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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JEFFREY MUCHACHE NYAMWEYA Petitioner v. CHRISTOPHER J. LAROSE, Senior Warden, Otay Mesa Detention Center; DANIEL A. BRIGHTMAN, San Diego Field Office Director,U.S. Immigration & Customs Enforcement (ICE); TODD LYONS, Acting Director U.S. ICE; KRISTI NOEM, U.S. Secretary of Homeland Security PAMELA BONDI, Attorney General of the United States Respondents.	Case No. '26CV0275 TWR SBC Agency No. [redacted] **PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

1. Petitioner, Jeffrey Muchache Nyameya, by and through his undersigned counsel, hereby files this Petition for Writ of Habeas Corpus to compel his immediate release because his re-detention is a violation of this Court's December 10, 2025, Order enjoining Respondent's from re-detaining Petitioner absent changed circumstances creating a reasonable likelihood of Petitioner's removal in the reasonably foreseeable future. *See Nyamweya v. LaRose, 3:*25-cv-3094-BJC-VET (S.D. Cal. December 10, 2025).

2. Further, Respondents seek to remove Mr. Nyamweya to Cameroon without any opportunity to apply for humanitarian-based protection from removal to that country, even though the immigration laws and due process require otherwise.

3. On July 23, 2008, Petitioner was granted Withholding of Removal and Withholding under the Convention Against Torture to Kenya. When he granted Withholding, the immigration judge entered an alternative order of removal to "such country, other than Kenya, as may be legally permissible under section 241 of the Act." On August 27, 2008, Petitioner was placed on an order of supervision. Despite his compliance with all the requirements of his order of supervision, Mr. Nyamweya was detained on November 4, 2025. On November 10, 2025, Mr. Nyamweya filed a Petition for writ of Habeas Corpus with this Court. *See Nyamweya v. LaRose, 3:*25-cv-3094-BJC-VET (S.D. Cal. December 10, 2025).

4. On December 10, 2025, this Court found his detention unlawful and enjoined the Respondents from re-detaining him "unless there has been a change in circumstances that creates a reasonable likelihood of his removal in the foreseeable future" *Id.*

5. On January 9, 2026, Mr. Nyamweya was instructed via phone to present himself to the San Diego ICE office on January 12, 2026. When he appeared, Respondents without advance notice, revoked Mr. Nyamweya's order of supervision and arrested him, merely naming a third country and stating that there are changed circumstances and that he can be "expeditiously removed." Mr. Nyamweya is being held at Otay Mesa Detention Center, in Otay Mesa, California.

6. While Respondents may not remove Mr. Nyamweya to Kenya, they may seek to remove him to another country. This prerogative, however, is not boundless. The Immigration and Nationality Act (INA) provides a hierarchal list of countries to which a person may be removed. In most cases, the INA commands that a person be removed to the place they choose, or some other country to which they have a close connection. *See* § 1231(b)(2). Only if removal to one of these countries is "impracticable, inadvisable, or impossible" may the Department of Homeland Security (DHS) remove a person to some other, third country—a country that is not designated in the removal order. *Id.* § 1231(b)(2)(E)(vii).

7. Respondents seek to remove Mr. Nyamweya to a third country. On January 12, 2026, ICE presented Mr. Nyamweya with a "Notice of Removal" to Cameroon, informing Mr. Nyamweya that they intend to remove him there. Mr. Nyamweya immediately expressed his fear of persecution if removed to Cameroon.

8. The INA, the Foreign Affairs Reform Restructuring Act of 1998 (FARRA), and their implementing regulations ensure that prior to any removal, Respondents must provide Mr. Nyamweya an opportunity to present a claim of fear of torture or persecution as to the third country. Specifically, pursuant to 8 U.S.C. § 1231(b)(3), Respondents may not remove persons who are more likely than not to face persecution if removed. And pursuant to the Convention Against Torture (CAT), which is codified as a statutory note to § 1231, Respondents may not remove persons to a country where they are likely to face torture.

