THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ZIYAN YAO; B.W.,

Petitioners,

v.

JOSE RODRIGUEZ, JR., ADMINISTRATOR, DILLEY IMMIGRATION PROCESSING CENTER; KRISTI NOEM, SECRETARY, DEPARTMENT OF HOMELAND SECURITY; PAM BONDI, ATTORNEY GENERAL; TODD LYONS, ACTING DIRECTOR, IMMIGRATION AND CUSTOMS ENFORCEMENT; SYLVESTER M. ORTEGA, ACTING FIELD DIRECTOR, SAN ANTONIO FIELD OFFICE, ENFORCEMENT AND REMOVAL OPERATIONS, IMMIGRATION AND CUSTOMS ENFORCEMENT;

Respondents.

Case No.: 5:25-cv-1855

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

INTRODUCTION

1. Petitioners are Ziyan ("Grace") Yao, a preschool teacher, and B.W., a 14-year-old ninth-grade student and Ms. Yao's daughter. They are Chinese citizens who lawfully entered the United States and have resided here for over twelve years without interruption. Ms. Yao is married to a natural-born U.S. citizen who is also an honorably discharged U.S. Marine Corps veteran. The family is in the process of pursuing lawful permanent resident status for Petitioners based on Ms. Yao's lawful marriage to her husband.

2. Petitioners were lawfully admitted to the United States in 2013 on a B-2 visitor visa. During their stay, they timely applied for asylum, seeking protection from China's then-operative one-child policy. An immigration judge denied their asylum claim and issued an Order of Removal, which became final in April 2017. The next month, U.S. Immigration and Customs Enforcement (ICE) issued an Order of Supervision (OSUP) to Ms. Yao. Ms. Yao has fully complied with all conditions set forth in the OSUP, including annual ICE check-ins.

3. ICE detained Petitioners on the day of Ms. Yao's routine check-in at the ICE facility in Santa Ana, California on December 3, 2025. In doing so, Respondents violated 8 U.S.C. § 1231, failed to provide Petitioners with any semblance of due process, and failed to comply with the revocation procedures listed in 8 C.F.R. § 241.4. There is no statutory basis for detaining Petitioners beyond the removal period (which ended over eight years ago), as Petitioners do not satisfy any of the criteria listed in 8 U.S.C. § 1231(a)(6). Further, Respondents have not served Petitioners or their counsel with notice of revocation of Ms. Yao's OSUP. They have not provided notice of the reasons for the revocation. They have not conducted an interview to provide Petitioners with an opportunity to contest the reasons for their detention. Indeed, to this day, no

one has explained to Petitioners or their counsel, or provided them with any documents explaining, the reasons why Petitioners were detained.

4. At the time of this filing and upon information and belief of undersigned counsel, Petitioners are detained at the Dilley Immigration Processing Center, in Dilley, Texas. Conditions in that facility are a threat to B.W.'s life, health, and well-being. B.W. suffers from anxiety and depression, and she has been medically determined to be a suicide risk. In February 2025, she attempted suicide and required in-patient hospitalization for several days. She has been prescribed Lexapro (escitalopram) and regularly meets with a therapist who is familiar with her background and conditions and supervises her recovery. Since being detained, B.W. has had unreliable access to her medications and to therapy, and she has threatened suicide and other forms self-harm on several occasions.

5. This petition challenges Petitioners' ongoing unlawful detention by Respondents. Respondents' actions violate 8 U.S.C. § 1231, the Due Process Clause of the Fifth Amendment to the Constitution, and the Administrative Procedure Act. Petitioners brings this action for habeas, injunctive, and declaratory relief ordering Respondents to release them immediately and ordering that they not be re-detained without first having a pre-deprivation hearing before a neutral adjudication where the government bears the burden of establishing by clear and convincing evidence that they are either a flight risk or a threat to public safety. In the interim, Petitioners seek an order from the Court that they not removed from the United States, pending disposition of their petition for writ of habeas corpus.

JURISDICTION

6. Petitioners are in the physical custody of Respondents in the Dilley Immigration Processing Center in Dilley, Texas, within the Western District of Texas.

