

3. But at a regularly scheduled check-in with ICE on June 10, 2025, Respondents suddenly revoked Petitioner's order of supervision and arrested him. Petitioner has been detained at Butler County Jail since then.

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

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

PARTIES

6. Petitioner, Mr. Ruslan Ivanov, has lived in the United States for over three years. Prior to Petitioner's detention on or about June 9, 2025, he was residing in Dayton, Ohio. Petitioner is currently detained at the Butler County Jail, located in Hamilton, Ohio.

7. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner.

8. Respondent Kevin Raycraft is sued in his official capacity as the ICE Acting Field Office Director for Detroit, Michigan, which includes the Butler County Jail. As such, Mr. Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal.

9. Respondent Richard K. Jones is sued in his official capacity as Sheriff of the Butler County Sheriff's Office, and administrator of the Butler County Jail, where Petitioner is currently

detained. As such, Mr. Jones is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal.

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

11. Respondent ICE is a component agency of DHS.

JURISDICTION AND VENUE

12. 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.*

13. Venue is proper in this district because Respondent Sheriff Richard K. Jones 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

14. Petitioner is a 27-year-old citizen of Russia who has resided in the United States for over three years. Petitioner married his U.S. citizen spouse on November 21, 2024, and was residing with her in Loveland, Ohio prior to his detention.

15. On June 4, 2022, Petitioner entered the United States to seek asylum from persecution in Russia. He was apprehended by immigration officials at the southern border and placed in ICE custody. On June 10, 2022, the Department of Homeland Security ("DHS") issued Petitioner an Order of Expedited Removal. *See* Exhibit A, Order of Expedited Removal, June 10, 2022.

16. Petitioner expressed a fear of returning to Russia, and on June 21, 2022, a USCIS asylum officer conducted a Credible Fear Interview (“CFI”). Although the officer found Petitioner credible, the officer concluded that Petitioner did not establish a credible fear of persecution. Petitioner requested review of that determination by an Immigration Judge (“IJ”) pursuant to 8 U.S.C. § 1225(b)(1)(B)(iii)(III) and 8 C.F.R. § 208.30(g).

17. On July 5, 2022, Petitioner appeared before an IJ at the Stewart Immigration Court. The IJ affirmed the negative CFI determination and returned the case to DHS for removal. *See Exhibit B, Order of the IJ, July 5, 2022.*

18. Petitioner remained in ICE custody until December 18, 2022, when he was paroled from ICE custody pursuant to 8 U.S.C. § 1182(d)(5)(A) after ICE was unable to effectuate his removal to Russia within 90-day period prescribed by 8 U.S.C. § 1231(a)(1). *See Exhibit C, Interim Notice Authorizing Parole, Dec. 18, 2022.* Upon release, Petitioner was placed under an Order of Supervision (“OSUP”). *See Exhibit K, ICE Form I-830E, Dec. 18, 2022.*

19. Since then, Petitioner has complied with all conditions of the order, including annual in-person check-ins with ICE. *See Exhibit D, OSUP Report Record.* No circumstances changed that would render Petitioner a flight risk or danger to the community. On the contrary, his community ties have strengthened since 2022, as he is now married to a U.S. citizen and the couple are attempting to start a family.


20. But at a regularly scheduled ICE check-in on June 9, 2025, ICE suddenly revoked Petitioner’s OSUP and arrested him. He was then transferred to ICE custody at Butler County Jail.

21. 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.

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

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

24. Petitioner's U.S. citizen wife, Komila Jumabaeva, has been in constant communication with his Deportation Officer, Richard L. Tiruchelvam ("Officer Tiruchelvam), of ICE's Detroit Field Office, in order to comply with Petitioner's obligation to assist in obtaining a travel document. In an email dated August 4, 2025, Ms. Jumabaeva pleaded for reconsideration of Petitioner's removal to Russia, citing his vulnerability  and inquired whether it was possible to remove Petitioner to Turkey instead, where his father resides. *See* Exhibit E, Email Exchange #1 Between Petitioner's Spouse and DO, Aug. 4 to Aug. 19, 2025. She also noted that ICE had lost Petitioner's original Russian passport and requested the officer's assistance in locating it. *Id.*

25. On August 5, 2025, Officer Tiruchelvam advised Ms. Jumabaeva that ICE would not be releasing Petitioner from detention at this time. He also inquired to Ms. Jumabaeva whether Türkiye would issue a travel document. *Id.* Ms. Jumabaeva responded that same day, explaining that Turkish authorities required Petitioner's original documents to issue any official paperwork or permit his entry. She reiterated her request for assistance in locating his missing Russian passport. *Id.*

26. Over the following weeks, Ms. Jumabaeva provided copies of Petitioner's Russian passports, expired Turkish residence permit, and birth certificate, and coordinated with the Turkish Consulate and Embassy in an attempt to facilitate issuance of a travel document. *See* Exhibit E; Exhibit F, Email Exchange #2 Between Petitioner's Spouse and DO, Aug. 26 to Sept. 17, 2025.

