


**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
(MIAMI DIVISION)**

Case No.: _____

Immigration A# 

MARKO HAMALII a/k/a MARKO ZNAK,

Petitioner,

v.

KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity; TODD LYONS, Acting Director and Senior Official Performing the Duties of the Director of ICE, in his official capacity; GARRETT RIPA, Field Office Director for ICE ERO Miami, in his official capacity; Warden of the Krome North Service Processing Facility, in his/her official capacity, U.S. Department of Homeland Security; and U.S. Immigration and Customs Enforcement.

Respondents.

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

INTRODUCTION

1. This case challenges the unlawful detention of Marko Hamalii a/k/a Marko Znak (“Petitioner”) who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Krome North Service Processing Center in Miami, Florida. Petitioner is a disabled Ukrainian war veteran who sustained debilitating injuries during the war from the explosion of landmine. Most recently, Petitioner entered the United States legally under the Uniting for Ukraine (“U4U”) program and began pursuing asylum upon the cancellation of the program. He is neither a flight risk nor a danger to the community. Despite this, on or about November 20, 2025, ICE detained him without notice or opportunity to be heard, on

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the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules.

2. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously released Petitioner from ICE detention in or about March 19, 2024, under an order of supervision. Since then, Petitioner has fully and completely abided by the order's terms and conditions, including attending regularly scheduled check-ins with ICE.

3. Petitioner proactively reported to the Miramar Field Office on November 20, 2025, prior to his regularly scheduled visit to update Petitioner's address because Petitioner has a sponsor in both Boca Raton, FL and Chicago, IL. Respondents abruptly revoked Petitioner's order of supervision and arrested him. Petitioner has been detained at the Krome North Service Processing Center since then.

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

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

PARTIES

6. Petitioner Marko Hamalii a/k/a Marko Znak is a disabled Ukrainian war veteran detained by ICE and has lived in the United States on three different occasions, between 1999-2003, again between 2004-2016, and finally in 2024 pursuant to the U4U program for a total of 17 years. Prior to his detention on or about November 20, 2025, he was residing in Boca Raton, Florida and is currently detained at the Krome North Service

Processing Center in Miami, Florida. He is challenging his custody under the direct control of Respondents.

7. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS), responsible for enforcing immigration laws and is sued in her official capacity.

8. Respondent Todd M. Lyons is the Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement (ICE), responsible for detention policies and practices, and is sued in his official capacity.

9. Respondent Garrett Ripa is the Field Office Director for ICE's Enforcement and Removal Operation's (ERO) Miami Field Office, who is a legal custodian of Petitioner, and is sued in his official capacity.

10. Respondent, the Warden of the Krome North Service Processing Center, in his/her official capacity, is Petitioner's immediate custodian and has day-to-day responsibility for Petitioner's physical detention, where Petitioner is currently detained.

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

12. Respondent, ICE is a component agency of DHS.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause because this is a petition for a writ of habeas corpus challenging the legality of Petitioner's detention. Jurisdiction also exists under 28 U.S.C. § 1331 because this action arises under the Constitution, laws, and treaties of the United States. To the extent Petitioner brings claims under the Administrative Procedure Act, jurisdiction is further supported by 5 U.S.C. §§ 702 and 704.

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14. Venue is proper in this District pursuant to 28 U.S.C. § 2241(a) and (d) because Petitioner is currently detained at the Krome North Service Processing Center, which is located within the Southern District of Florida, and his immediate custodian — the Warden of that facility — is within this District. The identity of the Warden is not currently known to Petitioner and will be substituted once Respondents file their appearance.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

15. Petitioner is forty-one (41) years old and initially came to the United States in 1999. He voluntarily left in 2003. In 2004, Petitioner returned to the United States and lived in the United States until 2016, when he was removed to Ukraine. Petitioner returned to the United States again in January of 2024 under the U4U program. Petitioner has resided in the United States for a total of 17 years.

16. Petitioner is a Ukrainian war veteran who served for one year and two months until he sustained devastating injuries fighting in the conflict, including permanent disability, the loss of a testicle, post-traumatic stress disorder, and bipolar disorder. Petitioner also suffers from hepatitis. Petitioner valiantly served in the war, protecting U.S. missionaries from harm in the midst of the conflict.

17. Petitioner previously held lawful permanent resident status.

18. Petitioner most recently entered the United States in 2024 under the parameters of the U4U program. Petitioner has pursued asylum after learning of the cessation of the U4U program. After being detained for two (2) months at Krome North Service Processing Center, Petitioner was released with supervision conditions, all of which Petitioner has strictly complied with.