9. The Due Process Clause of the Fifth Amendment also requires that, prior to a third country removal, Mr. Nyamweya receive meaningful notice and opportunity to access these mandatory statutory protections. As the Supreme Court recently held in *A.A.R.P. v. Trump*, this means a person "must receive notice" that "they are subject to removal" (here, to a third country), and such notice must be provided "within a reasonable time and in such a manner as will allow the[] [noncitizen] to actually seek . . . relief." 605 U.S. 91, 95 (2025) (per curiam) (quoting *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025)). Respondents have not provided any

meaningful notice or opportunity for Mr. Nyamweya to present a fear-based claim here. The written Notice of Removal to Cameroon provided no information as to when he would be removed nor any mechanism to raise his statutory rights for protections.

10. Accordingly, Mr. Nyamweya seeks an order that employs existing DHS screening mechanisms and requires Respondents (1) to inform him and counsel in writing of any planned removal to Cameroon (at least ten days prior to removal), (2) to provide a reasonable fear interview (RFI) given Mr. Nyamweya's expressed fear of removal, and (3) if the RFI is denied, to provide fifteen days to file a motion to reopen with the immigration court.

I. JURISDICTION

11. This court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the U.S. 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 (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 551 et seq.

12. The aid of this Court is further invoked under 28 U.S.C. §§ 2201-2, authorizing a declaratory judgment and any further necessary and proper relief.

II. VENUE

13. Venue is properly with this court because Respondent Warden LAROSE is Petitioners' immediate custodian at the Otay Mesa Detention Facility in Otay Mesa, California. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because the Defendants are all officers and agencies of the United States; the Plaintiff resides in this judicial district; and there is no real property involved in this action.

III. PARTIES

14. Petitioner JEFFREY MUCHACHE NYAMWEYA is a native and citizen of Kenya who has resided in the Southern District of California for 25 years and is currently detained by ICE at the Otay Mesa Detention Center.

15. Respondent CHRISTOPHER J. LAROSE is the warden of Otay Mesa Detention Center. Respondent LaRose oversees the day-to-day operations of Otay Mesa Detention Center and acts at the direction of Respondents FREDEN, LYONS, NOEM, AND BONDI. He is a custodian of the Petitioner and is named in this official capacity.

16. Respondent DANIEL A. BRIGHTMAN, is the San Diego Field Office Director of U.S. Immigration and Customs Enforcement (ICE), in San Diego California. ICE is the component of the Department of Homeland Security (DHS) which is responsible for detaining and removing noncitizens according to

immigration law and oversees custody determinations. Mr. Freden is named in his official capacity. In his official capacity, he is a legal custodian of the petitioner.

17. Respondent TODD LYONS is the Acting Director of ICE and is named in his official capacity. In his official capacity, he is a legal custodian of the petitioner.

18. Respondent KRISTI NOEM is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency of which ICE is a component part. DHS is responsible for the administration and enforcement of the Immigration and Nationality Act (INA) and all other laws pertaining to the immigration of noncitizens. In her capacity as Secretary of the DHS, Respondent NOEM has responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); see also 8 U.S.C. § 1103(a). Respondent NOEM is the ultimate legal custodian of Petitioner.

19. Respondent PAM BONDI is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this

responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals (BIA).

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

20. 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 OSC 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.

21. 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. Niola, 372 U.S. 391, 400 (1963).

22. Petitioner is "in custody" for the purpose of § 2241 because he was arrested and remains detained by the Respondents.

V. STATEMENT OF FACTS

23. Petitioner, Jeffrey Muchache Nyamweya, is a citizen of Kenya who has resided in the United States since 1999.

24. In 2007 Mr. Nyamweya was placed in removal proceedings. On July 23, 2008, the immigration judge granted his applications for withholding of

removal and CAT relief with regard to Kenya and entered an alternative order that Mr. Nyamweya be removed to "such country, other than Kenya, as may be legally permissible under section 241of the act-."

