UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

DOE, Jane,

Petitioner,

v.

TODD M. LYONS, Acting Director, U.S. Immigration and Customs Enforcement, U.S. Department of Homeland Security;
KRISTI NOEM, Secretary of U.S. Department of Homeland Security;
PAMELA BONDI, Attorney General of the United States;
Daren K. MARGOLIN, Director of the Executive Office For Immigration Review;
Carlos CISNEROS, Assistant Field Office Director of Harlingen Field Office for U.S. Department of Homeland Security, United States Immigration and Customs Enforcement, Enforcement and Removal Operations,

In their official capacities,

Respondents.

Case No.: 1:25-cv-350

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

PETITION FOR HABEAS CORPUS

Petitioner Jane Doe has filed a separate Motion to Proceed Under Pseudonym. She petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2242 to remedy Respondents' detaining her unlawfully, and states as follows:

INTRODUCTION

1. Petitioner Jane Doe is a 38-year-old citizen and national of Mexico, who is detained at the El Valle Detention Center in Raymondville, Texas. ("Petitioner" or "Ms. Doe") submits this habeas petition under 28 U.S.C. § 2241 for a judicial check on Respondents' unlawful revocation of her release on an Order of Supervision and Unsupervised Parole ("OSUP") and detaining her

when the purpose of release has not been served. 8 C.F.R. § 241.4(l)(2). Ms. Doe is the victim of severe domestic violence by her U.S. citizen husband, and her application for immigration status under the Violence Against Women Act (VAWA Form I-360) remains pending. ICE violated the Congressional intent for VAWA by detaining her.

2. Furthermore, ICE's new 2025 Policy Directive, under which Ms. Doe was detained, is arbitrary, capricious, and not in accordance with the law.

3. Moreover, even assuming that ICE possessed the theoretical authority to revoke release, the agency failed to meet mandatory procedural requirements, including demonstrating that her the purpose of release has been served and to provide her with notice of the specific reasons for revocation as 8 C.F.R. § 241.4(l)(2).

4. ICE's arbitrary cancellation of Ms. Doe's OSUP and subsequent detention constitute flagrant violations of due process and regulatory law. *See Ceesay v. Brophy et al*, No. 1:2025cv00267 (W.D.N.Y. 05/02/2025); *ABUELHAWA v Noem*, 4:25-cv-04128 (S.D. Tex. 10/16/2025).

5. Absent review in this Court, no other neutral adjudicator will examine Ms Doe's plight. She thus urges this Court to review the lawfulness of her detention; declare that her detention is unlawful; and order her immediate release.

CUSTODY

6. Ms. Doe is currently in the Respondents' physical and legal custody. They are detaining her at the El Valle Detention Center in Raymondville, Texas. She is under Respondents' and their agents' direct control.

PARTIES

7. Petitioner Ms. Doe is a citizen of Mexico. Respondents placed Ms. Doe on an Order of Supervision because she had a final order of removal and a pending VAWA claim. Ms. Doe was at liberty—and complying with all check-in obligations—until Respondents detained her on December 13, 2025 at her check-in appointment.

8. Ms. Doe is currently in Respondents' legal and physical custody at the El Valle Detention Center in Raymondville, Texas.

9. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of Ms. Doe.

10. Respondent Daren K. MARGOLIN is the Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond hearings. EOIR is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. He is sued in his official capacity.

11. Respondent Kristi NOEM is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the INA and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent NOEM has responsibility for the administration and enforcement of the immigration and naturalization laws under section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). Respondent NOEM is the ultimate legal custodian of Ms. Doe.

12. Respondent Pamela BONDI is the Attorney General of the United States and the most senior official in the U.S. Department of Justice ("DOJ") and is named in her official capacity. She has the authority to interpret immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the BIA

13. Respondents Carlos CISNEROS, Assistant Field Office Director of Harlingen Field Office for U.S. Department of Homeland Security, United States Immigration and Customs Enforcement, Enforcement and Removal Operations is named in his official capacity. Petitioner is in the direct custody of the AFOD Cisneros.

JURISDICTION AND VENUE

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IRRIRA"), Pub. L. No. 104-208, 110 Stat. 1570, to challenge Ms. Doe's detention under the INA and any inherent or plenary powers the government may claim to continue holding him.