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19. Petitioner has a non-violent conviction from over a decade ago (2012) for felony retail theft and unlawful use of a credit card for which Petitioner served time.

20. Upon release from the Krome North Service Processing Center, Petitioner was informed that there was an old warrant from 2016 for unlawful use of a credit card that had been issued in Chicago, IL. Petitioner promptly traveled to Chicago (with ICE's permission to leave the state) and has since resolved the warrant.

21. Petitioner has been law abiding apart from these financial indiscretions that occurred well in the past.

22. ICE has informed Petitioner that ICE intends to remove Petitioner to either Ukraine, Poland, or Moldova. Removal to Ukraine is futile since Ukraine is an active warzone and Petitioner is a disabled veteran who is likely to experience targeted harm, inadequate medical care for Petitioner's ongoing physical and psychological harm inflicted from the war, and elevated risk if Petitioner were to return to Ukraine. Removal to Poland or Moldova is not feasible as Petitioner is not a citizen of either country, does not speak the language, and has no familial or medical support there to aid Petitioner with attending to his ongoing medical conditions. Petitioner has two sponsors in the United States, one in Boca Raton, FL and one in Chicago, IL. Petitioner also has access to appropriate medical care in the United States to attend to his serious physical and psychological conditions.

23. Petitioner has a Credible Fear Determination following the cancellation of the U4U program. Petitioner's case for removal was returned to DHS by Order issued on January 30, 2024. Petitioner was previously released from custody because ICE determined he was neither a flight risk nor a danger.

24. Petitioner sought withholding of removal and protection under the Convention Against Torture (CAT). Those applications were denied, leaving the removal order final.

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25. Since ICE released Petitioner on an order of supervision on or about 2024, Petitioner has complied with all conditions of the order, including periodic check-ins with ICE. No circumstances have changed that make Petitioner a flight risk or danger to the community.

26. Throughout this time, Petitioner understood from a release notification accompanying the order of supervision that ICE would give "the opportunity to prepare for an orderly departure" after securing Petitioner's travel documents.

27. But when Petitioner reported to the Miramar Field Office to report an update to his address on November 20, 2025, ICE suddenly revoked Petitioner's order of supervision and arrested him.

28. Petitioner was arbitrarily re-detained during a routine check-in at the Miramar Field Office. Petitioner was possibly served with a "Notice of Revocation of Release" on November 20, 2025, which most likely states the decision was made based on his file and/or personal interview on account of changed circumstances and a "significant likelihood of removal in the reasonably foreseeable future". However Petitioner states he has not received same and if so has lost all documents given to him while in detention. All requests for documents has gone unanswered.

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

30. Upon arrest, ICE transferred Petitioner to the Krome North Service Processing Center, where he is currently detained. Petitioner's detention has exacerbated his physical and psychological conditions. Petitioner requires a cane to walk and Respondents have

confiscated it. Ambulating without a cane causes pain and further complications with his various internal physical injuries. Petitioner also requires certain medications, including medication to treat his bipolar depression, hepatitis, post traumatic disorder and Respondents have withheld such medication from Petitioner. As such, continued detention poses a substantial and immediate risk of irreparable harm to Petitioner.

31. Upon information and belief, at no time following Petitioner's arrest did ICE provide specific findings as to why it revoked Petitioner's order of supervision or give him an opportunity to respond to those reasons.

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

LEGAL FRAMEWORK

I. Due Process Governs Decisions to Revoke an Order of Supervision

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

34. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the

community or preventing flight prior to removal. See *Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

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

II. Statute and Regulation Govern Procedures for Revoking an Order of Supervision

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

37. A non-citizen may only be detained past the 90-day removal period following a removal order if found to be “a risk to the community or unlikely to comply with the order of removal” or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).

38. But even where initial detention past the 90-day removal period is authorized, if “removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances” *Zadvydas v. Davis*, 533 U.S. 678, 699-700. 30. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained past the removal period: “(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien,

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

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

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

III. The APA Sets Minimum Standards for Final Agency Action

39. The Administrative Procedure Act authorizes judicial review of final agency action.

5 U.S.C. § 704.

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

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

42. The revocation here marked the consummation of ICE’s decision-making process regarding Petitioner’s custody.

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

IV. The Accardi Doctrine Requires Agencies to Follow Internal Rules

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

even where the internal procedures are possibly more rigorous than otherwise would be required.”).

