

JUDGE DAVID BRIONES

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

FILED

JAN 20 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY [Signature]
DEPUTY CLERK

O-R-M-M-,

Petitioner,

v.

Mary De ANDA-YBARRA, in her official capacity)
as El Paso Field Office Director for U.S.)
Immigration and Customs Enforcement;)

Kristi NOEM, in her official capacity as Secretary,)
U.S. Department of Homeland Security;)

WARDEN OF CAMP EAST MONTANA)
DETENTION FACILITY, in their official)
capacity,)

Respondents.

Case No.

**PETITION FOR A
WRIT OF HABEAS CORPUS**

EP 26 CV 00 94

INTRODUCTION

1. Petitioner, O.R.M.M., is a 37-year-old [REDACTED] and citizen of Honduras, who has lived in the United States for nearly 20 years since [REDACTED], in Honduras. He came to the United States in 2006 after [REDACTED]. He has lived in the United States, primarily in Chicago, Illinois, since. Given the high probability O.R.M.M. [REDACTED], an immigration judge granted protection under the Convention Against Torture ("CAT") in 2017 and he was subsequently released on an Order of Supervision ("OSUP"). But in October 2025, Customs and Border Patrol ("CBP") officials swarmed O.R.M.M. outside of his home, arrested, and detained him, despite his continued compliance with his OSUP. He remains in Immigration and Customs

Enforcement ("ICE") custody and is currently detained at El Paso Camp East Montana Detention Center in the Western District of Texas.

2. O.R.M.M. has resided in the United States for nearly 20 years. For the last eight years, O.R.M.M. has been complying with his OSUP requirements by checking in with ICE. He provided ICE with his contact information and address. As a result of his compliance with his OSUP, he was eligible for and obtained work authorization. His current work authorization document is valid until February 5, 2026.
3. Despite his current work authorization demonstrating his compliance with the terms of his OSUP, ICE re-detained O.R.M.M. in October 2025. On the date of his re-detention, O.R.M.M. walked toward his car to commute to work when a group of masked, armed agents swarmed him and placed him in handcuffs. The agents did not identify themselves. Instead, they placed O.R.M.M. in an unmarked car and transported him to an ICE processing center in Broadview, Illinois. Without prior notice to him or his attorney, O.R.M.M. was summarily re-detained. There had been no change in circumstances since his last check-in to demonstrate he is either a flight risk or danger to the community.
4. The power of the government to detain and deport immigrants is not without limitations. To the contrary, the power of the government to act is delineated by a specific set of statutes and federal regulations, and subject to the limitations of the United States Constitution.
5. To the extent that ICE revoked O.R.M.M.'s OSUP without prior notice or opportunity to be heard, it was in violation of the statute, regulations, and the U.S. Constitution. At the time of his unnoticed detention by ICE, Petitioner was in full and complete compliance with his OSUP and ICE did not and could not allege any change in circumstances altering the original assessment of his lack of danger to the community and risk of flight.

6. To comport with due process, immigration detention must bear a reasonable relationship to its two regulatory purposes: ensuring the appearance of noncitizens at future hearings and preventing danger to the community pending the completion of removal. *See Zadvydas v. Davis*, 533 U.S. 690, 691 (2001).
7. Here, despite no changed circumstances regarding either flight risk or public safety, ICE nevertheless detained Petitioner without notice or a hearing, and without meaningfully permitting his counsel an opportunity to respond. *See Trejo v. Warden of ERO El Paso E. Montana*, No. EP-25-CV-401-KC, 2025 WL 2992187, at *7 (W.D. Tex. Oct. 24, 2025) (recognizing that “[m]any courts, including this one, have found that ICE’s decision to release a noncitizen confers a significant liberty interest that cannot be revoked without an individualized determination by a neutral adjudicator”); *K.E.O. v. Woosley*, 2025 WL 2553394, at *3 (W.D. Ky. Sept. 4, 2025) (holding that ICE violated its own regulations and petitioner’s due process rights by failing to give notice of the reasons for revocation and a prompt interview to respond); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388-89 (D. Mass. 2017) (finding a due process violation and explaining that ICE “never asserted that Rombot is a danger to the community or a flight risk, or that he violated the conditions of his [OSUP]. . . . The Supreme Court has recognized that a ‘alien may no doubt be returned to custody upon a violation of [supervision] conditions,’ but it has never given ICE a carte blanche to re-incarcerate someone without basic due process protection.”) (quoting *Zadvydas*, 533 U.S. at 700); *Zhu v. Genalo*, No. 1:25-cv-6523-JLR, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025).
8. Each day that O.R.M.M. remains in detention, he suffers irreparable harm. “[I]rreparable harm is presumed where there is an alleged deprivation of constitutional rights.” *Am. Civil Liberties Union v. Clapper*, 804 F.3d 617, 622 (2d Cir. 2015) (citing *Statharos v. New York City Taxi &*

Limousine Comm'n, 198 F.3d 317, 322 (2d Cir. 1999)); *Opulent Life Church v. City of Holly Springs, Miss.*, 697 F.3d 279, 295 (5th Cir. 2012) (“When an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary”) (citations and quotations omitted).

