UNITED STATES DISTRICT COURT
FOR MINNESOTA

GLORIA BRONOLA, as next friend of SOMVANG PHRACHANSIRY,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; TODD M. LYONS, in his official capacity as Director of Immigration and Customs Enforcement, DAVID EASTERWOOD, in his official capacity as Field Office Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement; ERIC TOLLEFSON, in his official capacity as SHERIFF, Kandiyohi County; U.S. DEPARTMENT OF HOMELAND SECURITY; and U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT,

Respondents.

Case No. 26-cv-37-PJS/EMB

Verified Petition for Writ of Habeas Corpus

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MINNEAPOLIS, MINNESOTA

INTRODUCTION

1. This is a petition for a writ of habeas corpus filed pro se on behalf of Somvang Phrachansiry, from hereon after Petitioner, seeking relief to remedy his unlawful detention by Respondents, pursuant to 28 U.S.C. § 2241. This petition is being filed by Gloria Bronola, the Petitioner's domestic partner, as next of friend. Ms. Bronola has "next friend" standing to bring this action under § 2241 because Petitioner is detained and without access to counsel or the ability to receive or send mail or sign documents. As his domestic partner of approximately 20 years and mother of two of his U.S. Citizen children, Ms. Bronola is dedicated to act in the Petitioner's best

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interests. *See, e.g., Ross ex rel. Dunham v. Lantz*, 408 F.3d 121, 123 (2d Cir. 2005) ("First, a 'next friend' must provide an adequate explanation … why the real party in interest cannot appear on his/her own behalf to prosecute the action. Second, the 'next friend' must be truly dedicated to the best interests of the person on whose behalf he seeks to litigate[.]").

2. This case challenges the unlawful detention of Petitioner, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Kandiyohi County Jail. For over 24 years, Petitioner has been compliant with an Order of Supervision issued to him by ICE on November 1, 2001. But on December 10, 2025—days before his next scheduled ICE check-in appointment on December 12, 2025, ICE abruptly detained him outside his workplace 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.

3. Ms. Bronola is acting as Petitioner's next friend because ICE may move Petitioner out of this Court's jurisdiction at any moment, and the delays—possibly spanning several weeks—occasioned by sending a finalized habeas corpus petition, receiving Petitioner's signature, and having Petitioner send an original signed copy to the Court could render the relief he is seeking illusory.

4. Respondents' 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.

5. Several courts in Minnesota have ordered release based on very similar facts. Please see attached Exhibits.

6. Petitioner brings this action to seek immediate release from this unlawful custody.

PARTIES

7. Petitioner, Mr. Phrachansiry has lived in the United States for 47 years—nearly five decades—after having been admitted to the country as a refugee from Laos in or around 1979. Prior to Petitioner's detention on December 10, 2025, he was residing in St. Cloud, Minnesota. Petitioner is currently detained at the Kandiyohi County Jail.

8. Respondent Kristi Noem is the Secretary of Homeland Security and is ultimately responsible for setting policy and directs the officers of all of the Department of Homeland Security including the custody and revocation decisions that includes the Petitioner's custody. .

9. Respondent Todd Lyons, is the Director of Immigration and Customs Enforcement and is responsible for the custody and revocation decisions of the Agency including for the Petitioner..

10. Respondent David Easterwood is sued in his official capacity as the ICE Field Office Director for St. Paul, Minnesota, whose jurisdiction covers the Kandiyohi County Jail.. Upon information and belief, he, or an unknown subordinate, decided to revoke Petitioner's order of supervision.

11. Respondent Eric Tollefson is sued in his official capacity as Sheriff of Kandiyohi County. Respondent Tollefson has supervisory control over Kandiyohi County Jail in Willmar, Minneosta, where Petitioner is currently detained.

12. Respondent U.S. Department of Homeland Security ("DHS") is a federal agency headquartered in Washington, D.C. and the parent agency of ICE.

13. Respondent ICE is a component agency of DHS.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition 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.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

15. Venue is proper in this district because Respondent Sherrif Tollefson is Petitioner's immediate custodian and under 28 U.S.C. § 1391(e)(1) because Respondents are officers of United States agencies, Petitioner currently resides within this District, and there is no real property involved in this action.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

16. Petitioner is 63 years old and came to the United States from Laos about forty-seven years ago as a refugee. Petitioner has resided in the United States continuously since then.

17. Petitioner has four U.S. citizen children, all of whom are resident in Minnesota, a U.S. Citizen partner, and strong family and community ties to the area.

18. Petitioner has been steadily employed as an assembly technician at the New Flyer Bus Company for approximately twenty years, since 2006 or 2007.

19. Given Petitioner's long history of gainful employment and payment of taxes, he is only several years shy of qualifying for full Social Security retirement benefits.

20. In 1998, approximately 28 years ago, Petitioner was convicted of a serious criminal offense—three counts of criminal sexual conduct in the third degree, in violation of Minn. Stat. § 609.344. Petitioner finished his sentence for that offense in 2001. While serving his state sentence, Petitioner was placed into removal proceedings at the Fort Snelling Immigration Court, and, ultimately, ordered removed on May 23, 2001.