25. On August 27, 2008, Mr. Nyamweya was placed on an order of supervision. On November 4, 2025, his order of supervision was revoked and he was detained. On November 10, 2025, he filed a Petition For Writ Of Habeas Corpus with this Court, which found his detention unlawful and ordered his release. *See* 3:25-cv-03094-BJC-VET

26. On January 09, 2026, Mr. Nyamweya received a call from ICE requesting that he presents himself at the ICE office in San Diego on January 12, 2026, for an interview and to sign papers. Mr. Nyamweya complied. Upon arrival, ICE re-detained Mr. Nyamweya and issued him a Notice of revocation. The notice asserted "changed circumstances" in his case justified Mr. Nyamweya's re-detention and that he can be "expeditiously removed." Respondents also claimed that ICE intended to remove him to Cameroon and that Cameroon had accepted him. Without more, ICE's bare and self-serving recitation that Cameroon has allegedly accepted him cannot justify Mr. Nyamweya's re-detention. Respondents have failed to offer any specific information and have not secured the necessary paperwork to remove Mr. Nyamweya.

27. ICE has never explained the basis for the "changed circumstances" justifying his re-detention, other than to name a country of removal and merely state that ICE intends to remove him to Cameroon and that Cameroon has accepted him.

28. ICE questioned Mr. Nyamweya as to the reasons why his Order Of Supervision should not be revoked. Mr. Nyamweya advised that he was scheduled for colorectal surgery on February 24, 2026, with a pre-op on January 13, 2026. He also advised ICE that he had previously missed these medical procedures when ICE unlawfully detained him on November 4, 2025. Mr. Nyamweya also provided evidence to corroborate these medical procedures.

29. Upon information and belief, at the time ICE revoked Petitioner's order of supervision, other than stating that ICE intends to remove him to Cameroon, Respondents had not secured travel documents necessary for removal from the United States. Instead, Respondents stated that it may take up to three months before he could be removed. The notice does not indicate any specific change in circumstances that justified revoking his supervised release.

XII. LEGAL FRAMEWORK

Constitutional Due Process Requirements

30. The Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. amend. V. "The Due Process Clause protects 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).

31. "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). Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 423 (1979).

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. *Zadvydas v. Davis,* 533 U.S. 678, 690 (2001).

33. "Procedural due process imposes constraints on governmental decisions which deprive individuals of their liberty," like the decision to revoke a non-citizen's order of supervision. *Matthews v. Eldridge,* 424 U.S. 319, 332 (1976). "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.

34. In the context of re-detention for the purposes of removal, "the process that is due here is the allowance that [the petitioner] know and understand that the time has come [for his deportation], that he must organize his affairs, and that he do so by a date certain. That is what is due. That is the process required after a life lived among us." *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 (2nd Cir. July 30, 2019). Id. at *2. *See also*, *Chhoeun v. Marin*, 442 F.Supp. 3d 1233, 1246 (S.D. Cal. 2020)(ordering written notice of 14 days before class members could be re-detained to give them time to say goodbye to their families and wrap up their affairs).

Statute and Regulations Governing Procedures for Revoking an Order of Supervision

35. The 90-days after a non-citizen's removal order becomes administratively final is known as the "removal period." 8 U.S.C. § 1231(a)(1). If the non-citizen is not removed during this period, he "shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3).

36. A non-citizen many 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 based on certain specified grounds not applicable to this case. *Id.* § 1231(a)(6).

37. 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)]." *Zadvydas v. Davis,* 533 U.S. 678, 699-700 (2001). Such release "may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances[.]" *Id.*

The APA Sets Minimum Standards for Final Agency Action

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

39. Final agency actions are those (1) that "mark the consummation of the agency's decision-making process" and (2) "by which rights or obligations have been determined, or from which legal consequences will flow." *Bennet v. Spear*, 520 U.S. 154, 178 (1997)(citation modified).

