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10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA (Las Vegas)**

12 **HAMED SALIMABADI**

13 *Petitioner,*

14 v.

15 Case No. 2:25-cv-2508

16 Agency No: 

17 **KRISTI NOEM,**

18 in her official capacity as  
19 Secretary, U.S. Department of  
20 Homeland Security; 245 Murray Lane  
21 SW, Washington, DC 20528;

22 **VERIFIED PETITION**  
23 **FOR A WRIT OF HABEAS**  
24 **CORPUS PURSUANT**  
25 **TO 28 U.S.C. § 2241**

26 **U.S. DEPARTMENT OF HOMELAND**  
27 **SECURITY**

28 **PAMELA J. BONDI,**

in her official capacity as  
Attorney General of the United States,  
950 Pennsylvania Avenue, NW,  
Washington, DC, 20530;

**TODD LYONS,**

in his official capacity as Acting  
Director and Senior Official  
Performing the Duties of the Director  
for U.S. Immigration and Customs  
Enforcement, 500 12th Street, SW,  
Washington, DC 20536;

**JASON KNIGHT,**

in his official capacity as Acting Field  
Office Director, Salt Lake City Field  
Office Director, U.S. Immigration &

1 Customs Enforcement, 2975 Decker  
2 Lake Drive Suite 100, West Valley  
3 City, UT 84119-6096;

4 **MARCOS CHARLES,**

5 in his official capacity as Acting  
6 Executive Associate Director,  
7 Enforcement and Removal  
8 Operations, U.S. Immigration &  
9 Customs Enforcement, 500 12th  
10 Street, SW, Washington, DC 20536;

11 **U.S. IMMIGRATION AND CUSTOMS  
12 ENFORCEMENT**

13 **JOHN MATTOS,**

14 in his official capacity as Warden,  
15 Nevada Southern Detention Facility,  
16 2190 E. Mesquite Ave.  
17 Pahrump, NV 89060;

18 *Respondents.*

19 **INTRODUCTION**

20 1. Hamed Salimabadi (“Petitioner” “Mr. Salimabadi”) is a 42-year old resident of  
21 the United States. He has lived in this country since 1999, when he was admitted as a Lawful  
22 Permanent Resident. Mr. Salimabadi was ordered removed to Iran by an Immigration Judge on  
23 February 23, 2006. He was released under an Order of Supervision (OSUP) after a  
24 determination that there was no significant likelihood of removal in the reasonably foreseeable  
25 future. Immigration and Customs Enforcement (ICE), without revoking his OSUP, arrested and  
26 detained Mr. Salimabadi on June 25, 2025 even though he cannot be removed to his country of  
27 origin due to Iran’s refusal to issue him travel documents. Mr. Salimabadi has complied with his  
28 order of release since 2010, and there has been no change in circumstances since he last left ICE  
custody. In violation of Due Process and in a departure from longstanding agency policy and

1 practice, ICE is refusing to release him despite his removal not being reasonably practicable or  
2 foreseeable.

3         2. ICE served Mr. Salimabadi with a Warning for Failure to Depart upon his arrest  
4 on June 25, 2025. Without notice, he was ambushed and taken into custody by officers despite  
5 having complied with his order of release. ICE has made no effort to remove the Petitioner from  
6 the United States since re-detaining him, as they are well aware that he cannot be removed to  
7 Iran due to the impossibility of obtaining travel documents. In the nearly six months that  
8 Petitioner has been in custody, ICE has not proffered a third country of removal. Contrary to  
9 these facts, ICE issued Mr. Salimabadi with a decision to continue his detention after the 90-day  
10 period, claiming that they expect to effectuate his removal in the foreseeable future without  
11 providing any evidence of progress in that regard.

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14         3. Mr. Salimabadi files this Petition for a Writ of Habeas Corpus (“Petition”)  
15 because the Respondents’ actions violate the Due Process Clause of the Fifth Amendment to the  
16 U.S. Constitution, the Immigration and Nationality Act and implementing regulations, the  
17 Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative  
18 agencies to follow their own rules, procedures, and instructions.

