.

The Due Process Clause of the Fifth Amendment requires notice and an opportunity to be heard before a neutral decision-maker when a fundamental liberty interest is deprived. *J.G. v. Warden*, 501 F.Supp.3d 1331, 1334 (M.D. Ga., Nov. 16, 2020); *Padilla v. U.S. Immigration & Customs Enforcement*, 704 F.Supp.3d 1163, 1173 (W.D. Wash. Dec. 4, 2023). While specific regulations may not explicitly mandate pre-revocation notice or a hearing, due process may demand such procedures, especially when the revocation of an OSUP directly leads to detention.

The adequacy of procedures is determined by the *Mathews v. Eldridge* balancing test. *Lopez v. Decker*, 978 F.3d 842, 852 (2nd Cir. 2020).

Petitioner was detained without a prior hearing or opportunity to challenge the basis for his OSUP revocation, despite a long history of perfect compliance with reporting requirements for over two. The *Mathews* factors weigh heavily in favor of Petitioner. His liberty interest is profound, and the risk of erroneous deprivation is high when the decision to revoke an OSUP and impose detention is made without a neutral decision-maker or an opportunity for the individual to present their case. *Lopez v. Decker*, 978 F.3d 842, 853 (2nd Cir. 2020). Internal agency reviews, which Respondents seem to rely upon, have been found insufficient to satisfy due process for prolonged detention. Furthermore, Petitioner was prevented another fundamental due process right in access to counsel. While Mr. Bogdani accompanied him to the February 24, 2026 check-in, he requested the informal interview at that time while counsel was still present with Mr. Chen and was refused an opportunity to do so. Instead, the agency stated they will conduct the interview at a later time after Chen would be transferred to a remote detention facility, interfering with the right to access counsel and communicate with him and preventing Mr. Bogdani from effectively representing Mr. Chen.

Federal courts confronting materially similar OSUP revocations and re-detentions have applied *Mathews* and held that due process requires exactly the pre-deprivation immigration-court hearing Petitioner seeks. In *Hernandez-Parrilla v. Anda-Ybarra*, No. 2:25-cv-01224-MIS-KK (D.N.M. Dec. 15, 2025), the court granted a preliminary injunction enjoining DHS from detaining the petitioner "without first holding a pre-deprivation hearing before an immigration judge at which the government must prove by clear and convincing evidence changed circumstances rendering the petitioner a danger or flight risk." Likewise, in *E.A. T.-B. v. Warden* and *Francois v.*

*Warden*, the Eastern District of California ordered that petitioners "may not be re-detained until after an immigration court hearing is held (with adequate notice) to determine whether detention is appropriate," making clear that the hearing must precede re-detention and must be before a neutral IJ. And in *Gregorio Ordoñez v. Bondi*, No. 25-cv-2356, 2025 WL 3852444, at *4 (W.D. Wash. Dec. 19, 2025), the court squarely rejected the argument Respondents make here—that the absence of an express statutory or regulatory pre-arrest hearing requirement ends the inquiry—holding that "even if a particular statute or regulation does not require a pre-arrest hearing in these specific circumstances, this does not mean such a hearing is not required by Due Process."

Recent Eastern District of California decisions in OSUP/bond-revocation cases, including *Moises V. A. v. Wofford*, *Elias C.M. v. Warden of the Golden State Annex Detention Facility*, *Kervis v. Chestnut*, *Ericka P.S. v. Chestnut*, and *Juan Keeny Peralta Ayala v. Wofford*, follow the same pattern: they recognize that years of successful community supervision significantly strengthen the liberty interest; that arrests or pending misdemeanors, without conviction, do not by themselves establish "violations" or "changed circumstances" justifying summary re-detention; and that where DHS nonetheless seeks to re-detain a long-released supervisee, due process requires a hearing before a neutral decisionmaker—typically an Immigration Judge—at which DHS bears the burden to prove dangerousness or flight risk by clear and convincing evidence. That growing body of authority confirms that, under *Mathews*, the combination of Mr. Chen's decades of compliance, the absence of any new criminal conviction or violation of supervision, and the summary revocation of his OSUP without any prior IJ hearing is constitutionally deficient, and that the appropriate remedy is to enjoin Respondents from re-detaining him absent just such a pre-deprivation immigration-court hearing.