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

41. The revocation here marked the consummation of ICE's decision-making process regarding Petitioner's custody.

42. The revocation was also an action by which rights or obligations have been determined or from which legal consequences flow because it led ICE to

detain Petitioner in violation of his rights under the Constitution, statute, and regulation.

The INA's Scheme for Determining the Country of Removal

43. Most noncitizens facing removal are placed into removal proceedings under 8 U.S.C. § 1229a. Typically, at the outset of such a removal proceeding, the parties or the immigration judge designates a country of removal. *See* Imm. Ct. Prac. Manual § 4.15(i). As relevant here, the INA "provides four consecutive removal commands" about where to remove a noncitizen. *Jama v. ICE,* 543 U.S. 335, 341 (2005).

44. First, in most cases, the noncitizen must be provided the opportunity to "designate one country to which the [noncitizen] wants to be removed." 8 U.S.C. § 1231(b)(2)(A)(i).

45. Second, if the noncitizen declines to designate a country—which often occurs where the noncitizen fears return to their country of origin—DHS then designates the "country of which the [noncitizen] is a subject, national, or citizen" for removal, as required by statute. *Id.* § 1231(B)(2)(D). The statute requires DHS to attempt removal to these countries before seeking alternatives. *See id. §* 1231(b)(1), (b)(2)(A), (D) (repeatedly instructing where DHS "shall" remove someone by order of priority).

46. Third, if DHS is unable to remove the individual to either the country of their designation or the country of which they are a subject, national, or citizen, then the government is required to remove them to any of the following options: (1) "[t]he country from which the [noncitizen] was admitted to the United States;" (2) "[t]he country in which is located the foreign port from which the [noncitizen] left for the United States or for a foreign territory contiguous to the United States;" (3) "[a] country in which the [noncitizen] resided before [they] entered the country from which [they] entered the United States;" (4) "[t]he country in which the [noncitizen] was born;" (5) "[t]he country that had sovereignty over the [noncitizen's] birthplace when the [noncitizen] was born;" or (6) "the country in which the [noncitizen's] birthplace is located when the [noncitizen] is ordered removed." *Id.* § 1231(b)(2)(E).

47. Finally, only where it is "impracticable, inadvisable, or impossible to remove the [noncitizen] to each country described" above may DHS seek removal to some other alternative country. *See id.* § 1231(b)(2)(E)(vii).

Withholding of Removal and the Convention Against Torture

48. U.S. immigration law affords noncitizens in the United States three forms of protection from persecution and/or torture: asylum, withholding of removal, and protection under the Convention Against Torture (CAT). Asylum typically provides full protection against deportation to any country. *See* 8 U.S.C. § 1158(c). This means the person cannot be deported not only to their country of

origin, but also any other country. Asylum also provide a host of other benefits, including a pathway to citizenship. Individuals who are not eligible for asylum, e.g., because they did not apply within one year of entering the country, See Id. § 1158(a)(2)(B), may qualify for withholding of removal, id. § 1231(b)(3)(A); *see also* 8 C.F.R. §§ 208.16, 1208.16. Withholding of removal is a "mandatory" protection that prohibits removal to a designated country where a noncitizen establishes that they are more likely than not to face persecution. *INS. v. Aguirre-Aguirre*, 526 U.S. 415, 419 (1999). Finally, pursuant to FARRA, Congress instructed that the U.S. government may not "expel, extradite, or otherwise effect the involuntary return of any person to a country in which there are substantial grounds for believing the person would be in danger of being subjected to torture." Pub. L. 105-277 Div. G, Title XXII, § 2242(a), 112 Stat. 2681, 2681–822 (1999) (codified as statutory note to § 1231). This mandate applies to all persons and contains no exceptions.