7. This Court has subject matter jurisdiction under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Suspension Clause of the Constitution, and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., the Administrative Procedure Act, 5 U.S.C. § 551 et seq., and the Rehabilitation Act, 29 U.S.C. § 794.

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

VENUE

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioners currently are detained.

10. Venue also properly lies in the Western District of Texas under 28 U.S.C. § 1391 because this is a civil action in which Respondents are agencies and officers of the United States, Petitioners were detained in this district when this Petition was filed, and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The habeas statute requires that this Court adjudicate this case quickly. Upon receipt of the petition, the Court must either grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most

important writ known to the constitutional law . . . 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), *overruled on other grounds by Wainwright v. Sykes*, 433 U.S. 72, 87 (1977).

PARTIES

13. Petitioner Ziyan Yao is a citizen of China who has been in detention since December 3, 2025. Ms. Yao has resided in the United States since 2013. She is currently detained at the Dilley Immigration Processing Center in Dilley, Texas.

14. Petitioner B.W. is a fourteen-year-old citizen of China who has been in detention since December 3, 2025. B.W. has resided in the United States since 2013. She is currently detained at the Dilley Immigration Processing Center in Dilley, Texas.

15. Respondent Jose Rodriguez, Jr., is sued in his official capacity as Administrator of Dilley Immigration Processing Center. In this capacity, he oversees the daily administration of the detention center at which Petitioners are detained. As such, he is a custodian of Petitioners.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS") and is sued in her official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a). Ms. Noem also oversees Immigration & Customs Enforcement ("ICE"), which is responsible for Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners.

17. Respondent Pam Bondi is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the Department of Justice, of which the Executive Office for Immigration Review ("EOIR") and the immigration court system it operates is a component agency. The Attorney General is responsible for the fair administration of the laws of the United States.

18. Respondent Todd Lyons is the Acting Director of ICE and is sued in his official capacity. Respondent Lyons leads ICE, which is the agency responsible for Respondents' detention of noncitizens, and the transfer or removal outside this judicial district and the United States.

19. Respondent Sylvester M. Ortega is named in his official capacity as Acting Director of the San Antonio Field Office, ICE Enforcement and Removal Operations (ERO) Field Ofice in San Antonio, Texas. In this capacity, he is responsible for the enforcement of U.S. immigration law, including provisions concerning civil immigration confinement, in Central Texas. As such, he is a custodian of Petitioners.

STATEMENT OF FACTS

I. Petitioners' Immigration History and Life Today

20. Petitioner Ziyan Yao (known to her friends and family as "Grace") is a Mandarin Lead Toddler Teacher in Irvine, California. She is a 50-year-old immigrant from China.

21. Petitioner B.W. is Ms. Yao's 14-year-old daughter. She is a ninth-grade student at Irvine High School. She is also an immigrant from China. Despite her Chinese citizenship, B.W. has not resided in China since she was two years old and does not speak Chinese beyond a basic conversational level.

22. Petitioners have resided in the United States without interruption for over twelve years. They came to the United States in November 2013, when B.W. was two years old. They were lawfully admitted on a B-2 visitor visa. They timely applied for asylum, seeking protection from China's then-operative one-child policy. Ms. Yao was the primary applicant, and B.W. was a derivative beneficiary. An immigration judge denied asylum and ordered removal on July 12, 2016. Petitioners' appeal to the Board of Immigration Appeals was denied on April 17, 2017. On

that date, the order of removal became final. On May 18, 2017, ICE issued Ms. Yao an OSUP, which allows her to live freely in the community and requires Ms. Yao to check in with ICE as requested.

23. On November 27, 2017, Ms. Yao married Lewis M. Richards. Mr. Richards is a natural-born U.S. citizen and an honorably discharged U.S. Marine Corps veteran. U.S. Citizenship and Immigration Services (USCIS) approved Mr. Richards's petition for Form I-130 (Petition for Alien Relative) based on his lawful marriage to Ms. Yao. In approving that Form, USCIS determined Mr. Lewis's marriage to Ms. Yao was bona fide. The Form allows Mr. Richards to sponsor Petitioners as qualifying family members for lawful permanent resident status.