The government's interest in summarily detaining a long-term resident with no history of non-compliance, particularly when China has refused to issue travel documents for 25 years, is minimal compared to Petitioner's fundamental liberty interest. The absence of a regulatory requirement for pre-revocation notice or hearing does not negate the constitutional demand for due process. The Court's Order to Show Cause (ECF 33) requires Respondents to justify the detention, and their failure to provide constitutionally adequate process for the OSUP revocation means they have not met this burden. Therefore, this ground does not warrant dismissal because the absence of a specific regulatory requirement for pre-revocation notice or hearing does not negate the constitutional demand for due process, which Respondents failed to provide.

### C. Respondents Also Failed to Provide a Hearing Upon OSUP Revocation as Required by their Regulations

By revoking Mr. Chen's OSUP summarily at a check-in—while his retained immigration counsel was physically present—without providing the mandatory informal interview or any comparable hearing, ICE not only denied him the regulatory process that §§ 241.4(l)(1) and 241.13(i)(3) require, but also effectively nullified his ability to invoke the right to counsel embedded in those procedures. The absence of any scheduled interview meant that neither Mr. Chen nor his attorney had a formal forum in which to present evidence, challenge the asserted basis for revocation, or develop a record for HQPDU review. In a context where the regulations expressly contemplate that detained noncitizens may be accompanied and assisted by counsel at post-revocation interviews and custody determinations, ICE's decision to dispense with the interview altogether operated as a practical interference with Mr. Chen's right to the assistance of counsel in contesting his sudden loss of liberty.

Accordingly, even apart from ICE's use of the wrong regulatory framework, Respondents' failure to provide the required informal interview and their effective sidelining of Petitioner's

counsel at the moment of revocation independently constitute violations of 8 C.F.R. §§ 241.4(l)(1) and 241.13(i)(3) and an *Accardi*-type denial of procedural due process, further supporting a finding of a substantial likelihood of success on the merits and the need for injunctive relief.

As a remedy for materially indistinguishable violations, courts across the country have ordered outright release, not merely prospective compliance, where ICE has unlawfully re-detained a long-term supervisee in violation of its own post-order regulations. In *Roble v. Bondi*, 2025 WL 2443453 (D. Minn. Aug. 25, 2025), the court ordered the petitioner's "release from custody as a remedy for ICE's illegal re-detention." In *Nguyen v. Hyde*, 2025 WL 1725791, at 5 (D. Mass. June 20, 2025), the court held that because ICE had violated "its own regulations," the petitioner's "detention is unlawful and … his release is appropriate." And in *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017), the court found that ICE's failure to follow §§ 241.4 and 241.13 deprived the petitioner of due process and ordered his release "pursuant to the conditions in [his] preexisting Order of Supervision." Those decisions confirm that where, as here, ICE has both invoked the wrong regulatory framework and disregarded the mandatory interview and notice requirements, the appropriate remedy is immediate restoration of the status quo ante: release from custody and reinstatement of the long-standing OSUP rather than a mere promise of better process going forward.

## VII. RESPONDENTS' CLAIM OF NO IRREPARABLE HARM OR PUBLIC INTEREST IS DIRECTLY CONTRADICTED BY LAW AND FACT

Respondents argue that Petitioner's asserted injury is speculative and that a preliminary injunction would not be in the public interest. This argument is directly contradicted by established legal principles and the undisputed facts of this case.

The deprivation of liberty without due process constitutes irreparable harm per se (*Aguilar v. Decker*, at 149). Petitioner is currently detained, which is a direct, immediate, and ongoing

deprivation of his fundamental liberty interest. This is not a speculative injury; it is an actual and profound loss of freedom. To suggest otherwise is to ignore the very essence of habeas corpus relief, which is designed to address unlawful detention.

Furthermore, the public interest is always served by upholding constitutional rights and ensuring that the government adheres to due process mandates. Preventing arbitrary or unlawful detention is a cornerstone of a just legal system. The public has a strong interest in ensuring that individuals, particularly those with long-standing ties to the community and a history of compliance, are not deprived of their liberty without proper legal procedures. The Court's Order to Show Cause (ECF 33) underscores the immediate nature of the inquiry into the lawfulness of Petitioner's detention, reflecting the urgency of protecting these fundamental rights.

Therefore, this ground does not warrant dismissal because Petitioner faces actual, not speculative, irreparable harm through his ongoing detention, and the public interest strongly favors upholding constitutional due process rights.

## VIII. RESPONDENTS' ARGUMENT REGARDING AUTHORITY TO RESTRICT TRANSFER LOCATION IS MISDIRECTED

Respondents assert that the determination of where to detain an alien is within the discretion of the Attorney General, and therefore, this Court lacks the authority to enjoin them from transferring Petitioner outside of this judicial district. This argument is misdirected, as it addresses an ancillary issue while sidestepping the core challenge to the lawfulness of Petitioner's detention itself.