19  
20         4. ICE previously found that Petitioner was neither a flight risk nor danger to the  
21 community when it released Petitioner from ICE detention both in 2006 and 2010 under orders  
22 of supervision. Since his latest release, Petitioner has fully abided by the order’s terms,  
23 including attending regularly scheduled check-ins with ICE.

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25         5. Without prior warning, and for no legitimate reason, ICE agents arrested Mr.  
26 Salimabadi in Las Vegas, Nevada on June 25, 2025, just days after the United States conducted  
27 missile strikes on Iran’s nuclear facilities. The proximity in time of Petitioner’s and scores of  
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1 other Iranian nationals' arrests to these events is no coincidence. Mr. Salimabadi and those  
2 similarly situated to him are being detained not because their removal is likely or foreseeable,  
3 but because they are Iranians. The nature of such detention is punitive and does not serve a  
4 legitimate legal purpose.

5  
6 6. Mr. Salimabadi brings this petition pursuant to 28 U.S.C. § 2241; the  
7 Immigration and Nationality Act, 8 U.S.C. §§ 1101-1538 and its implementing regulations; the  
8 Administrative Procedure Act, 5 U.S.C. §§ 500-596, 701-706; and the United States  
9 Constitution to allow for his immediate release from immigration detention.

10  
11 **JURISDICTION AND VENUE**

12 7. Petitioner is in the custody of Respondents. He is in the physical custody of the  
13 Nevada Southern Detention Center, 2190 E Mesquite Ave, Pahrump, NV 89060 ("NSDC") in  
14 Pahrump, Nevada. NSDC is a private detention center operated by CoreCivic, Inc., under  
15 contract with ICE.

16  
17 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the  
18 Suspension Clause of the Constitution because this action is a habeas corpus petition and under  
19 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and  
20 Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et*  
21 *seq.*

22  
23 9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
24 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

25 10. Venue is proper in this District under 28 U.S.C. § 2241; 28 U.S.C. § 1391(b);  
26 and 28 U.S.C. § 1391(e)(1) because when this Petition was filed, Petitioner was detained within  
27 the geographic jurisdiction of the District of Nevada (Las Vegas). Venue is also properly in this  
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1 Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and  
2 agencies of the United States, and a substantial part of the events or omissions giving rise to the  
3 claim occurred in this district. *See* 28 U.S.C. § 1391(e).

#### 4 REQUIREMENTS OF 28 U.S.C. § 2243

5 11. The Court must grant the petition for writ of habeas corpus or order Respondents  
6 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an  
7 order to show cause is issued, the Respondents must file a return “within three days unless for  
8 good cause additional time, not exceeding twenty days, is allowed.” *Id.*

9  
10 12. Habeas corpus is “perhaps the most important writ known to the constitutional  
11 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or  
12 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for  
13 the writ usurps the attention and displaces the calendar of the judge or justice who entertains it  
14 and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,  
15 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).  
16

#### 17 PARTIES

18  
19 13. Mr. Salimabadi is a citizen of Iran who has resided in the United States since  
20 1999. He has been in immigration detention since June 25, 2025.

21 14. Respondent Kristi Noem is the Secretary of the Department of Homeland  
22 Security. She is responsible for the implementation and enforcement of the Immigration and  
23 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.  
24 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.  
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1           15.     Respondent Department of Homeland Security (DHS) is the federal agency  
2 responsible for implementing and enforcing the INA, including the detention and removal of  
3 noncitizens. Respondent DHS is a legal custodian of Petitioner.

4           16.     Respondent Pamela Bondi is the Attorney General of the United States. She is  
5 responsible for the Department of Justice, of which the Executive Office for Immigration  
6 Review (EOIR) and the immigration court system it operates is a component agency. She is  
7 sued in her official capacity.

8           17.     Respondent Department of Justice (DOJ) is the federal agency responsible for  
9 adjudicating removal and related bond cases. EOIR, and its components the immigration courts  
10 and Board of Immigration Appeals (BIA) is a division of DOJ.

11           18.     Respondent Todd Lyons is the Acting Director and Senior Officer Performing  
12 the Duties of the Director of ICE. Respondent Lyons is responsible for ICE's policies, practices,  
13 and procedures, including those relating to the detention of immigrants during their removal  
14 procedures. Respondent Lyons is a legal custodian of Petitioner. Respondent Lyons is sued in  
15 his official capacity.