24. The family has subsequently pursued immigration waivers that would allow Petitioners to stay together with Mr. Richards in the United States during the pendency of Petitioners' applications for lawful permanent resident status. In particular, USCIS has approved Petitioners for Form I-212, finding that their re-entry into the United States as permanent residents would be in the national interest and that they merit a favorable exercise of discretion.

25. Ms. Yao has also applied for Form I-601A (Provisional Unlawful Presence Waiver), which would waive additional grounds of inadmissibility. USCIS received her application on July 16, 2024. Her application remains pending due to long processing times.

26. Petitioners have no criminal history in the United States or elsewhere. Ms. Yao has also fully complied with all terms of her OSUP, including annual check-ins with ICE.

27. Petitioners have maintained a stable residence. Petitioners and Mr. Richards have lived in the same house in Irvine, California since 2018. In May 2025, they signed a new four-year lease for the same house that will not expire until 2029. Mr. Lewis's job is within fifteen miles of their home. B.W. attends high school in Irvine, California.

28. Continued detention poses a serious threat to B.W.'s life, health, and well-being. She is currently experiencing serious and ongoing mental health crises, which place her at elevated risk of self-harm and require continuous medical supervision. B.W. has a history of clinical depression, difficulty coping, and suicide risk, including a documented suicide attempt requiring inpatient hospitalization in February 2025. B.W. has been prescribed Lexapro (escitalopram) for treatment of her depression and generalized anxiety disorder. Since her recent suicide attempt, B.W. has also been under the care of a clinical therapist, whom B.W. is supposed to see weekly. Since being detained she has missed numerous appointments with her therapist. Since being detained, Ms. Yao was witnessed B.W. emotional and psychological health decline. In particular, B.W. has made numerous threats of suicide and other forms of self-harm.

II. Petitioners' Detention on December 3, 2025

29. On November 12, 2025, Ms. Yao reported to her ICE check-in at the ICE office in the federal building in Santa Ana, California. Ms. Yao was accompanied by her attorney, Sara Xu. During that check-in, an ICE officer instructed Ms. Yao to report to the Intensive Supervision Appearance Program (ISAP) office to begin wearing a GPS-tracking device around her ankle. Ms. Yao was also instructed to return to the ICE office for another check-in on December 3, 2025. The agent did not explain why Ms. Yao was required to wear the GPS-tracking device or the purpose of the second check-in meeting.

30. On December 3, 2025, Ms. Yao again reported to ICE at the federal building in Santa Ana, California, accompanied by Ms. Xu. After a short wait, Ms. Yao and Ms. Xu were escorted to a meeting room, where an ICE officer told Ms. Yao she would not be permitted to leave. Ms. Xu asked the officer to explain why Ms. Yao was being detained. The officer responded merely that the government had decided to enforce the order of removal.

31. During the same conversation, Ms. Xu attempted to explain to Ms. Yao what the ICE officer was saying. Because Ms. Yao is not fluent in English, Ms. Xu spoke to her in her native language—Mandarin Chinese. The ICE officer told Ms. Xu that if she did not immediately stop speaking in Chinese to Ms. Yao, she would no longer be permitted to counsel her client. Shortly thereafter, Ms. Xu again spoke to Ms. Yao in Mandarin, and the ICE officer thereafter prevented Ms. Yao from communicating with Ms. Xu in any way.

32. While still in the same meeting room, Ms. Yao asked the same ICE officer what would happen to her daughter, B.W., if Ms. Yao were to be detained. The ICE officer responded that Ms. Yao had three options. She could either (1) leave B.W. in the care of her husband; (2) ask B.W. to report to the federal building in Santa Ana, California to be detained with Ms. Yao; or (3) ask B.W. to report to the federal building to be detained in a separate ICE detention center for unaccompanied minors. Because B.W. relies heavily on Ms. Yao for emotional support, Ms. Yao made the determination that B.W.'s risk of suicide or other self-harm would be greater if the two were separated than if B.W. were detained with her. Ms. Yao called a friend to pick up her daughter and bring her to the federal building in Santa Ana. Later that day, B.W. reported to the federal building and was detained by ICE.

