

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

RUSLAN KALININ,	)	Petition For Writ of
	)	Habeas Corpus
Petitioner,	)	
	)	Oral Hearing Requested
v.	)	
	)	Civil Action No. CV 526-005
WARDEN OF FOLKSTON ICE PROCESSING	)	
CENTER, in their official capacity; KRISTEN	)	
SULLIVAN, in her official capacity as Acting	)	
Field Office Director of the Immigration and	)	
Customs Enforcement, Enforcement and Removal	)	
Operations Atlanta Field Office; KRISTI NOEM,	)	
in her official capacity as Secretary of the	)	
Department of Homeland Security; and PAMELA	)	
BONDI, in her official capacity as Attorney	)	
General of the United States,	)	
	)	
Respondents.	)	
_____	)	

INTRODUCTION

1. This case challenges the unlawful detention of Ruslan Kalinin (“Petitioner” or “Mr. Kalinin”), who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at Folkston ICE Processing Center. Petitioner is neither a flight risk nor a danger to the community. But on or about November 19, 2025, ICE re-detained him without notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules.

2. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously released Petitioner from ICE detention under an order of supervision dated

July 3, 2019. Since then, Petitioner has fully abided by the order's terms, including attending regularly scheduled check-ins with ICE until this re-detention.

3. Ruslan Kalinin, now 39, was brought to the United States by his parents when he was four. Other than a brief trip (by car) to Alaska, he has resided in the United States since that time. While Ruslan was born in the former Soviet Union, he is not recognized as a citizen of Russia or any other nation. He has no passport, either in the U.S. or from Russia; the then Soviet Union did not issue passport to anyone under the age of 14.

4. Mr. Kalinin was previously ordered removed by an immigration court on October 23, 2018. Mr. Kalinin was detained by ICE at that time and ICE made attempts to effectuate that order of removal but were unsuccessful. Ultimately, after 90 days in detention, ICE released him from physical custody since there was a logistical and legal impossibility to effectuate his actual physical removal, and since he was neither a flight risk nor a danger to the community. He was placed on an order of supervision with ICE. On information and belief, except for a couple of appointments during and due to the pandemic, Ruslan did not miss his annual check-in appointments.

5. Ruslan abided by the obligations of the order of supervision to go to these appointments until he was taken into custody at one of these appointments on November 19, 2025. Respondents-Defendants suddenly effectively revoked Petitioner's order of supervision, though they have never presented him with any notice of such revocation, and arrested him. Petitioner has been detained at Folkston ICE Processing Center since that time.

6. At the time of his re-detention, he lived with his wife, Felicia, and daughter, Z  in Conway, South Carolina and worked as a sidewall installer. To vindicate Petitioner's

statutory and constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

7. Absent an order from this Court, Petitioner is likely to remain in custody indefinitely unless ICE authorities can succeed in any attempts to repatriate him to Russia or another country, none of which he is a national or citizen of and to which he has no ties. Petitioner asks this Court to find that Mr. Kalinin is being unjustly detained and order him released to his family.

8. Mr. Kalinin was born in and is originally from the former Soviet Union (now Russia). The United States does not have any agreement with Russia regarding the removal of individuals to Russia, as it has with other third countries with which Mr. Kalinin has no connection, familiarity, or common language. Petitioner is legally considered stateless, because his country no longer exists, and because he is not recognized as a citizen of Russia or any independent state that formed after the fall of the Soviet Union. DHS previously determined that it will not remove Petitioner at least until ICE is able to obtain documents allowing his travel to Russia, which is unlikely at all. Previous attempts to obtain such documents have been unsuccessful. Absent an order from this Court, Petitioner will likely remain detained for many more months, if not years, or for a time that is indefinite.

9. Petitioner asks this Court to find that Mr. Kalinin's prolonged detention, awaiting travel documents to Russia which will most likely not be issued, would be unreasonable; under the circumstances especially given that he has been in ICE's physical or effective detention for over 5 years through the order of supervision since 2019, his current detention is equally unreasonable, and to order his immediate release.

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

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

JURISDICTION

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

14. 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. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2), (e)(1) because Mr. Kalinin is, as of the date of this petition, detained in this district, at the Folkston ICE Processing Center, where a substantial part of the events or omissions giving rise, to this action occurred and continue to occur.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief.

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).

17. 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 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).

PARTIES

18. Mr. Kalinin is not a citizen of any country but is currently detained at Folkston ICE Processing Center. He is in the custody, and under the direct control, of Respondents and their agents.

19. The Warden of Folkston ICE Processing Center, which is operated by GEO Group, Inc., is Mr. Kalinin’s immediate custodian. The Warden is sued in their official capacity.