16           19.     Respondent ICE is the subagency of DHS that is responsible for carrying out  
17 removal orders and overseeing immigration detention. Respondent ICE is a legal custodian of  
18 Petitioner.

19           20.     Respondent Jason Knight is the Acting Director of the Salt Lake City Field  
20 Office of ICE Enforcement and Removal Operations, a federal law enforcement agency within  
21 the Department of Homeland Security ("DHS"). ERO is a directorate within ICE whose  
22 responsibilities include operating the immigration detention system. In his capacity as ICE ERO  
23 Salt Lake City, Acting Field Office Director, Respondent Knight exercises control over and is a  
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1 custodian of immigration detainees held at NSDC. At all times relevant to this Complaint,  
2 Respondent Knight was acting within the scope and course of his employment with ICE. He is  
3 sued in his official capacity.

4 21. Respondent Marcos Charles is the Acting Executive Associate Director of ICE  
5 ERO Headquarters. He has jurisdiction of ICE detainees beyond the initial 90-day period of  
6 detention. At all times relevant to this Complaint, Respondent Charles was acting within the  
7 scope and course of his employment with ICE. He is sued in his official capacity.

8 22. Respondent John Mattos, the Warden of NSDC which detains individuals  
9 suspected of civil immigration violations pursuant to a contract with ICE. Respondent Mattos  
10 exercises physical control over immigration detainees held at NSDC. Respondent Mattos is  
11 sued in his official capacity.

12 23. Respondents individually and collectively will be referred to as “Respondents.”

#### 13 LEGAL FRAMEWORK

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

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

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

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

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

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

24 30. Regulations purport to give additional reasons, beyond those listed at §  
25 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained  
26 past the removal period: “(1) the purposes of release have been served; (2) the alien violates any  
27 condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of  
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1 the alien, or any other circumstance, indicates that release would no longer be appropriate.” 8  
2 C.F.R. § 241.4(1)(2); *see also id.* § 241.13(i) (permitting revocation of an order of supervision  
3 only if a non-citizen “violates any of the conditions of release”). Because “[r]egulations cannot  
4 circumvent the plain text of the statute[,]” courts question whether these regulations are ultra  
5 vires of statutory authority. *See, e.g., You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018)  
6 (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal  
7 period only if person is a risk to the community, unlikely to comply with the order of removal,  
8 or was ordered removed on specified grounds).

9  
10 31. It is clear, however, that regulations permit only certain officials to revoke an  
11 order of supervision: the ICE Executive Associate Director, a field office director, or an official  
12 “delegated the function or authority . . . for a particular geographic district, region, or area.”  
13 *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2,  
14 241.4(1)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles  
15 listed in § 241.4). If the field office director or a delegated official intend to revoke an order of  
16 supervision, they must first make findings that “revocation is in the public interest and  
17 circumstances do not reasonably permit referral of the case to the Executive Associate  
18 [Director].” 8 C.F.R. § 241.4(1)(2). And for a delegated official to have authority to revoke an  
19 order of supervision, the delegation order must explicitly say so. *See Ceesay v. Kurzdorfer*, 781  
20 F. Supp. 3d 137, 161 (finding a delegation order that “refers only to a limited set of powers  
21 under part 241 that do not include the power to revoke release” insufficient to grant authority to  
22 revoke an order of supervision).

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26 32. Upon revocation of an order of supervision, ICE must give a non-citizen notice  
27 of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(1)(1).  
28

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

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

7  
8 35. ICE’s revocation of an order of supervision is a final agency action subject to  
9 this Court’s review.

10 36. The re-detention of Petitioner here is an effective revocation which marked the  
11 consummation of ICE’s decisionmaking process regarding Petitioner’s custody.

12  
13 37. The revocation was also an action by which rights or obligations have been  
14 determined or from which legal consequences flowed because it led ICE to detain Petitioner in  
15 violation of his rights under the Constitution, statute, and regulation.