33. Some time over the next twenty-four hours, Petitioners were relocatd to the Dilley Immigration Processing Center, in Dilley, Texas. At the time of this filing and upon information and belief of undersigned counsel, Petitioners continue to be detained at the Dilley Immigration Processing Center, in Dilley, Texas. *See* Ex. 1 (printout from ICE detainee locator showing location of Ms. Yao as of the filing date).

34. At no point during the encounter described above did any ICE official conduct an interview with Petitioners, nor did any official explain to Petitioners or their counsel legally

adequate reasons for detaining them, nor did any official provide Petitioners or their counsel with documents explaining the reasons for the decision to detain them. To this day, no one has explained, or provided any documents explaining, the legally adequate reasons for ICE's decision to detain Petitioners.

CLAIMS FOR RELIEF

35. This Court should grant this petition and order Petitioners' immediate release. Petitioners' detention is not authorized by statute because Petitioners do not satisfy any of the criteria listed at 8 U.S.C. § 1231(a)(6) for detaining a noncitizen beyond the removal period described at § 1231(a)(1)(A). Moreover, governing regulations establish the procedures that must be followed when a noncitizen's OSUP is revoked. The regulations require proper notice of the reasons for the decision to revoke an OSUP, an interview, and an opportunity to respond to the reasons for detention. The government failed to follow these regulations in detaining Petitioners. That failure constitutes a violation of the Due Process Clause of the Fifth Amendment because the agency's regulations guarantee the constitutional minimum of notice and an opportunity to be heard. Moreover, Petitioners' continued detention also violates the Due Process Clause because it is not reasonably related to a valid purpose of immigration detention. Petitioners present neither a flight risk nor a threat to public safety, and the government has never determined otherwise. Finally, Petitioners' actions violate *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954), which requires agencies to follow their own rules. Because Respondents' revocation of Ms. Yao's OSUP violated ICE's own regulations, that revocation must be set aside as arbitrary and capricious under the Administrative Procedure Act.

COUNT ONE

Violation of 8 U.S.C. § 1231

36. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

37. 8 U.S.C. § 1231 provides the statutory basis for the detention of noncitizens. It provides that "when [a noncitizen] is ordered removed, the Attorney General shall remove the [noncitizen] from the United States within a period of 90 days." *Id.* § 1231(a)(1)(A). The statue refers to this as the "removal period." *Id.*

38. For Petitioners, the removal period began on April 17, 2017, which is the day that their order of removal became final. *Id.* § 1231(a)(1)(B).

39. Petitioners were not removed from the United States during the removal period.

40. When a noncitizen is not removed during the removal period, the noncitizen must be released "subject to supervision under regulations prescribed by the Attorney General." *Id.* § 1231(a)(3). As explained in ¶ 41 below, this release is subject to certain specified exceptions listed at 8 U.S.C. § 1231(a)(6).

41. On May 18, 2017, ICE issued Ms. Yao an OSUP, which allows her to live freely in the community subject to conditions that ICE sets.

42. 8 U.S.C. § 1231(a)(6) provides the statutory basis for detaining noncitizens beyond the removal period. It permits continued detention of a noncitizen who satisfy one of the following criteria: (1) the noncitizen is inadmissible under 8 U.S.C. § 1182; (2) the noncitizen is removable under 8 U.S.C. §§ 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4); or (3) the noncitizen has been "determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

43. Petitioners do not satisfy any of these criteria. They are not inadmissible under 8 U.S.C. § 1182. Nor are they removable under 8 U.S.C. §§ 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4). Nor has the Attorney General determined that Petitioners are a risk to the community or unlikely to comply with their order of removal.

44. Respondents' detention of Petitioners beyond the removal period is thus entirely unauthorized by statute.

COUNT TWO

Violation of the Fifth Amendment to the U.S. Constitution

Procedural Due Process

45. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

46. Respondents deprived Petitioners of their liberty without procedural protections required by the Due Process Clause when they arrested and detained Petitioners.