15. This Court has jurisdiction under 28 U.S.C. § 1331, § 2241; 5 U.S.C. §§ 701-706 (Administrative Procedures Act, "APA"); and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, and the Fifth and Eighth Amendments of the United States Constitution. Jurisdiction is not limited by a petitioner's nationality, immigration status, or any other classification. *See Boumediene v. Bush*, 55s U.S. 723, 747 (2008). The Court may grant relief under the Suspension Clause; the Fifth and Eighth Amendments; 5 U.S.C. § 706 (APA); and 28 U.S.C. §§ 1361 (Mandamus Act), 1651 (All Writs Act), 2001 (Declaratory Judgment Act), and 2241 (habeas corpus).

16. Specifically, this Court has jurisdiction under 28 U.S.C. § 2241 to review Ms. Doe's detention and his challenge to the government's arbitrary cancellation of her OSUP. Federal district courts possess broad authority to issue writs of habeas corpus when a person is held "in custody in violation of the Constitution or laws or treaties of the United States" (28 U.S.C. § 2241(c)(3)), and this authority extends to immigration detention challenges that survived the REAL ID Act's jurisdictional restrictions. Because Ms. Doe seeks the traditional habeas remedy of release from allegedly unlawful detention, her petition presents precisely the type of threshold legality-of-detention question that § 2241 was designed to address. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *see also Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th Cir. 2020) (citing *Singh*, 638 F.3d at 1211-12)). And 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). No court has ruled on the legality of Ms. Doe's detention.

17. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and (e)(1) because a substantial part of the events or omissions giving rise to this claim have happened here, Ms. Doe is detained here, and his custodian resides here. Venue is also proper under 28 U.S.C. § 2243 because Ms. Doe's immediate custodian resides in this District. *See Rumsfeld v. Padilla*, 542 U.S. 426, 451-52 (2004) (Kennedy, J., concurring).

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the respondents "forthwith," unless the petitioner is not entitled to relief. *See* 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

19. Courts have long recognized the significance of the habeas statute in protecting persons from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

FACTUAL BACKGROUND

20. Ms. Doe reserves the right to amend and supplement her factual statement.

21. Ms. Doe is a native and citizen of Mexico and no other country.

22. Ms. Doe last entered the United States on August 22, 2022, and she entered without inspection. She had been previously deported in the past. Because she has been previously detained and deported, she may have already accumulated the 90 days or six months for release under Zavydas. Ms. Doe does not have access to those records.

23. For approximately 18 years, Ms. Doe was in a relationship with a U.S. citizen, who violently abused her. They have minor children in common. Ms. Doe's husband would frequently weaponize her immigration status against her, saying that he would call immigration on her if she tried to leave him. Since she had been previously deported, she was afraid because she knew that ICE would immediately deport her since she had been previously removed. Ms. Doe stayed with him for years.

24. But in the last incident of abuse, her husband severely injured her, and she had to seek medical attention. Because of the severity of her injuries, she assisted with the investigation and prosecution of the crime, and he was sentenced to multiple years in prison. The abuse caused her both physical and emotional pain, and for a time, she turned to alcohol to numb things. She received a DWI, but on November 15, 2023,when ICE went to detain her, they decided to instead

release her on an OSUP her because she was eligible for immigration status based on the abuse. *See* VAWA Declaration ¶ 12. This complied with the 2021 ICE Policy Directive in force at that time. *See* 2021 ICE Policy Directive, attached as exhibit. In her VAWA declaration, Ms. Doe wrote that ICE told her to bring proof that she had applied for status to her May 2024 OSUP check-in appointment. *See* VAWA Declaration ¶ 16. Undersigned Counsel brought a full copy of her VAWA filing to that check-in appointment, which had been mailed to USCIS just days prior. The VAWA application included her husband's conviction records, police reports documenting the abuse, and photos of injuries as well as documentation to prove the other elements of VAWA. ICE told her that she would remain on check-ins.

25. Because of the OSUP, Ms. Doe was able to apply for work authorization for the first time in her life. Her work permit allowed her to do things she had never been able to do before, like work. Her husband had never allowed her to work. But since she was on an OSUP as part of her pending VAWA case, she was able to obtain work authorization and a job. She was working at a restaurant and caring for her children as a single mother. She was gaining the independence that VAWA promises on the USCIS website.[1]

26. At her May 2025 check-in, ICE told her to report again in May 2026. But in early December, ICE told her that she needed to report early on December 13, 2025 because things had changed, and ICE wanted to move cases faster. At her December 13th check-in, ICE detained her.