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

23  
24 39. *Accardi* is not “limited to rules attaining the status of formal regulations.”  
25 *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for  
26 violation of unpublished rules and instructions to agency officials. See *Morton v. Ruiz*, 415 U.S.  
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1 235 (affirming reversal of agency denial of public assistance made in violation of internal  
2 agency manual); *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing  
3 decision to admit evidence obtained by IRS agents for violating instructions on investigating tax  
4 fraud).

5  
6 40. Where a release notification issued alongside an order of supervision instructs  
7 that a non-citizen with a final order of removal will be given an opportunity to prepare for an  
8 “orderly departure,” ICE’s failure to follow that instruction is an *Accardi* violation. *See Ceessay*  
9 *v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan.  
10 29, 2018), *vacated and remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008  
11 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering  
12 release of petitioners to give an opportunity to prepare for orderly departure).

13  
14 41. The Fifth Amendment’s Due Process Clause incorporates an equal protection  
15 component that binds the federal government to the same constitutional standards that the  
16 Fourteenth Amendment imposes on the states. *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).  
17 Under this principle, federal officers and agencies may not engage in unjustified discrimination  
18 among persons subject to their authority. Distinctions based on race, ethnicity, or national origin  
19 are inherently suspect and subject to strict judicial scrutiny, requiring that the classification be  
20 narrowly tailored to serve a compelling governmental interest. *Adarand Constructors, Inc. v.*  
21 *Peña*, 515 U.S. 200, 227 (1995); *Hernandez v. Texas*, 347 U.S. 475, 478–79 (1954). At a  
22 minimum, where no suspect classification or fundamental right is involved, governmental  
23 distinctions must bear a rational relationship to a legitimate governmental purpose. *Romer v.*  
24 *Evans*, 517 U.S. 620, 631 (1996). Courts evaluating an equal protection claim against federal  
25 immigration authorities consider whether the challenged action was motivated by an  
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1 impermissible classification and whether it lacks a constitutionally adequate justification.  
2 *Washington v. Davis*, 426 U.S. 229, 239–42 (1976).

3 **FACTS**

4 42. Petitioner Hamed Salimabadi was born in Iran in 1983. When he was  
5 approximately two years old, he left Iran with his mother after she was forced to flee the  
6 country due to [REDACTED]  
7 [REDACTED] a status that subjected her  
8 to severe sanctions, retaliation, and persecution after [REDACTED] As a result, she was  
9 compelled to escape Iran for her safety, bringing Petitioner with her.  
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12 43. Following his departure from Iran, Petitioner resided in Germany, where he lived  
13 for many years. In 1999, Mr. Salimabadi immigrated to the United States with his mother and  
14 siblings. Petitioner was admitted to the United States as a lawful permanent resident on May 23,  
15 1999. Petitioner has resided in the United States since that time, and until his recent detention,  
16 lived in Las Vegas, Nevada. His immediate family are all U.S. citizens.  
17

18 44. On February 23, 2006, an Immigration Judge in Eloy, Arizona ordered Petitioner  
19 removed to Iran. Petitioner was in ICE custody at the time of the order. However, ICE was  
20 unable to execute the removal order, and after several months of post-order detention, Petitioner  
21 was released from custody on June 12, 2006 because his removal could not be effectuated.  
22

23 45. In 2010, Petitioner was taken into ICE custody a second time—this time in  
24 Yuba, California—and held for over 180 days without the order of removal ever being  
25 executed. Once again, this was due to the inability of ICE to effectuate his removal.

26 46. At some point, Petitioner met with an Iranian consular officer in connection with  
27 ICE’s efforts to obtain travel documents. The consular officer explicitly refused to issue  
28

1 Petitioner any travel documents and informed him that Iran would not recognize him as an  
2 Iranian national for purposes of repatriation. As a result, Petitioner has remained permanently  
3 unable to obtain travel documents to Iran.