47. 8 U.S.C. § 1231 governs the detention and removal of noncitizens following a final order of removal. A noncitizen who has been ordered removed but who has not been removed within the removal period "shall be subject to supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3).

48. 8 C.F.R § 241.4 is the regulation that governs the detention and release of removable noncitizens.[1] That regulation establishes the procedures that must be followed if a noncitizen's OSUP is revoked. *See* 8 C.F.R § 241.4(*l*).

[1] 8 C.F.R. § 241.13 does not appear to govern in this case because it pertains only to noncitizens who have "provided good reason to believe there is no significant likelihood of removal" in the "reasonably foreseeable future." The applicability *vel non* of § 241.13, however, does not affect Petitioners' entitlement to relief, as the requirements for revoking an OSUP under that section are substantially the same as the requirements under § 241.4. *See* 8 C.F.R. § 241.13(i) (requiring notice of the reasons for revocation, an informal interview, and an opportunity for the detainee to respond to the reasons for revocation). In other words, if the government takes the position that 8

49. Pursuant to 8 C.F.R. § 241.4(*l*)(1), a noncitizen released on an OSUP must be provided notice of the reasons for the revocation of the OSUP. The reasons must be given "upon revocation." *Id.* An "initial informal interview" is also required "promptly after [a noncitizen's] return" to custody. *Id.* The purpose of the informal interview is "to afford [the noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." *Id.*

50. None of the requirements of the governing regulations were followed in this matter. Respondents have not provided Petitioners or their counsel notice of revocation of Ms. Yao's OSUP. No ICE official has ever explained the specific reasons for the presumed revocation. Petitioners were also not given an interview where they could respond to the reasons for the presumed revocation.

51. Petitioners were also denied access to counsel when an ICE official first prevented Ms. Yao from communicating with her attorney in her native language (Mandarin) and subsequently prevented her from communicating with her attorney altogether. *Cf.* 8 C.F.R. § 241.4 (noting at various points the mandatory involvement of the noncitizen's "representative"); *id.* § 241.13 (same re "counsel").

52. Respondents' failure to follow the governing regulations violates the Due Process Clause of the Fifth Amendment because the agency's regulations guarantee the constitutional minimum of notice and an opportunity to be heard. Each factor of the test in *Mathews v. Eldridge*, 424 U.S. 319 (1976) weighs heavily in favor of that conclusion.

C.F.R. § 241.13 governs the revocation of Ms. Yao's OSUP, then Petitioners' argument is that Respondents' failure to follow the requirements set forth at § 241.13(i)(3) violated Petitioners' right to due process and violated *Accardi*.

COUNT THREE

Violation of the Fifth Amendment to the U.S. Constitution

Substantive Due Process

53. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

54. Respondents have deprived Petitioners of their liberty without any legitimate purpose in violation of their substantive due process rights under the Fifth Amendment.

55. The Due Process Clause applies to all "person[s]," including noncitizens within the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.") (internal quotation omitted).

56. Like any civil detention, immigration detention violates the Due Process Clause if it is not reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. at 690; *see Demore v. Kim*, 538 U.S. 510, 527 (2003) (stating that immigration detention must "bear[] a reasonable relation to the purpose for which the individual was committed"). At a bare minimum, "[l]iberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention." *Zadvydas*, 533 U.S. at 718 (Kennedy, J., dissenting).

57. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: (1) to mitigate the risk of flight and (2) to prevent danger to the community. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.

58. ICE already considered whether Petitioners were a flight risk or a danger to a community when it issued Ms. Yao's OSUP in May 2017. The agency's decision to issue an OSUP

at that time "reflects a determination by the government that [Petitioners are] not a danger to the community or a flight risk." *Nguyen v. Bondi*, No. EP-25-CV-323-KC, 2025 WL 3120516, at *6 (W.D. Tex. Nov. 7, 2025) (internal quotation omitted). And there is no evidence to the contrary. Since 2017, Petitioners haved lived in the same home in Irvine, California, which is where Ms. Yao's husband is employed and where B.W. attends high school. Ms. Yao has complied with all requested check-ins with ICE. And Petitioners have no criminal history, either in the United States or elsewhere.