27. But nothing has changed. Ms. Doe's VAWA application remains pending due to severe backlogs at USCIS. The current VAWA processing times are posted as 45 months or almost four years. USCIS found Ms. Doe's VAWA application to be *bona fide* and issued a *prima facie*

[1] VAWA: Purpose and Background, USCIS, found at https://www.uscis.gov/policy-manual/volume-3-part-d-chapter-1

determination to her, which allows her to receive support, such as food stamps, while her VAWA remains pending. Ms. Doe took the *prima facie* determination letter to her May 2025 check-in with ICE. The only thing that has changed is ICE's 2025 Policy Directive that deviates from long-standing policy regarding the treatment of survivors. *See* 2005, 2007, 2011, 2021, and 2025 ICE Policy Directives, attached as exhibits.

28. Ms. Doe's husband was recently released from prison. She says that since he is still on parole, he has not abused her anymore. But he has called her asking her to come back to him.

29. Her children have very limited visitation with their father, and they never stay overnight. Ms. Doe says that they do not like to visit with him. Ms. Doe is her children's primary caregiver. Since Ms. Doe has been detained by ICE, her children have had a very difficult time. Ms. Doe's mother also has health issues and is having a difficult time caring for her children. Being detained has caused Ms. Doe to struggle with depression and anxiety. Her husband used to tell her that, if she were sent to Mexico, that it would be easy for him. Ms. Doe understood that to mean that it would be easy for him to kill her or harm her in Mexico. She feels incredibly anxious, depressed, and afraid since ICE has detained her. She thought that she would be safe until her VAWA case was decided.

30. Based on ICE's statements that they wanted to detain her to move cases faster, it appears ICE detained Ms. Doe because of the new 2025 ICE policy directive regarding detention rather than an individualized review of her OSUP, which includes notice and an informal interview. *Ceesay v. Brophy et al*, No. 1:2025cv00267 (W.D.N.Y. 05/02/2025); *ABUELHAWA v Noem*, 4:25-cv-04128 (S.D. Tex. 10/16/2025).

31. Also, only certain officials are permitted to cancel an OSUP. *Ceesay v. Brophy et al*, No. 1:2025cv00267 (W.D.N.Y. 05/02/2025).

EXHAUSTION OF REMEDIES

32. Ms. Doe has exhausted all administrative remedies, and further ones are not available to her.

LEGAL FRAMEWORK

A. Legal Framework for VAWA

33. Congress enacted VAWA in 1994 to address the widespread problem that many noncitizens stayed in abusive relationships because an abusive family member held the key to their permanent immigration status in the United States. See VAWA, Title IV, Pub. L. 103-322, 108 Stat. 1796, 1902 (September 13, 1994). "[T]he goal of the bill is to 'permit[] battered immigrant women to leave their batterers without fearing deportation.'" *Hernandez v. Ashcroft*, 345 F.3d 824, 841 (9th Cir. 2003) (quoting H.R. Rep. No. 103-395, at 25).

34. As noted in the USCIS Policy Manual ("PM")- the agency's centralized online repository for USCIS' immigration policies - VAWA "provided certain [noncitizen] family members of abusive U.S. citizens and lawful permanent residents (LPRs) the ability to self-petition for immigrant classification without the abuser's knowledge, consent, or participation in the immigration process." PM, vol. 3, pt. D, ch. 1, available at https:/ /www.uscis.gov/policymanual. "This allowed victims to seek both safety and independence from their abuser." *Id.*

35. In 2000, Congress passed the Victims of Trafficking and Violence Protection Act of 2000, which included the Violence against Women Act of2000 ("VAWA 2000"). Title V, Pub. L. No. 106-386, 114 Stat. 1464, 1518. Passed with overwhelming bipartisan support, VAWA 2000 expanded VAWA's protections, including by creating exemptions and waivers for certain grounds of removability, including crimes of moral turpitude, fraud, public charge, and unlawful presence in the United States. See, e.g., 8 U.S.C. §§ l 182(a)(4)(E)(i), (a)(6)(A)(ii), (a)(9)(B)(iii)(IV),

(a)(9)(C)(iii), (h)(l)(C), (i). In doing so, Congress expressly found that "the goal of the immigration protections for battered immigrants included in [VAWA] was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships" and to provide them "with protection against deportation." VAWA 2000 § 1502(a)(1)(2).