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

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

CLAIMS FOR RELIEF

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

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

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

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49. When Respondents revoked the order of supervision, Petitioner had complied with every condition of the order since it has been in place in 2024. No change in circumstances warranted the order's revocation.

50. Petitioner's detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

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

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

52. Plaintiffs reallege all paragraphs above as if fully set forth here.

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

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

55. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of

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liberty, statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

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

57. For these reasons, revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Three

**Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B)
Contrary to Law and Constitutional Right**

58. Plaintiffs reallege all paragraphs above as if fully set forth here.

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59. Under the APA, a court shall “hold unlawful and set aside agency action . . . found to be . . . not in accordance with law” or “contrary to constitutional right, power, privilege, or immunity.” 5 U.S.C. § 706(2)(A), (B).

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

61. Respondents’ revocation of Petitioner’s order of supervision was contrary to the agency’s constitutional power under the Fifth Amendment’s Due Process Clause, as explained above.

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

63. Petitioner’s order of supervision was not revoked by the ICE Executive Associate Director. The officer who revoked the order did not first make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director. Nor had the officer been delegated authority to revoke an order of supervision.

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

65. Even assuming that regulations purporting to offer additional justifications for revocation of an order of supervision are not ultra vires, respondents did not comply with them. Respondents could not make findings that Petitioner’s conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because he had

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not. Nor could Respondents make findings that the purposes of release had been served or that it was appropriate to enforce a removal order, because it had yet to make final arrangements for Petitioner's removal.

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

67. The revocation should be held unlawful and set aside because it was contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations.

Count Four

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

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

69. 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).

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

71. 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).

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

73. 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).

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

75. Second, Respondents failed to consider the increased administrative burden to the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk nor a danger to the community, including financial and administrative costs incurred by the agency due to unnecessary detention.

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

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

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

Count Five

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

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

80. 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).

81. “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).

82. 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 v. Davis*, 533 U.S. 678, 699-700.

83. 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)

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

Count Six

Ultra Vires Action

85. Plaintiffs reallege all paragraphs above as if fully set forth here.

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

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

Count Seven

Violation of the Accardi Doctrine

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

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

90. Respondents violated agency regulations governing who and upon what findings it may properly revoke an order of supervision when it revoked Petitioner's order. “As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release” and Petitioner “is entitled to release on that basis alone.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (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).

91. Respondents also violated agency instructions in Petitioner's release notification to give an opportunity to prepare for an orderly departure when they revoked Petitioner's order without advance notice.

92. 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 requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;
- d. Order Petitioner's immediate release;
- e. Award Petitioner costs and reasonable attorneys' fees; and
- f. Order such other relief as this Court may deem just and proper.

DATED: December __, 2025 at Miami, Florida

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Respectfully submitted,

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

I, **Sara Jiries Saba**, am an attorney of record for the Petitioner, Marko Hamalii a/k/a Marko Znak. I have discussed the events and facts described in this Petition with the Petitioner or am aware of them through review of legal records. I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

DATED: **December __, 2025 at Miami, Florida**

Respectfully submitted,

By: /s/ Sara J. Saba
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*MARKO HAMALII A/K/A MARKO ZNAK v. KRISTI NOEM, et al.
Verified Petition for Writ of Habeas Corpus and Complaint for Injunctive Relief*

CERTIFICATE OF SERVICE

I certify that on December __, 2025, I electronically filed the foregoing document and its Exhibits that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system. A copy will also be mailed to Respondents' corresponding offices with Clerk Issued Summons via US Certified Mail.

By: /s/ Sara J. Saba

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Exhibit List

Exhibit No.	Description (Document)	Citation
Exhibit 1	Form I-863	<i>Initial Detention 1/2024</i>
Exhibit 2	Decision of Administrative Stay with notice of OSUP	<i>Released 3/15/24</i>
Exhibit 3	Special Needs Form Documentation supporting medical summary and needs to prevent exasperation of conditions (PTSD, bipolar, physical injuries, hepatitis C)	<i>From Initial Detention 1/2024</i>
Exhibit 4	Final Order of Removal (Dated January 30, 2024)	<i>Dated January 30, 2024</i>
Exhibit 5	Surrendered Passport (unexpired) to DHS	<i>Expires September 18, 2033</i>
Exhibit 6	Country conditions (Russia/Ukraine war)	<i>United Nations and US State Department Reports</i>