59. Where, as here, individuals have lived for years and materially complied with all supervision requirements ICE has imposed on them, their detention serves no purpose and therefore violates the Fifth Amendment. *Zadvydas*, 533 U.S. at 690. At a minimum, suddenly arresting and detaining someone under the circumstances present here is arbitrary and therefore a violation of the most basic protections of the Due Process Clause. *Zadvydas*, 533 U.S. at 718 (Kennedy, J., dissenting).

60. Petitioners' detention is therefore not reasonably related to any legitimate purpose and violates the Due Process Clause.

COUNT FOUR

Violation of the Administrative Procedure Act

61. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

62. Under the Administrative Procedures Act ("APA"), a court "shall . . . hold unlawful and set aside agency action, findings, and conclusions" that are arbitrary and capricious. 5 U.S.C. § 706(2)(A).

63. An action is arbitrary and capricious if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (internal quotation omitted).

64. An agency must provide a "reasoned explanation" for its actions. *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 35 (2020). Indeed, an agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." *Dep't of Com. v. New York*, 588 U.S. 752, 773 (2019) (internal citation omitted).

65. Furthermore, Petitioners have a right to set aside agency action that violated agency procedures, rules, or instructions as arbitrary and capricious. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 226 (1954) ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing."). Under *Accardi*, agencies are bound to follow their own rules that affect the fundamental rights of individuals, even those that limit otherwise discretionary decisions. *See id.* (holding that BIA must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.").

66. As explained above, Respondents violated ICE's own regulations by failing to provide Petitioners' notice of the reasons for revoking Ms. Yao's OSUP, an interview, and an opportunity to respond. In doing so, Respondents' actions violated *Accardi* and were arbitrary and capricious, constituting violations of the APA. Moreover, as explained above, there is in fact no

evidence justifying Petitioners' detention. An agency decision that "runs counter to the evidence before the agency" is arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S 29, 43 (1983).

67. Respondents may also have violated ICE regulations by failing to properly execute a revocation of Ms. Yao's OSUP. Under 8 C.F.R. § 241.4(*l*), the Executive Associate Commissioner, and in some instances the district director, is exclusively permitted to revoke the release of a noncitizen. Respondents have not provided Petitioners or their counsel with a Notice of Revocation. However, to the extent that Ms. Yao's OSUP has been revoked, and to the extent that it was not executed by the appropriate official, then it also violates the agency's own procedures under *Accardi*.

68. Respondents' revocation of Petitioners' OSUP was arbitrary and capricious and should be held unlawful and set aside.

PRAYER FOR RELIEF

Wherefore, Petitioners pray that this Court grant the following relief:

(1) Order that Petitioners shall not be removed from the United States while this petition is pending;

(2) Issue an Order to Show Cause ordering Respondents to show cause within three days why this petition should not be granted;

(3) Issue a writ of habeas corpus ordering that Respondents:

a. release Petitioners from custody and reinstate Ms. Yao's OSUP with the same conditions in place at the time of Petitioners' unlawful detention; and

b. be enjoined from re-detaining Petitioners without first providing a pre-deprivation hearing before a neutral adjudicator where ICE bears the burden of

establishing by clear and convincing evidence that Petitioners are either a flight risk or a threat to public safety.

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

(5) Grant any further relief that this Court may deem fit and proper.

Dated: December 23, 2025

Respectfully submitted,

/s/ Jeffrey T. Quilici

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242 AND LOCAL RULE CV-3(b)

The undersigned counsel submit this verification on behalf of the Petitioner. Undersigned counsel has discussed with Petitioner the events described in this Petition for Writ of Habeas Corpus and Complaint and, on the basis of those discussions, verify that the statements in the Petition and Complaint are true and correct to the best of counsel's knowledge.

Dated: December 23, 2025

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