36. Congress expanded protections for domestic violence survivors again in 2005, with the Violence Against Women and Department of Justice Reauthorization Act of 2005, Pub. L. No. 109-162 (2006) ("VAWA 2005"). The bill's cosponsor Rep. Conyers provided the following remarks in the Congressional Record Extension: [Survivors] with deferred action status should not be removed or deported. Prima facie determinations and deferred action grants should not be revoked by immigration enforcement agents. The specially trained [USCIS] unit should review such cases to determine whether or not to revoke a deferred action grant. Immigration enforcement officials at the Bureau of Immigration and Customs Enforcement do not have authority to overrule a [US]CIS grant of deferred action to a [survivor]. Immigration enforcement officers should refer [individuals] they encounter who may qualify for relief under this Act to immigration benefits adjudicators handling VAWA cases at [US]CIS.[2]

37. For years, ICE detention policy incorporated the Congressional protections for VAWA applicants including in 2005, 2007, 2011, and 2021 ICE policies. In the 2005 policy, applicants for U visa and T visa are explicitly mentioned as well as other "humanitarian factors," which would have most likely included VAWA. In 2007, ICE is directed not to detain non-citizens at sensitive locations, such as domestic violence shelters or rape crisis centers, because "they are likely to be genuine VAWA self-petitioners." The 2007 ICE policy goes on to state that it is clear

[2] 151 Cong. Rec. £2605-04, E2607, 2005 WL 3453763 (Dec. 17, 2005) (Statement of Rep. Conyers) (emphasis added).

that Congress intended that cases of aliens arrested at such locations be handled properly given that they may ultimately benefit from VAWA's provisions. ICE officers should consider prosecutorial discretion in cases of aliens encountered at sensitive locations unless exigent circumstances exist. Examples of exigent circumstances include criminal activity, fraud, terrorism, or where there are extraordinary reasons for arresting aliens at sensitive locations."

38. In the 2021 detention policy, ICE stated that "The duty to protect and assist noncitizen crime victims is enshrined in, among other laws, the Violence Against Women Act (VAWA)."[3] *See* 2005, 2007, 2011, 2021, and 2025 ICE Policy Directives, attached as exhibits.

39. But in early 2025, U.S. Immigration and Customs Enforcement ("ICE") issued policy guidance, which has allowed, for the first time in decades, the detention and removal of survivors of these violent crimes as a routine matter, without regard for the many protections Congress put in place for them.[4] *See* 2025 policy attached as exhibit. Instead of centering their enforcement efforts around protecting victims, ICE now centers it around protecting *active* criminal investigations and the interests of ICE. *Id.* But the brave individuals who participate in these investigations are left in incredibly vulnerable situations, including potential deportation while their VAWA cases remain pending for years due to USCIS backlogs. For VAWA applicants who are on an OSUP, this makes them particularly vulnerable to detention at any routine check-in. The 2025 policy guidance also conflicts with VAWA because VAWA does not require that the abuse be reported to the police. 8 CFR § 204.2(c)(1). VAWA applicants simply need to prove they were victims of domestic violence through any credible evidence, including domestic violence shelter records, medical reports, counseling records, etc. 8 CFR § 204.2(c)(2).

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[3] ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims, 10 Aug. 2021

[4] ICE Policy Number 11005.4, Interim Guidance on Civil Immigration Enforcement Actions Involving Current or Potential Beneficiaries of Victi
m-Based Immigration Benefits (Jan. 30, 2025) ("2025 Guidance") available at https://www.ice.gov/doclib/foia/policy/11005.4.pdf

B. Requirements for Applying for VAWA and USCIS Processing Times

40. In order to apply for VAWA, a non-citizen must demonstrate that she is 1) married to a U.S. citizen or lawful permanent resident, 2) has a good faith marriage, 3) resided with the abuser, 4) suffered battery or extreme cruelty by the abuser, and 4) has been a person of good moral character for the last 3 years. 8 CFR § 204.2(c)(1).