21. Petitioner was not, however, removed from the United States. Instead, on November 1, 2001, ICE released Petitioner on an order of supervision. He was released because Laos was not taking deportees and so there was no significant likelihood of removal in the foreseeable future. Over the last twenty-four (24) years, Petitioner has complied with all conditions of the order, including periodic check-ins with ICE. Since the order of supervision was issued, Petitioner has completed these ICE check-ins approximately sixty-two (62) times.

22. Petitioner was convicted of another offense (Minn. Stat. § 609.22(1)) in 2016 relating to an altercation with a neighbor. He completed several months of work-release as a result. Upon information and belief, ICE did not modify his order of supervision, change his check-in schedule, or find him to be non-compliant as a result of this incident. Over the last ten years, no circumstances have changed that could lead to any conclusion that Petitioner was a flight risk or danger to the community.

23. Petitioner, a man of advanced age, suffers from chronic medical conditions, including hypertension and vertigo, for which he receives regular medication. Upon information and belief, ICE did not consider his medical conditions in evaluating whether to abruptly revoke his order of supervision and take him into custody.

24. Petitioner's last scheduled ICE check-in was on July 18, 2025. Petitioner attended this check-in, confirmed that he was in compliance, and was not told to take any other actions, such as apply for a travel document, nor was he informed that his removal or detention was likely or foreseeable. This was the same treatment that he received in prior years, including 2022, 2023, and 2024.

25. Nevertheless, on December 10, 2025, outside his place of work, ICE suddenly revoked Petitioner's order of supervision and arrested him.

26. Upon information and belief, the official responsible for revoking Petitioner's order of supervision did not first refer the case to the ICE Executive Associate Director, did not make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director, and had not been delegated authority to revoke an order of supervision.

27. Upon arrest, ICE transferred Petitioner to the Kandiyohi County Jail, where he is currently detained.

28. Upon information and belief, at no time following Petitioner's arrest did ICE explain why it revoked Petitioner's order of supervision or give him/her an opportunity to respond to those reasons.

29. Upon information and belief, at the time ICE revoked Petitioner's order of supervision, the agency had not secured travel documents necessary for removal from the United States.

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision

30. Please see the attached cases for a better explanation of my claims.

31. "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). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001).

32. Under substantive due process doctrine, a restraint on liberty like 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).

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

Statute and Regulation Govern Procedures for Revoking an Order of Supervision

34. See the attached orders that explain the regulations that govern. See exhibits.

35. 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) (titled "Supervision after 90-day period").

36. 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).

37. 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.

38. Regulations interpreting § 1231(a)(6), provide guidance on when and why a person's order of supervision may be revoked and a non-citizen may be re-detained. There are two different regulations, 8 C.F.R. § 241.4(l) and 8 C.F.R. § 241.13(i). These regulations apply in different circumstances. If a person was released on an order of supervision because there was no significant likelihood of removal in the foreseeable future, then the provisions under 8 CFR § 241.13(i) apply. § 241.13(i) ((1) permitting revocation of an order of supervision only if a non-citizen "violates any of the conditions of release" and (2) based on changed circumstances that would allow for removal, though ICE bears the burden to show such circumstances.).

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

40. 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, and an opportunity to provide evidence and documents contesting the reasons. 8 C.F.R. § 241.13(i)(3).

The APA Sets Minimum Standards for Final Agency Action

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

42. ICE's revocation of an order of supervision is a final agency action subject to this Court's review.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

43. Agencies must follow their own procedures, rules and that includes published regulations. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

44. 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's failure to follow that instruction is an *Accardi* violation. *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 the Fifth Amendment of the U.S. Constitution
Substantive Due Process

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

46. When ICE issued Petitioner an order of supervision, it found that he is neither a danger to the community nor a flight risk.

47. When Respondents revoked the order of supervision, Petitioner had complied with every condition of the order and ICE had not secured necessary travel documents for removal. No change in circumstances warranted the order's revocation.

48. Petitioner's detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

49. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision, Petitioner's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

Count Two
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

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

51. *Mathews v. Eldirdge*, 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.

52. 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.

53. 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.

54. 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 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.

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

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

57. 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).

58. 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).

59. 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.

60. 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.

61. 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.

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

63. 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.

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

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

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

67. 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).

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

69. 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).

70. 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 not violated a condition of his order of supervision—at least since 2016—and no new facts or changed circumstances suggest he would.

71. 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).

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

73. 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.

74. 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. 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.

75. 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 once it obtained travel documents.

76. 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 Five
Violation of the *Accardi* Doctrine

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

78. 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").

79. 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 where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

80. 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.

81. 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 requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;

d. Order Petitioner's immediate release;

e. Award Petitioner costs and reasonable attorneys' fees; and

f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

January 5, 2026
Minneapolis, MN

Gloria Bronola
[redacted]@yahoo.com

Next Friend on behalf of Petitioner Somvang Phrachansiry

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

I am submitting this verification on behalf of Somvang Phaachansiry because his current detention makes him unable to submit one on his own behalf in a timely fashion when his removal from this Court's jurisdiction may be imminent. I am Somvang Pharchansiry's domestic partner of approximately twenty years and the mother of two of his children. On information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 5, 2026
Minneapolis, MN

Respectfully submitted,

Gloria Bronola

[redacted]

Next Friend on behalf of Petitioner Somvang Phrachansiry