

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

ARKADI RUBIKOVICH KARAPETIAN,

Petitioner,

v.

WARDEN, ERO El Paso East Montana,
MARY DE ANDA-YBARRA, *in her
official capacity as Field Office Director
for Detention & Removal, ICE El Paso
Field Office, U.S. Immigration and
Customs Enforcement; TODD M. LYONS,
in his official capacity as Acting Director,
U.S. Immigration and Customs
Enforcement; KRISTI NOEM, in her
official capacity as Secretary, U.S.
Department of Homeland Security; and
PAMELA JO BONDI, in her official
capacity as Attorney General of the United
States,*

Respondents.

**AMENDED PETITION FOR
A WRIT OF HABEAS
CORPUS**

Civil Action No. 3:25-cv-00711

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AMENDED PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

1. Arkadi Rubikovich Karapetian (Petitioner), by and through his undersigned counsel, hereby files this petition for a writ of habeas corpus challenging the unlawful revocation of his release on an order of supervision (“OSUP”) and his continued detention without belief that his removal from the United States is reasonably foreseeable.
2. Petitioner is a citizen of the former Soviet Union. He first arrived in the United States as a B-2 visitor on or about February 3, 1998. *See* Exhibit A. Petitioner’s father, Rubik Karapetyan, is a naturalized U.S. citizen. Petitioner’s mother, Anahit Poghosyan, is a U.S. lawful permanent resident. Petitioner has two U.S. citizen children. Petitioner is the beneficiary of an approved I-130 Petition for Alien Relative that was filed on his behalf by his U.S. citizen daughter, Anna Maria Karapetian. *See* Exhibit B.
3. On November 18, 2005, Petitioner was ordered removed from the U.S. *See* Exhibit C.
4. In November 2007, Petitioner was detained by Respondent U.S. Immigration and Customs Enforcement (“ICE”) agents at a U.S. Citizenship and Immigration Services interview with his U.S. citizen wife. He was released from immigration detention on an order of supervision. *See* Exhibit C.

5. During his ICE check-ins, he has been unable to secure a new passport from the Republic of Georgia. He has been told that as an “ethnic Armenian”, he is not wanted back in Georgia. He has also been told that he cannot obtain a new Georgian passport while outside of Georgia. *See* Exhibit D.
6. Petitioner has no criminal history and only has traffic citations. None of his traffic violations involved accidents, alcohol, or drugs. *Id.*
7. Petitioner was re-detained by ICE on November 21, 2025. He was transferred to the ERO El Paso Camp East Montana Detention Facility, where he remains detained. *See* Exhibit E.
8. Petitioner was given no notice of ICE’s intention to re-detain him, and he was not provided with any information about why his OSUP was revoked. Since his re-detention, he has not been provided a Notice of Revocation or an informal interview regarding any reasons for the revocation of his OSUP. *See* Exhibit C.
9. On information and belief, ICE had no particularized evidence that Petitioner could be deported to any country at the time they detained him and continue to have no particularized evidence that Petitioner can be removed at this time.
10. Petitioner has not received an individualized hearing before a neutral decisionmaker to assess whether his 2025 re-detention is warranted due to danger or flight risk.

PARTIES

11. Petitioner is a stateless person who was born in former Soviet Union (in what is now the Republic of Georgia), who is currently in the custody of ICE in El Paso, Texas. *See* Exhibit E.
12. Respondent Warden is the warden of the ERO El Paso Camp East Montana Detention Facility, where Petitioner is detained. He or she has immediate physical custody of Petitioner. He or she is named only in their official capacity.
13. Respondent Mary De Anda-Ybarra is the Acting Field Office Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division, whose jurisdiction includes the ERO El Paso Camp East Montana Detention Facility. As such, Mary De Anda-Ybarra is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity only.
14. Respondent Todd M. Lyons is the Acting Director of ICE. In his official capacity, he oversees all ICE operations nationwide, including detention and removal decisions. He is responsible for setting and enforcing ICE policy and may authorize or delay removal of noncitizens in ICE custody.

15. Respondent Kristi Noem, the Secretary of the DHS, is the highest-ranking official within the DHS. Respondent Noem, by and through her agency for the DHS, is responsible for the implementation of the INA, and for ensuring compliance with applicable federal law. She is also responsible for the detention of non-citizens by ICE. Respondent Noem is sued in her official capacity as an agent of the government of the United States.

16. Respondent Pamela Jo Bondi, the Attorney General, is the highest-ranking official within the Department of Justice (“DOJ”). Respondent Bondi has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act (“INA”) has not been amended to reflect the designation of the Secretary of the Department of Homeland Security (“DHS”) as the administrator and enforcer of immigration laws, Respondent Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1102 gives her authority over immigration law.

JURISDICTION AND VENUE

17. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution

(the Suspension Clause); and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2001 *et. seq.*, and the All-Writs Act, 28 U.S.C. § 1651.

18. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

19. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the El Paso, Texas Field Office of Immigration and Customs Enforcement at the ERO El Paso Camp East Montana Detention Facility, which is in the jurisdiction of the Western District of Texas; and there is no real property involved in this action.

LEGAL BACKGROUND

20. 8 U.S.C. § 1231(a) governs the detention of individuals who have been ordered removed. The statute directs ICE to detain such individuals for 90 days while carrying out a removal order. *See* 8 U.S.C. § 1231(a)(2). This 90-

day removal period begins when the removal order becomes final. Absent an applicable exception, if ICE cannot remove a person within the 90-day removal period, they are released from custody subject to supervision. 8 U.S.C. § 1231(a)(3).

21.8 U.S.C. § 1231(a)(6) permits detention beyond the normal 90-day removal period, but even these exceptions do not authorize indefinite detention. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) (limiting ICE’s detention authority to a period “reasonably necessary” to carry out removal and deeming detention impermissible when removal is not “reasonably foreseeable”).

22. The regulations permit release of a non-citizen subject to a removal order after the 90-day removal period has elapsed if ICE determines that the non-citizen “would not pose a danger to the public or a risk of flight, without regard to the likelihood of the [non-citizen’s] removal in the reasonably foreseeable future.” 8 C.F.R. § 241.13(b)(1). These released individuals are typically subject to an OSUP, as Petitioner has been for the last 17 years. *See* 8 C.F.R. § 241.4(j); 8 C.F.R. § 241.13(h).

23. ICE may withdraw its approval for the release of a non-citizen if it can effectuate the individual’s removal from the United States “in the reasonably foreseeable future” or if the individual fails to comply with the conditions of release. 8 C.F.R. § 241.13(h)(4). ICE may only revoke a non-citizen’s release

if “there is a significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future.” *Id.* at § 241.13(i)(2). “Upon revocation, the [non-citizen] will be notified of the reasons for revocation of [] her release.” *Id.* at § 241.13(i)(3).

24. Only certain officials have the authority to revoke an OSUP - namely, the Executive Associate Commission of the former Immigration and Naturalization Service, or, possibly, the current Executive Associate Director of ICE. *See e.g., Rombot v. Souza*, 296 F.Supp.3d 383, 385 (D. Mass. Nov. 8, 2017) (noting that the regulation, on its face, refers to titles in force under the former INS, and thus, it is not clear an ICE Field Office Director can revoke an order of supervision to enforce a removal order); *see also Ceesay v. Kurzdorfer*, 781 F.Supp.3d 137, 162 (W.D.N.Y. May 2, 2025) (noting that the authority of the Executive Associate Commissioner of INS was transferred to the Executive Associate Director of ICE and finding that an Assistant Field Office Director is not the equivalent of the Executive Associate Director); *Santamaria Orellana v. Baker*, 2025 WL 244087, *6 (D. Md. Aug. 25, 2025) (only the Executive Associate Commissioner or a district director can revoke release); *Zhu v. Genalo*, --- F.Supp.3d ----, 2025 WL 242352, * 8 (S.D.N.Y. Aug. 26, 2025) (same); *Santamaria Orellana v. Baker*, 2025 WL 2841886, *5-6 (D. Md. Oct. 7, 2025) (reiterating that the requirement that a specific

senior official sign a notice of revocation is not merely a housekeeping matter and again ordering Santamaria Orellana's release after his re-detention by immigration officials).

25. Pursuant to 8 C.F.R. § 241.13(h)(4)(i)(2), (3), Respondents must provide a non-citizen with notice of the reasons for the revocation, must provide the non-citizen with an informal interview, and must provide the non-citizen with the opportunity to submit any evidence or information that he or she believes shows there is no significant likelihood he or she will be removed in the reasonably foreseeable future. Failure to provide the notice of the reasons for the revocation or failure to provide an informal interview violates the detainee's due process rights and requires immediate release on OSUP. *See Ceasay*, 781 F.Supp.3d at 163-165, 166 (collecting cases, concluding that the failure to provide the informal interview violated the detainee's due process rights, and concluding that the detainee was entitled to immediate release); *see also K.E.O. v. Woosley*, 2025 WL 2553394, *5-7 (W.D. Ky. Sept. 4, 2025) (ordering release for failure to provide informal interview); *Santamaria Orellana*, 2025 WL 244087 at *7 (failure to provide interview violates due process); *Delkash v. Noem*, 2025 WL 2683988, *5-7 (C.D. Cal. Aug. 28, 2025) (noting requirement for notice and informal interview and granting immediate release).

26. Moreover, notice of the reasons for the revocation of release must be provided before re-detaining an individual on an OSUP, to provide timely notice of the reasons for the re-detention. *See Zhu*, 2025 WL 2452352 at *9 (noting that the regulations and Due Process Clause require that the process required for revoking a release must happen before a non-citizen is re-detained and ordering immediate release). Failure to provide a detainee with meaningful notice of the reasons for the revocation deprives her of the opportunity to be heard on why she should remain at liberty. *See e.g., Perez-Escobar v. Mariz*, --- F. Supp.3d ----, 2025 WL 2084102, * 2 (D. Mass. July 24, 2025) (finding that a Notice of Revocation that stated that there is a significant likelihood of removal in the reasonably foreseeable future, that the purpose of release had been served, and that it was appropriate to enforce the removal order “does not identify any specific changed circumstances” and fails to give the petitioner “meaningful notice of the basis for its revocation” and ordering the petitioner’s immediate release).