41. VAWA can be based on "any credible evidence." 8 CFR § 204.2(c)(2). While a person may submit police reports to USCIS as part of her case, there is no requirement that the abuse be reported to the police. 8 CFR § 204.2(c)(2)(iv). VAWA also recognizes that domestic violence may be more than physical abuse, and thus, a person may be granted based solely on "extreme cruelty." 8 § CFR 204.2(c)(1).

42. USCIS posted processing times for Form I-1360 VAWA applications are 45 months or almost four years.[5]

C. ICE Policy Directives for Beneficiaries of Victim-Based Benefits

43. Prior to 2025, ICE policy directives generally required ICE not to detain potential beneficiaries of victim-based immigration benefits. This included ICE policy directives issued in 2005, 2007, 2011, and 2021. These policies incorporated the intent of Congress when enacting VAWA. *See* 2005, 2007, 2011, 2021, and 2025 ICE Policy Directives, attached as exhibits.

44. The 2025 Guidance flouts the legislative scheme, replacing the long-standing and judiciously crafted "victim-centered" approach with an unforgiving, arbitrary, and unlawful "deportation-centered" system that ignores crime victims' eligibility for relief and railroads them into detention without due process on their VAWA claims.

45. The 2025 ICE policy states that ICE officers-

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[5] USCIS, Processing Times, found at https://egov.uscis.gov/processing-times/

46. (1) need only "coordinate and deconflict" with law enforcement agencies "to ensure criminal investigative and other enforcement actions will not be compromised";

47. (2) "should consult with" local ICE attorneys only "to ensure any such action is consistent with applicable legal limitations";

48. (3) need not consider the fact that a noncitizen "is a victim of a crime" as "a positive discretionary factor"; and

49. (4) "will no longer routinely request expedited adjudications from USCIS," but may do so only when "it is in ICE's best interests."

2025 Guidance at 2-3 (emphasis added).

50. Instead of the long-standing, victim-centered approach, which applies the Congressional intent of VAWA, ICE now applies an ICE-centered and law-enforcement-centered approach to detention.

D. Legal Framework for the Change-in-Position Doctrine

51. The Change-in-Position Doctrine applies regardless of whether a policy was promulgated through a formal rulemaking process. The change-in-position doctrine squarely governs the 2025 ICE Directive.

52. The doctrine asks two questions: "The first is whether an agency changed existing policy"; the second is: "Did the agency 'display awareness that it is changing position' and offer 'good reasons for the new policy'?" *FDA v. Wages and White Lion Investments, L.L.C.*, 145 S. Ct. 898, 918 & n.5 (quoting Fox Television, 556 U.S. at 515). The agency is also required to consider serious reliance interests. *Id.* at 917.

53. To avoid reversal as arbitrary and capricious agency action, the Agency is supposed to "offer good reasons for the new policy." *Id.* at 919.

54. As to the first question, the Supreme Court in *White Lion* "assume[d], without deciding, that the change-in-position doctrine applies to an agency's divergence from a position articulated in nonbinding guidance documents[,]" *id.* at 918 n.5, applying the framework even though the standards at issue in the case appeared only in guidance and internal memoranda, *id.* at 918–19. *See also Shenzhen Youme Info. Tech. Co. v. FDA*, 147 F.4th 502, 512 (5th Cir. 2025) (months after *White Lion*, the Fifth Circuit similarly "assume[d], without deciding" that informal policy changes are subject to the change-in-position doctrine).

55. The 2025 ICE Policy Directive does not comply with the requirements for "change-in-position" doctrine because it provides "no good reason" for their change. It also fails to consider reliance interests, that women may have left relationships because they believed they would be protected during the pendency of their claims. Indeed, the USCIS Policy Manual states that this is an important purpose of VAWA.

E. Legal Framework for Post-Order Orders of Supervision (OSUP)

56. Section 1231(a) of Title 8 governs the detention of individuals whom immigration courts have ordered removed. "If the [noncitizen] does not leave or is not removed within the removal period, [] [she], pending removal, shall be subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3). A noncitizen may be placed under an Order of Supervision ("OSUP") if she "demonstrates to the satisfaction of the Attorney General . . . her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending [] [her] removal from the United States." 8 C.F.R. § 241.4(d)(1).