27. On or about September 4, 2025, ICE conducted Petitioner's 90-day custody review pursuant to 8 C.F.R. § 241.4. On September 10, 2025, ICE determined that Petitioner would remain in custody, stating: "ICE is in receipt of or expects to receive the necessary travel documents to effectuate [Petitioner's] removal, and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest." The stated basis for continued detention was: "Your removal from the United States is imminent." *See* Exhibit G, ICE Decision to Continue Detention, Sept. 10, 2025.

28. On September 24, 2025, Officer Tiruchelvam informed Ms. Jumabaeva that the 90-day custody review had been completed and that the Field Office Director had decided to continue detention while efforts to obtain a travel document proceeded. Ms. Jumabaeva again requested Petitioner's release under supervision, citing his deteriorating health and lack of flight risk due to the absence of a passport. *See* Exhibit H, Email Exchange #3 Between Petitioner's Spouse and DO, Sept. 24 to Oct. 1, 2025.

29. On October 31, 2025, Ms. Jumabaeva reported that the Turkish Embassy in Washington, D.C. had agreed to issue a travel document, contingent upon ICE confirming that Petitioner would depart voluntarily and not under "deportation." Officer Tiruchelvam responded that ICE would process the removal as a deportation internally, though no deportation forms would be presented to Turkish officials. *See* Exhibit I, Email Exchange #4 Between Petitioner's Spouse and DO, Oct. 31 to Nov. 5, 2025.

30. On December 16, 2025, Counsel for Petitioner contacted Officer Tiruchelvam to confirm whether ICE conducted Peitioner’s 180-day custody review and whether ICE intended to release him. See Exhibit J, Email Exchange Between Counsel and DO, Dec. 16 to Dec. 24, 2025. Counsel also noted that Petitioner had been detained for over 180 days and cited *Zadvydas v. Davis*, 533 U.S. 678 (2001), which prohibits continued detention beyond six months unless removal is significantly likely in the reasonably foreseeable future. Counsel warned that if ICE did not release Petitioner following his 180-day post-order custody review, counsel intended to file a habeas petition to secure Petitioner’s release.

31. On December 17, 2025, Officer Tiruchelvam informed Counsel that Türkiye had declined to issue a travel document and that ICE had redirected efforts to the Russian Federation, where Petitioner’s travel document request was under review. He stated that ICE anticipated receiving a travel document “soon.” *Id.* Officer Tiruchelvam also asserted that Petitioner was not eligible for regular custody review due to his expedited removal order under INA § 235—a position that contradicts ICE’s own 90-day custody review conducted on September 10, 2025. See Exhibit G, ICE Decision to Continue Detention, Sept. 10, 2025.

32. On December 24, 2025, Counsel responded, reiterating that in light of Türkiye’s refusal and the absence of any documentation from the Russian Embassy indicating imminent removal, Petitioner’s continued detention raises serious constitutional concerns under *Zadvydas* and *Clark v. Martinez*, 543 U.S. 371 (2005). *Id.*

33. No further communication has been received from ICE or ERO since Counsel’s last email on December 24, 2025. To date, ICE has not provided documentation from the Russian Embassy indicating imminent issuance of a travel document, nor has it confirmed whether a 180-day custody review was ever completed.

34. Petitioner has now been detained for 210 days. Despite ICE’s assertion on September 10, 2025, that removal was “imminent,” more than 117 days have passed without any demonstrable progress. Over three years have elapsed since Petitioner was ordered removed, and despite his family’s sustained and good-faith efforts to secure travel documentation from Türkiye—including direct engagement with consular officials—Petitioner remains in the same legal and custodial posture as he did on December 18, 2022, when ICE released him under an Order of Supervision due to its inability to execute the removal within the statutory timeframe.

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision

35. “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).

36. 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).

37. “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

38. 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”).

39. 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).

40. 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.

41. 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).

42. 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).

43. 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

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

45. 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).

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

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

48. 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

49. 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.”).

50. *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).

51. 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

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

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

54. 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.

55. 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.

56. 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.

57.

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

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

59. *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.

60. 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.

61. 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.

62. 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.

63. 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

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

65. 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).

66. 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).

67. 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.

68. 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.

69. 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.

70. 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.

71. 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.

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

73. 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

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

75. 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).

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

77. 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).

78. 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.

79. 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).

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

81. 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.

82. 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.

83. 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 Administrative Procedure Act, 5 U.S.C. § 706(2)(C)
In Excess of Statutory Authority

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

85. 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).

86. "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).

87. 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.

88. 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)

89. Respondents’ 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 Six
Ultra Vires Action**

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

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

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

**Count Seven
Violation of the *Accardi* Doctrine**

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

94. 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”).

95. 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).

96. Under *Accardi*, Respondents' revocation of the order of supervision should be set aside for violating agency procedures, rules, or instructions.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

1. Exercise jurisdiction over this matter;
2. Pursuant to 28 U.S.C. § 2243, issue an order directing Respondents to show cause within three days why the writ should not be granted;
3. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
4. 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;
5. Order Petitioner's immediate release;
6. Award Petitioner costs and reasonable attorneys' fees; and
7. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

/s/ Maya Lugasy

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Attorney for Petitioner

DATED: January 6, 2026

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: January 6, 2026

/s/ Maya Lugasy
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