20. Respondent Kristen Sullivan is sued in her official capacity as the Acting Director of the Atlanta Field Office of ICE. In this capacity, she has responsibility for and authority over the detention and removal of noncitizens detained at Folkston and is authorized to release Mr. Kalinin. She is an immediate and legal custodian of Mr. Kalinin.

21. Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security (DHS). DHS is responsible for the administration and enforcement of the immigration laws, and the Secretary has supervisory responsibility and authority over the detention of Mr. Kalinin and removal of noncitizens throughout the United States. ICE is a subdivision of DHS, and the Secretary is a legal custodian of Mr. Kalinin.

22. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Attorney General is the head of the Department of Justice, which encompasses the Board of Immigration Appeals (BIA) and the IJs as subunits of the Executive Office of Immigration Review (EOIR). The Attorney General supervises IJs, including those who preside over the Atlanta Immigration Court, which hear cases from the Folkston Ice Processing Center, is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

23. Petitioner is 39 years old and resides in the United States; he is not a citizen of any country. Mr. Kalinin was brought to the United States by his parents at the age of 4. He was considered a refugee at the time of his arrival. He later obtained legal permanent residency in the United States. He has four U.S. citizen children from a first marriage. Mr. Kalinin remarried and his wife and daughter were both born in the United States and thus are both citizens of the United States. Ex. 1. Until he was arrested and then taken into custody by ICE on November 19, 2025; he lived with his wife, Felicia, and daughter, Z [REDACTED] in Conway, South Carolina and worked as a sidewall installer.

24. On information and belief, Mr. Kalinin pled guilty to a drug charge in Nebraska state court in or around 2016; upon his release from prison in 2019, ICE took him into custody. During his prison sentence, DHS issued a Notice to Appear (NTA) before the immigration court; at the conclusion of Immigration Court proceeding and while still in state custody, on October 23, 2018, the IJ issued a final Order of Removal to Russia. Ex. 2, IJ Order. On information and

belief, Mr. Kalinin was physically released from state custody on April 4, 2019. Mr. Kalinin was held in ICE custody for 90 days while it tried (unsuccessfully) to arrange for travel documents and a passport that would permit his removal to Russia. At the end of his 90-day detention, he was issued an Order of Supervision which required (among other things) that Mr. Kalinin check in with ICE at least annually, which he did. Ex. 3, OSUP.

25. Although the OSUP includes a number of restrictions, it was presumably entered only after ICE made determinations that Mr. Kalinin was neither a danger to the community nor a flight risk. *See* 8 CFR § 241.4(e). Both of these are true, and ICE has never indicated to the contrary.

26. On May 22, 2025, ICE directed Mr. Kalinin to check in with ICE on November 19, 2025, six months after his last check-in. Ex. 4, Notification. At the November 19, 2025, check-in, ICE detained Mr. Kalinin. He was initially transported to the Charlotte ICE Field Office; he was then transferred to Folkston, where he remains to this day.

27. Mr. Kalinin has never been told why he was re-detained, has never received a warrant to be taken into custody, has never been offered any hearing, and has never been given any notice of revocation of his prior status, although an ICE officer commented they might now be more successful in sending him to Russia, presumably by obtaining Russia travel documents. Mr. Kalinin has also been told by officers in detention that ICE is aware that he cannot be deported.

28. Since the OSUP was issued in 2019, Mr. Kalinin has attempted to write the Russian Consulate, inquiring as to whether he could obtain a passport. An example of one of Mr. Kalinin's emails to the Russian Consulate is attached as Exhibit 5; Mr. Kalinin has received no response to any of these inquiries.

29. Since being detained in Folkston, Mr. Kalinin was given a document in Russian that might have been an application for travel documents to Russia, but the document was not translated to him. Mr. Kalinin was told that this document was an application for a passport, but Mr. Kalinin does not read Russian, so could not confirm what it was or do anything with this document. The officer took back the document and told Mr. Kalinin not to worry about it.

30. When Mr. Kalinin reported for his ICE check-in and was re-detained, presumably his OSUP was effectively revoked. Contrary to ICE's own regulations, 8 C.F.R. 241.4, and specifically sub-sections (g), (h), (i), (l), however, Mr. Kalinin was neither given any notice of any revocation of the OSUP nor did anyone explain why it was revoked or why he was being detained. No one explained anything about any efforts to deport Mr. Kalinin, or why he was being taken into custody, or any country (other than Russia, inferentially) to which ICE or DHS was trying to or might deport him. See, e.g., *Kong v. United States*, 62 F.4th 608, 619-20 (1st Cir. 2023); *Roble v Bondi*, ___ F.Supp. 3d ___, 2025 WL 2443453, *6 (D. Minn. August 25, 2025). These failures violate Mr. Kalinin's due process rights. *Id.*

LEGAL FRAMEWORK

31. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." 28 U.S.C. § 2243 (emphasis added).