57. "Absent the noncitizen's violation of their conditions of release, in very limited circumstances, certain ICE officials have the 'authority, in the exercise of discretion, to revoke release and return to [ICE] custody an alien previously approved for release under the procedures in this section.'" *K.E.O.*, 2025 WL 2553394, at *3 (alteration in original) (quoting 8 C.F.R. § 241.4(l)(2)).

58. The applicable regulations provide:

> Release may be revoked in the exercise of discretion when, in the opinion of the revoking official:
>
> (i) The purposes of release have been served
>
> (ii) The alien violates any condition of release;
>
> (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
>
> (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

8 C.F.R. § 241.4(l)(2).

59. 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).

60. Courts have ordered non-citizens released through Habeas Corpus where ICE did not follow their own regulations when revoking the OSUP. *R.O.A. v. Lewis*, 4:25-cv-00164-GNS (W.D.K.Y. Dec. 18, 2025); *Maimuna M.M. v. Bondi*, 0:25-cv-04622-JWB-ECW (D. Minn Dec. 19, 2025); *Nguyen v. Hyde*, 778 F. Supp. 3d 144 (D. Mass. 2025); *Funes v. Francis*, No. 25 CIV. 7429 (PAE), 2025 WL 3263896 (S.D.N.Y. Nov. 24, 2025); *Phetsadkone v. Scott*, No. 2:25-cv-01678, 2025 WL 2579569 (W.D. Wash. Sept. 5, 2025).

CAUSES OF ACTION

FIRST CAUSE OF ACTION
Unlawful Revocation of Order of Supervision (OSUP)

61. Ms. Doe repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

62. Ms. Doe was on an order of supervision at the time of her detention. As long as she complied with the conditions of her OSUP, Respondents have authority to revoke release only for one of these reasons: (i) The purposes of release have been served, (ii) The alien violates any condition of release; (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate. 8 C.F.R. § 241.4(l)(2). .

63. Respondents arbitrarily revoked Ms. Doe's order of supervision when none of those conditions had been met. Ms. Doe was placed on OSUP because she was eligible for VAWA, and the purpose of her OSUP remains unchanged as USCIS has yet to adjudicate her application.

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

SECOND CAUSE OF ACTION
Violation of Procedures for Revocation of Release

65. Ms. Doe repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

66. The governing regulations require Respondents to notify Ms. Doe of the reason for her detention. 8 C.F.R. § 241.13(i)(3). Based on information and belief, Respondents detained Ms. Doe based on the 2025 policy and not for an enumerated reason in the regulations. It is also unclear if Respondents have provided Ms. Doe with an interview at which she could challenge

the purported reasons for revocation. As such, Ms. Doe is entitled to immediate release on OSUP until ICE can provide the minimal process required by the regulation.

67. It also unclear if an ICE officer with the proper authority cancelled his OSUP, which is a violation of his due process rights requiring immediate release. *Ceesay v. Brophy et al*, No. 1:2025cv00267 (W.D.N.Y. 05/02/2025).

THIRD CAUSE OF ACTION
5 U.S.C. § 706(2)(A), (C) - The 2025 Guidance is Not in Accordance with Law and in Excess of Statutory Authority

68. Ms. Doe repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

69. Under the APA, courts "shall ... hold unlawful and set aside agency action" that is, among other things, "not in accordance with law" or "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C § 706(2)(A), (C). 197. The Congressional intent for VAWA and long-standing agency practice, requires that applicants for Survivor-based Benefits generally be protected from detention unless serious adverse factors warrant otherwise. VAWA applicants, who establish a prima facie case, are eligible for public benefits, and their prima facie notice is renewed until USCIS issues a final decision in their case. The fact that VAWA applicants are eligible to receive public benefits while their cases are pending contemplates their ability to stay in the United States through the adjudication of their cases.[6]

70. In imposing a policy of "total" enforcement against "all" removable noncitizens, the 2025 Guidance encourages detention of non-citizens, like Ms. Doe, who have pending applications for VAWA. For instance, its requirement that ICE will no longer pursue expedited prima facie

[6] USCIS Policy Manual: Chapter 5 - Adjudication - Prima Facie Review, found at https://www.uscis.gov/policy-manual/volume-3-part-d-chapter-5

adjudications unless it is in "ICE's best interests" to do so, permits the long-term detention of Ms. Doe.