While the Attorney General generally possesses discretion over detention locations, this discretion is not absolute and is subject to judicial review in habeas corpus proceedings when the detention itself is challenged as unlawful. If the Court finds Petitioner's detention to be unlawful, then any transfer incidental to that unlawful detention would also be improper. The request to

restrict transfer is not an independent claim challenging the Attorney General's discretion, but rather a necessary measure to preserve the Court's jurisdiction and ensure its ability to provide effective relief should Petitioner's detention be deemed unlawful.

The primary issue before the Court, as framed by its Order to Show Cause (ECF 33), is the lawfulness of Petitioner's current detention. If Respondents fail to meet their burden to justify this detention, the Court has the inherent authority to order Petitioner's release, which would render any discussion of transfer location moot. Preventing a transfer ensures that Petitioner remains accessible to the Court and his counsel, facilitating the ongoing habeas proceedings and preventing Respondents from frustrating the Court's jurisdiction or rendering potential relief ineffective.

Therefore, this ground does not warrant dismissal because the Court's authority to address the lawfulness of detention necessarily includes the ability to prevent transfers that would undermine its jurisdiction or render effective relief impossible.

## IX. CONCLUSION AND PRAYER FOR RELIEF

The Court's Order to Show Cause (ECF 33) placed a clear burden on Respondents to justify Petitioner Chen's detention. Respondents have failed to meet this standard, offering arguments that are either jurisdictionally barred, unripe, or procedurally deficient. Given this failure, the burden has shifted to Respondents to demonstrate the legality of Petitioner's detention, which they have not done. Petitioner's ongoing detention constitutes an unlawful restraint on his liberty, creating a live controversy that demands immediate judicial intervention and his release.

Petitioner faces immediate and irreparable harm from his continued unlawful detention. He suffers from a broken collarbone and chronic pain, requiring ongoing medical care including chiropractic sessions and pain medication. His family, including his wife and two U.S. citizen children, depend on him for financial and emotional support. Petitioner has resided in the U.S. for over 25 years, owns and operates a buffet restaurant, and is an active church member in Auburn,

Alabama. His detention severs these deep community and family ties, disrupts his livelihood, and jeopardizes his health, none of which can be adequately remedied by monetary damages.

The balance of hardships overwhelmingly favors Petitioner. His continued detention inflicts severe and irreparable harm on him and his family, threatening his health, financial stability, and fundamental liberty interests. In contrast, the government faces minimal hardship from releasing an individual who has maintained perfect compliance with an Order of Supervision for over two decades and whose removal to China has been refused for over 25 years. The public interest is served by upholding due process and ensuring that individuals are not unlawfully detained, especially when they pose no flight risk or danger to the community.

Granting a Temporary Restraining Order (TRO) would preserve the status quo that existed for over two decades: Petitioner living and working in his community under an Order of Supervision. He has consistently complied with all reporting requirements and conditions. The revocation of his OSUP and subsequent detention on February 24, 2026, disrupted this long-standing, compliant status quo. A TRO would reinstate his OSUP and release him, thereby restoring the stable conditions that prevailed prior to his unlawful detention.

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Grant Petitioner a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and order his immediate and unconditional release from custody;
3. Issue an immediate Temporary Restraining Order and a Preliminary Injunction that:
   (a) Orders Respondents to immediately release Petitioner from custody and reinstate his Order of Supervision under the terms and conditions that existed prior to his unlawful detention on February 24, 2026;

(b) Enjoins Respondents, their officers, agents, and employees from revoking or altering the conditions of Petitioner's OSUP in the future absent strict compliance with all governing statutes and regulations, including a showing of specific, individualized changed circumstances making his removal significantly likely in the reasonably foreseeable future, supported by a written decision from a duly authorized official and preceded by advance, individualized written notice and a pre-deprivation hearing before a neutral decision-maker —such as a Judge or other adjudicator acting through the custody-review procedures set out in 8 C.F.R. §§ 241.4 and 241.13—rather than Respondents or this Court in the first instance;

4. Award Petitioner his reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and other applicable law; and

5. Grant such other and further relief as this Court deems proper or equitable under the circumstances.

Respectfully Submitted,

This 18th day of March, 2026.

*/s/ Karen Weinstock*
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of March, 2026, this Foregoing Document was served, via electronic delivery to Respondents' counsel via CM/ECF system which will forward copies to Counsel of Record.

*/s/ Karen Weinstock*
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