FIRST CAUSE OF ACTION

UNLAWFUL REVOCATION OF RELEASE

27. Petitioner re-alleges and incorporates each factual allegation above.
28. Petitioner was previously detained by ICE and released. If he has complied with the conditions of his OSUP, Respondents have the authority to revoke

his release only if there is a significant likelihood that they can remove him in the reasonably foreseeable future. *See* 8 C.F.R. § 241.13(i)(2).

29. Respondents revoked Petitioner's release without evidence that he could be deported to any country.

30. Respondents' actions are arbitrary, capricious, an abuse of discretion, and contrary to law. 5 U.S.C. § 706(a)(2)(A). Petitioner is entitled to immediate release on an OSUP.

SECOND CAUSE OF ACTION

VIOLATION OF PROCEDURES FOR REVOCATION OF RELEASE

31. Petitioner re-alleges and incorporates each factual allegation above.

32. The governing regulations require Respondents to notify Petitioner of the reason for his re-detention. 8 C.F.R. § 241.13(i)(3). Respondents have not complied with this obligation, nor have they yet provided him with an initial interview at which he can respond to the purported reasons from revocation. *Cf. id.* As such, Petitioner is entitled to immediate release on OSUP until ICE can provide the minimal process required by the regulation.

33. To the extent that any official other than the Executive Associate Commissioner of the former Immigration and Naturalization Service ("legacy-INS"), or, possibly, the current Executive Associate Director of ICE has signed a Notice

of Revocation, that individual lacks authority to do revoke Petitioner's release.

THIRD CAUSE OF ACTION

UNLAWFUL DETENTION WITHOUT INDIVIDUALIZED

DETERMINATIONS OF DANGER OR FLIGHT RISK

34. Petitioner re-alleges and incorporates each factual allegation above.
35. Detention violates § 1231 and the Due Process Clause of the U.S. Constitution unless it is reasonably related to the government's purpose of preventing flight and protecting the community. *Zadvydas*, 533 U.S. at 690-91.
36. Before being re-detained, Petitioner lived in the community for 18 years. During that time, he married, was gainfully employed, and provided care for his father, mother and two U.S. citizen children. Petitioner has received no process to determine if his re-detention is warranted.
37. Petitioner is entitled to an individualized determination by impartial adjudicators as to whether detention is justified based on danger or flight risk.

FOURTH CAUSE OF ACTION

**VIOLATION OF PROCEDURAL DUE PROCESS AND REGULATORY
REQUIREMENTS**

38. Petitioner re-alleges and incorporates each factual allegation above.
39. Even if detention authority existed—which it does not—ICE failed to follow required procedures under its own regulations, violating the Petitioner’s procedural due process rights.
40. The regulations at 8 C.F.R. § 241.4 establish specific procedures for post-order custody reviews and detention decisions. Upon information and belief, ICE failed to Conduct proper custody reviews considering the Petitioner’s lack of criminal history; Assess whether changes in circumstances over twenty years affected detention authority; Consider mandatory factors including family ties, employment history, and community connections; or evaluate less restrictive alternatives to detention.
41. The wholesale abandonment of regulatory procedures, combined with the arbitrary nature of detention two decades after the removal period, shocks the conscience and violates fundamental fairness.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant him the following relief:

1. Assume jurisdiction over this matter;
2. Declare that Respondents have violated his rights;
3. Order Respondents to immediately release him back on an OSUP;
4. Order Respondents to release him from detention because they lack any individualized evidence that his removal will occur in the reasonably foreseeable future;
5. Order Respondents to release him from detention absent an individualized determination by an impartial adjudicator that his continued detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release and/or supervision;
6. Enjoin Respondents from revoking his release unless they have individualized evidence that his removal is reasonably foreseeable;
7. Enjoin Respondents from revoking his release without providing him a determination by an impartial adjudicator that his redetention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release and/or supervision, at which hearing

Respondents will bear the burden of proof of demonstrating that he is a flight risk or a danger to the community;

8. Enjoin Respondents from re-detaining him without first notifying him of the reasons for the revocation of his release, providing him with an opportunity to rebut those reasons, and providing him with a prompt interview as required by regulation;
9. Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any further basis justified under law;
10. Grant him such further relief as the Court deems just and proper.

RESPECTFULLY SUBMITTED this 22nd day of December, 2025

/s/Brian Scott Green

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

I, Brian Scott Green, submit this verification in support of Arkadi Rubikovich Karapetian's Amended Petition for Writ of Habeas Corpus. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 22nd day of December, 2025.

/s/Brian Scott Green
Brian Scott Green