71. Any policy that does not require Respondents to consider an applicant's prima facie eligibility for Survivor-based Benefits as a positive factor is not in accordance with the law and in excess of statutory authority. The 2025 Guidance is such a policy.

72. Ms. Doe is entitled to immediate release on an OSUP because she was detained based on ICE's 2025 policy directive, and this directive is arbitrary, capricious, and not in accordance with the law.

FOURTH CAUSE OF ACTION
The 2025 Policy Directive Violates the Change-in-Position Doctrine

73. Ms. Doe repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

74. The Change-in-Position Doctrine Applies Regardless of Whether a Policy Was Promulgated Through a Formal Rulemaking Process. The change-in-position doctrine squarely governs the 2025 ICE Directive.

75. The doctrine asks two questions: "The first is whether an agency changed existing policy"; the second is: "Did the agency 'display awareness that it is changing position' and offer 'good reasons for the new policy'?" *White Lion*, 145 S. Ct. at 918 & n.5 (quoting Fox Television, 556 U.S. at 515). The Agency is also supposed to consider any serious reliance interests.

76. The 2025 ICE Policy Directive violates the change-in-position doctrine because they did not offer "good reasons" for this new policy and they did not consider any serious reliance interests. *See* 2005, 2007, 2011, 2021, and 2025 ICE Policy Directives, attached as exhibits.

77. ICE states that the 2025 policy is meant to "achieve total and efficient enforcement of the immigration laws" as quickly as possible. But any reason for the 2025 ICE policy that fails to consider the purpose of VAWA- helping victims escape abuse- is not a good reason.

78. The 2025 ICE directive also appears to explicitly omit VAWA-eligible applicants from its guidance since it will consider active law enforcement investigations when declining to detain survivors of crime. But VAWA does not require any law enforcement investigation.

79. The 2025 ICE directive also fails to consider any reliance interest in their change in policy. Many victims may have decided to report crime to the police or left their abusers because they believed immigration would protect them if they did so. The USCIS Policy Manual even states that independence was one of the goals of VAWA.

80. Because it appears that ICE relied on the 2025 ICE Policy Directive when it detained Ms. Doe, this Court must order her immediately released. The 2025 Policy Directive deviates from prior policy, does not meet the requirements for change-in-position, offers no "good reasons" and is arbitrary and capricious agency action.

PRAYER FOR RELIEF

Ms. Doe respectfully requests this Court grant the following relief:

A. Assume jurisdiction over this matter.

B. Order Ms. Doe not be removed from the United States or transferred to another jurisdiction during the pendency of these habeas proceedings;

C. Issue the writ of habeas corpus and order Respondents to show cause, within three days of Ms. Doe's filing this petition, why the relief she seeks should not be granted; and set a hearing on this matter within five days of Respondents' return on the order to show cause (*see* 28 U.S.C. § 2243);

D. Declare that Respondents have violated Ms. Doe's rights;

E. Order Respondents to release Ms. Doe because they did not follow their own regulations when revoking her OSUP;

F. Order Respondents to release Ms. Doe from detention because they detained her based on the 2025 policy and not for one of the reasons in the regulations;

G. Order Respondents to release Ms. Doe because the 2025 policy is arbitrary and capricious agency action that violates the "change-in-position" doctrine;

H. Order Ms. Doe released because the purpose of her OSUP has not changed since her VAWA remains pending;

I. Order Respondents to follow the 2021 ICE directive and reinstate her OSUP;

J. Enjoin Respondents from detaining Ms. Doe under the 2025 ICE policy because it is arbitrary, capricious, and not in accordance with the law;

K. Grant any and all other relief this Court deems proper and just.

Respectfully submitted on this 22nd day of December 2025,

/s/ Jennifer Scarborough
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Verification Pursuant to 28 U.S.C. § 2242

The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned counsel has discussed with Petitioner the events described in this Petition and, on the basis of those discussions, verify that the statements in the Petition are true and correct to the best of her knowledge and belief.

Date: 22nd December 2025 /s/ Jennifer Scarborough
Attorney for Petitioner