4 47. Despite there not being any change in circumstances or new facts suggesting that  
5 Mr. Salimabadi now poses a risk, ICE arrested him on June 25, 2025, taking him into custody  
6 for a *third* time. Though he was not served with a formal revocation of his order of supervision,  
7 Petitioner's re-detention without prior notice effectively constituted a revocation of his release.  
8

9 48. Petitioner was arrested just days after the United States conducted military  
10 strikes against his native Iran. In the week following Operation Midnight Hammer, ICE arrested  
11 more than twice as many Iranian nationals as it had during the entire preceding six-month  
12 period. Between January and June 2025, ICE arrested 86 Iranians, but during the week of June  
13 22, 2025, that number surged to 183. Among these individuals were Mr. Salimabadi and the  
14 other Iranian nationals currently detained at Nevada Southern Detention Center. Petitioner was  
15 told by an ICE officer that he was unsure why he was being detained and that the field office  
16 had simply received instructions to "round up all Iranians".  
17  
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19 49. Following Petitioner's arrest and transfer to NSDC, ICE issued a custody  
20 determination to continue Petitioner's detention past the initial 90-day period without providing  
21 any details regarding the foreseeability of his removal.  
22

23 50. Petitioner has no travel documents and no way of obtaining them. Iran does not  
24 have any embassies or consulates in the United States, and there is no third country of which  
25 Mr. Salimabadi is aware that would issue him a travel document.

26 51. ICE has now had three opportunities to execute Petitioner's order of removal and  
27 has failed to do so within the removal period every single time.  
28



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

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

10           61.     The second factor, the risk of erroneous deprivation of liberty and the probable  
11 value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations  
12 of liberty, statute specifies the limited number of reasons that an order of supervision can be  
13 revoked. Regulations specify who may lawfully revoke the order and the procedures that must  
14 be followed when doing so, including giving notice and an opportunity to be heard.  
15 Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not  
16 just high, but certain. Requiring Respondents to give notice and an opportunity to respond prior  
17 to revoking an order of supervision is of great value because it reduces the probability of  
18 needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

19           62.     The third factor, the government’s interest, also favors Petitioner. When the  
20 government ignores law that ensures notice and an opportunity to respond to a person at risk of  
21 revocation of an order of supervision, it is more likely to waste limited financial and  
22 administrative resources on unnecessary detention of people who are neither flight risks nor  
23 dangerous. This waste drags down the efficiency of the entire immigration system. And because  
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1 the government must also spend resources defending against a habeas corpus petition in federal  
2 court to compel Respondents to comply with law, requiring Respondents to instead provide  
3 notice and a meaningful opportunity to respond prior to revoking an order of supervision  
4 reduces fiscal and administrative burdens on the government.  
5

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

9  
10 **COUNT III**

11 **Violation of the Fifth Amendment of the U.S. Constitution**  
12 **Equal Protection**

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

14 65. The Fifth Amendment’s Due Process Clause embodies an equal protection  
15 guarantee that prohibits the federal government from subjecting individuals to differential  
16 treatment based on race, ethnicity, or national origin absent a constitutionally sufficient  
17 justification. *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954); *Adarand Constructors, Inc. v. Peña*,  
18 515 U.S. 200, 227 (1995).

19 66. Respondents’ decision to arrest and detain Petitioner was motivated, at least in  
20 part, by his Iranian nationality, as evidenced by the timing of his arrest in the week following  
21 Operation Midnight Hammer and the contemporaneous statement by an ICE agent that officers  
22 had been instructed to “round up all Iranians.”  
23

24 67. During that same week, ICE arrested more than twice as many Iranian nationals  
25 as it had in the entire preceding six-month period. Similarly situated individuals of other  
26 nationalities who had been released on orders of supervision were not subject to comparable  
27 mass revocations or re-detention.  
28



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

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

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

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

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

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

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27 **COUNT V**  
28

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

1  
2 80. Petitioner realleges all paragraphs above as if fully set forth here.

3  
4 81. Under the APA, a court shall “hold unlawful and set aside agency action . . .  
5 found to be arbitrary [or] capricious.” 5 U.S.C. § 706(2)(A).

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

8  
9 83. An agency decision that “runs counter to the evidence before the agency” is also  
10 arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29,  
11 43 (1983).

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

16  
17 85. The revocation also “failed to consider important aspects of the problem” before  
18 Respondents, making it arbitrary and capricious for multiple other reasons. *Dep’t of Homeland*  
19 *Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

20  
21 86. First, Respondents failed to consider the serious constitutional concerns raised by  
22 revoking Petitioner’s order of supervision without notice and opportunity to respond.