49. DHS has implemented withholding and CAT protections via regulation. *See* generally 8 C.F.R. §§ 208.16–208.18, 1208.16–1208.18.

50. Individuals can appeal the denial of an application for withholding of removal or CAT protection to the Board of Immigration Appeals (BIA) and later to the courts of appeals. *See* 8 U.S.C. § 1252(a); 8 C.F.R. §§ 208.31(e), 1208.31(e), (g)(2)(ii), 1240.15.

51. No matter where DHS seeks to remove a person, the INA's protections against removal to a country where a person may face persecution and FARRA's protections against removal to a country where a person may face torture apply.

52. Removals pursuant to § 1231(b) are "subject to paragraph (3)," which, as noted, provides the framework for withholding of removal. See 8 U.S.C. § 1231(b); *see also*, e.g., *Jama,* 543 U.S. at 348. 42. Similarly, FARRA and the regulations implementing CAT prohibit deportation to a country where the noncitizen will face torture. *See* FARRA § 2242(b); 8 C.F.R. §§ 208.16(c)–208.18, 1208.16(c)–1208.18.

53. On January 12, 2026, ICE gave Mr. Nyamweya a "Notice of Removal" to Cameroon. The notice contains no additional information regarding DHS's intention to remove Mr. Nyamweya to Cameroon, including an expected date of removal. The notice also contains no additional information of Mr. Nyamweya's right to seek protection from removal to Cameroon or how to seek that protection. *Id.*

54. After receiving the Notice, Mr. Nyamweya stated his fear of being removed to Cameroon. Since then, ICE has not provided Mr. Nyamweya with any additional information regarding its plans to remove him to Cameroon.

55. Respondents have not scheduled Mr. Nyamweya for a fear screening despite being aware of his fear of deportation.

XIII. CLAIMS FOR RELIEF
COUNT ONE
Violation of Fifth Amendment Right to Due Process

56. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

57. When Respondents revoked the order of supervision on January 12, 2026, ICE had not secured the necessary travel documents for removal, other than to name a third country of removal and that the targeted third country had accepted him. Respondents provided no supporting facts in the notice of revocation supporting a change of circumstances showing a likelihood of removal in the reasonably foreseeable future.

58. 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. Respondents have chosen to revoke Petitioner's release in an arbitrary manner, not based on a rational and individualized determination of whether he is a safety or flight risk.

59. 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. Where 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.

60. The Due Process Clause requires Respondents to provide Mr. Nyamweya meaningful notice and a meaningful opportunity to be heard regarding the statutory protections to which Mr. Nyamweya is entitled.

61. Respondents seek to remove Mr. Nyamweya to a third country without providing meaningful notice or a meaningful opportunity to seek protection under the mandatory provisions of 8 U.S.C. § 1231(b)(3) and FARRA's provisions with respect to CAT. Accordingly, Mr. Nyamweya's planned third country removal is unlawful.

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

62. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

63. Under the APA, a court "shall [...] hold unlawful [...] agency action" that is "not in accordance with law;" "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A),(B).

64. Respondent's 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.

65. Before revoking the order of supervision, Respondents did not make findings that Petitioner was unlikely to comply with a removal order, as required by statute.

66. The revocation of the Petitioner's order of supervision 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

67. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

68. 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).

69. Respondent's 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. In 17 years, Petitioner has never once violated a condition of his order of supervision and no new facts or changed circumstances suggest he would.

70. Respondents failed to consider reasonable alternatives to revoking Petitioner's order of supervision that were available to the agency. For example, simply continuing release under the order of supervision and scheduling a future

time and date to appear for removal. This alternative would satisfy the government's interests in effectuating a removal order.

71. By categorically revoking Petitioner's order of supervision and detaining him without consideration of his individualized facts and circumstances, Respondents have violated the APA.

72. For these and other reasons, Respondents' revocation of Petitioner's order of supervision and his categorical detention were 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)
Action in Excess of Statutory Authority

73. Petitioner incorporates the allegations in the paragraphs above as though fully set forth here.

74. 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).