Due Process Governs Decisions to Revoke an Order of Supervision

32. The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified).

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

34. “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

35. This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious.”). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

36. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is

judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court's final order"; or "[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from [physical] detention or confinement."

37. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that "the statute, read in light of the Constitution's demands, limits [a noncitizen's] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

38. In determining the reasonableness of detention, the Supreme Court recognized that, if a person has been detained for longer than six months following the initiation of their removal period, their detention is presumptively unreasonable unless deportation is reasonably foreseeable; otherwise, it violates that noncitizen's due process right to liberty. 533 U.S. at 701. In this circumstance, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

39. The Court's ruling in *Zadvydas* is rooted in due process's requirement that there be "adequate procedural protections" to ensure that the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533

U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification. Neither potential justification for Mr. Kalinin’s continued detention applies.

40. The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

41. Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [noncitizen’s] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

42. At a minimum, detention is unconstitutional and not authorized by statute when it exceeds six months and deportation is not reasonably foreseeable. *See Zadvydas*, 533 U.S. at 701 (stating that “Congress previously doubted the constitutionality of detention for more than six months” and, therefore, requiring the opportunity for release when deportation is not reasonably foreseeable and detention exceeds six months); *see also Clark v. Martinez*, 543 U.S. 371, 386 (2005).

Statute and Regulation Govern Procedures for Revoking an Order of Supervision

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

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

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

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

period only if person is a risk to the community, unlikely to comply with the order of removal, or was ordered removed on specified grounds).

47. 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).

The APA Sets Minimum Standards for Final Agency Action

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

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

50. ICE’s revocation of an order of supervision (effectively done in Mr. Kalinin’s case) is a final agency action subject to this Court’s review.

51. The revocation here marked the consummation of ICE’s decisionmaking process regarding Petitioner’s custody.

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

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

53. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation

proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

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

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

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Substantive Due Process

56. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

57. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

58. Petitioner has either been detained or his liberty severely restricted while on an order of supervision by Respondents since his release from state custody. Over six years of actual and constructive detention has taken place *after* his removal period began. *See Jones v. Cunningham*, 371 U.S. 236 (1963).

59. Petitioner's October 23rd, 2018 removal order became administratively final, 30 days after that date, on November 24, 2018. The 90 day removal period presumably began on that day and thus lapsed on or around February 22, 2019.

60. Petitioners' continued detention is not likely to end in the reasonably foreseeable future. The United States has no publicly known cooperating agreement or understanding with Russia, especially regarding stateless people like Mr. Kalinin. Because he is stateless and not eligible for a passport or travel document, Mr. Kalinin's removal to Russia (or any other country) is simply not reasonably foreseeable. Where, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal and thus violates due process. *See Zadvydas*, 533 U.S. at 690, 699–700.

61. For these reasons, Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

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

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

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

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

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

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

COUNT THREE
Violation of 8 U.S.C. § 1231(a)

68. Petitioner re-alleges and incorporates by reference the paragraphs above as though fully set forth herein.

69. The Immigration and Nationality Act at 8 U.S.C. § 1231(a) authorizes detention "beyond the removal period" only for the purpose of effectuating removal. 8 U.S.C. § 1231(a)(6); *see also Zadvydas*, 533 U.S. at 699 ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute."). Because Petitioner's removal is not reasonably foreseeable, his detention does not effectuate the purpose of the statute and is accordingly not authorized by § 1231(a).

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

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

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

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

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

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

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

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

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

78. Respondents did not give Petitioner any notice of the reasons for revocation or any opportunity to be heard.

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

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

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

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

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

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

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

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

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

87. Second, Respondents failed to consider the increased administrative burden to the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk nor a danger to the community and for whom the agency does not have travel documents needed to

effectuate removal, including financial and administrative costs incurred by the agency due to unnecessary detention.

88. Third, Respondents failed to consider reasonable alternatives to revoking Petitioner's order of supervision that were before the agency, like simply continuing release under the order of supervision and scheduling a future time and date to appear for removal. ICE could also start attempts to obtain a travel document and/or find a third country willing to accept him for removal, without requiring that Mr. Kalinin be detained. This alternative would vindicate the government's interests in effectuating a removal order and save it the expense of detention not needed to guarantee Petitioner's appearance.

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

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

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

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

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

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

94. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, if removal “is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

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

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

COUNT SEVEN
Ultra Vires Action

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

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

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

COUNT EIGHT
Violation of the *Accardi* Doctrine

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

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

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

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

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

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner’s removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

- (3) Declare that Petitioner's ongoing prolonged detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a), the INA and implementing regulations, the APA, and the *Accardi* doctrine;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Dated this 2nd day of January, 2026.

Respectfully submitted,

/s/ Joseph H. Huff

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Counsel for Petitioner

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

I represent Petitioner, Ruslan Kalinin, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 2nd day of January, 2026.

/s/ Joseph H. Huff

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