23 87. Second, Respondents failed to consider the increased administrative burden to  
24 the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk  
25 nor a danger to the community, and for whom the agency does not have travel documents  
26 needed to effectuate removal, including financial and administrative costs incurred by the  
27 agency due to unnecessary detention.  
28

1 88. Third, Respondents failed to consider reasonable alternatives to revoking  
2 Petitioner’s order of supervision that were before the agency, like simply continuing release  
3 under the order of supervision and scheduling a future time and date to appear for removal. This  
4 alternative would vindicate the government’s interests in effectuating a removal order and save  
5 it the expense of detention not needed to guarantee Petitioner’s appearance.  
6

7 89. Fourth, Respondents failed to consider Petitioner’s substantial reliance interest,  
8 created by its instruction on Petitioner’s release notification, the agency would give an  
9 opportunity to arrange for an orderly departure once it obtained travel documents.  
10

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

13 **COUNT VI**

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

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

17 92. Under the APA, a court shall “hold unlawful and set aside agency action . . .  
18 found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory  
19 right.” 5 U.S.C. § 706(2)(C).  
20

21 93. “An agency . . . literally has no power to act—including under its regulations—  
22 unless and until Congress authorizes it to do so by statute.” *FEC v. Cruz*, 596 U.S. 289, 301  
23 (2022) (internal quotation marks and citation omitted).

24 94. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period  
25 for a person who is found to be a danger to the community, unlikely to comply with a removal  
26 order, or whose removal order is on certain grounds specified in the statute. Even then, if  
27 removal “is not reasonably foreseeable, the court should hold continued detention unreasonable  
28

1 and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and  
2 should be conditioned on any of the various forms of supervised release that are appropriate in  
3 the circumstances . . . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

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

8 96. Respondents’ revocation of Petitioner’s order of supervision was based on ultra  
9 vires regulations. Therefore, it was in excess of statutory authority and should be held unlawful  
10 and set aside.  
11

## 12 **COUNT VII**

### 13 **Ultra Vires Action**

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

15 98. There is no statute, constitutional provision, or other source of law that  
16 authorizes Respondents to detain Petitioner.  
17

18 99. Petitioner has a non-statutory right of action to declare unlawful, set aside, and  
19 enjoin Respondents’ ultra vires actions.  
20

## 21 **COUNT VIII**

### 22 **Violation of the *Accardi* Doctrine**

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

24 101. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that  
25 violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v.*  
26  
27  
28

1 *Shaughnessy*, 347 U.S. 260 (“If petitioner can prove the allegation [that agency failed to follow  
2 its rules in a hearing] he should receive a new hearing”).

3 102. Respondents violated agency regulations governing who and upon what findings  
4 it may properly revoke an order of supervision when it revoked Petitioner’s order. “As a result,  
5 this Court cannot conclude that [the revoking officer] had the authority to revoke release” and  
6 Petitioner “is entitled to release on that basis alone.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137,  
7 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); *see also, e.g., Zhu v. Genalo*, 2025  
8 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21,  
9 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered  
10 by someone without regulatory authority to do so).  
11

12 103. Respondents also violated agency instructions in Petitioner’s release notification  
13 to give an opportunity to prepare for an orderly departure when they revoked Petitioner’s order  
14 without advance notice.  
15

16 104. Under *Accardi*, Respondents’ revocation of the order of supervision and decision  
17 to ignore instructions in the release notification should be set aside for violating agency  
18 procedures, rules, or instructions.  
19

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 22 a. Assume jurisdiction over this matter;  
23  
24 b. Declare that Petitioner’s detention violates the Fifth Amendment, the INA and  
25 implementing regulations, the APA, and the *Accardi* doctrine;  
26  
27 c. Order Petitioner’s immediate release;  
28

1 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act  
2 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
3 law; and

4 e. Grant any other such relief that this Court deems just and proper.

5 DATED this 15th day of December, 2025.

6  
7 Respectfully Submitted,

8 /s/Michael T. Shamoan  
9 Michael T. Shamoan, Esq.  
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