75. "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).

76. 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 [8 U.S.C. § 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 (2001).

77. Regulations that purport to give Respondents authority to revoke an order of supervision on grounds other than those listed in 8 U.S.C. § 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. Nelson*, 321 F.Supp.3d 451, 463 (S.D.N.Y. 2018).

78. Respondents' revocation of Petitioner's order of supervision was based on ultra vires regulations. It was thus in excess of statutory authority and should be held unlawful and set aside.

Count V
Violation of the INA

79. Mr. Nyamweya repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

80. 8 U.S.C. § 1231(b)(3) prevents removal to a country where a noncitizen is more likely than not to face persecution. Notwithstanding this statutory mandate,

Respondents seek to remove Mr. Nyamweya to a third country without providing him the opportunity to access the protections required pursuant to 8 U.S.C. § 1231(b)(3) and its implementing regulations.

81. Accordingly, Mr. Nyamweya's planned third country removal is unlawful.

82. Mr. Nyamweya repeats and re-alleges the allegations contained in the preceding paragraphs as if fully set forth herein.

83. FARRA prevents removal to a country where a noncitizen is more likely than not to face torture. Notwithstanding this statutory mandate, Respondents seek to remove Mr. Nyamweya to a third country without providing him the opportunity to access the protections required pursuant to FARRA and CAT.

84. Accordingly, Mr. Nyamweya's planned third country removal is unlawful.

XIV. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Issue an order prohibiting Respondents from transferring Petitioner outside the jurisdiction of the San Diego Field Office and/or the Southern District of California pending the resolution of this case;

(3) Declare that Respondent's violated this Court's December 10, 2025, Order enjoining them from re-detaining the Respondent absent changing circumstances creating a reasonable likelihood of his removal in the reasonably foreseeable future.

(4) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

(5) Declare that Petitioner's re-detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. §1231(a);

(6) Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner from their custody

(7) Enjoin Mr. Nyamweya's removal until Respondents provide him access to his statutory rights to protection and due process of law:

(a) With respect to any removal to Cameroon Respondents must provide Mr. Nyamweya with a reasonable fear interview and provide him at least ten days notice of such interview to allow him to prepare for it

(b) If Mr. Nyamweya is found to have a reasonable fear of removal, then Respondents must move to reopen Mr. Nyamweya's removal proceedings to allow him to present a full claim for relief under § 1231(b)(3) and FARRA;

(c) If Mr. Nyamweya is not found to have such a fear, then Respondents must allow a further fifteen days for Mr. Nyamweya to file a motion to reopen with the immigration court;

(d) With respect to removal to any other third country (any country other than Cameroon), Respondents must provide written notice of removal to that country at least ten days prior to the removal.

(e) If, after inquiring whether Mr. Nyamweya has a fear of removal to that third country, Mr. Nyamweya express such a fear, then Respondents must provide a reasonable fear interview to screen for Mr. Nyamweya's fear of persecution and torture, consistent with § 208.31;

(f) If Mr. Nyamweya is found to have a reasonable fear of removal, then Respondents must move to reopen Mr. Nyamweya's removal proceedings to allow him to present a full claim for relief under § 1231(b)(3) and FARRA;

(8) Award costs and reasonable attorney's fees pursuant to the Equal Access to Justice Act, and on any other basis justified under law; and

(9) Grant such other relief as the Court deems just and proper.

Respectfully submitted on this 16th day of January 2026.

/s/*Rhoda Sherif*
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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 16, 2026

/s/Rhoda Sherif

Law Office of Rhoda Sherif
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CERTIFICATE OF SERVICE

I hereby certify the foregoing document was filed on January 16, 2026, through the ECF system, and that it will be sent electronically to the registered participants as identified on the Notice Of Electronic Filing.

DATED: January 16, 2026

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