9. On November 25, 2025, ICE illegally and callously placed O.R.M.M. on a removal flight to Honduras in clear violation of his order of CAT protection. *Pablo Pablo v. Lyons*, No. EP-25-CV-00566-DCG, 2025 WL 3684305, at *3 (W.D. Tex. Dec. 5, 2025) (recognizing that Respondents “violated 8 U.S.C. § 1231(a)” in removing the Petitioner to Guatemala after he had been granted withholding of removal to that country). Only through zealous advocacy and intervention was the error caught and O.R.M.M.’s flight rerouted to the United States. In addition to the constitutional harm he has suffered and continues to suffer, he is physically separated from his family.

10. For these reasons, O.R.M.M. is entitled to a writ of habeas corpus under § 2241 and release from custody. In the alternative, he respectfully requests that this Court order Respondents to show cause why this Petition should not be granted within three days. 28 U.S.C. § 2243.

PARTIES

11. O.R.M.M. is a 37-year-old  man, who fled Honduras in 2006 and has lived in Chicago, Illinois, for nearly two decades. He is currently detained at the El Paso Camp East Montana Detention Center in El Paso, Texas.

12. Respondent Mary de Anda-Ybarra is named in her official capacity as the El Paso Field Officer Director for U.S. Immigration and Customs Enforcement within the United States Department of Homeland Security (“DHS”). In this capacity, she is responsible for the administration of

immigration laws and the execution of detention and removal determinations and is an immediate custodian of Petitioner.

13. Respondent, Kristi Noem, is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

14. Respondent, Warden of the Camp East Detention Facility, is the warden of El Paso Camp East Montana, where O.R.M.M. is currently detained. They are named in their official capacity. They are an immediate custodian of the Petitioner.

JURISDICTION AND VENUE

15. This Court has federal question jurisdiction over this matter pursuant to 28 U.S.C. § 1331 because it involves the interpretation and application of the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require."). This Court also has federal question jurisdiction because this case involves the interpretation and application of 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1651 (All Writs Act), the Immigration and Nationality Act ("INA") and regulations thereunder; the Fifth Amendment of the U.S. Constitution; and the Administrative Procedure Act ("APA"), 5 U.S.C § 701.

16. Petitioner's current arrest and detention constitute a "severe restraint" on his individual liberty such that Petitioner is "in custody" of the Respondents in violation of the laws of the United States. *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241.

17. Venue is proper in the U.S. District Court for the Western District of Texas because O.R.M.M. is currently being held within this District. *See* 28 U.S.C. § 1391(e).

RELEVANT STATEMENT OF FACTS AND PROCEDURAL HISTORY

18. O.R.M.M. was born in [REDACTED] in Honduras. From a tender age, O.R.M.M.'s [REDACTED]. His [REDACTED], a [REDACTED] member, [REDACTED], and [REDACTED]. By age 18, after [REDACTED], O.R.M.M. knew the only way to save his life was to flee the country. He entered the United States in 2006, where he could [REDACTED].

19. In 2015, O.R.M.M. was convicted of [REDACTED]. This conviction led to O.R.M.M.'s incarceration in ICE custody and the initiation of his removal proceedings. After a lengthy procedural history, including an appeal before the Seventh Circuit and a Motion to Reopen before the Board of Immigration Appeals, an immigration judge (IJ) determined that O.R.M.M. was more likely than not to be tortured if returned to Honduras. Exh. B. In so deciding, the IJ recognized O.R.M.M.'s increased fear after [REDACTED] and [REDACTED]. On December 20, 2017, the immigration judge granted O.R.M.M. deferral of removal to Honduras under the Convention Against Torture (CAT). 8 C.F.R. § 1208.17.

a. ICE places O.R.M.M. on an Order of Supervision

20. After granting CAT protection, ICE released O.R.M.M. under an order of supervision on January 23, 2018. Exh. A. In making this determination, ICE necessarily concluded that

O.R.M.M. was neither a flight risk nor a danger to the community. ICE placed O.R.M.M. on an OSUP, ordering he “be placed under supervision and permitted to be at large.” *See id.*

21. O.R.M.M. complied with ICE orders and conditions on his release and had annual in-person “check-ins” with ICE. During the COVID-19 pandemic, these check-ins switched to written emails, notifying ICE of his current address and contact information. O.R.M.M. missed one annual check-in in 2022, when he was serving time in Wisconsin for missing a probation hearing. O.R.M.M.’s probation was then revoked and he served six months in custody. Upon his release in 2023, he continued complying with his OSUP requirements. He emailed ICE in 2023 and 2024. Importantly, ICE did not then revoke his OSUP.
22. Instead, DHS granted his most recent work authorization for compliance with his OSUP requirements. He was eligible to apply for and received employment authorization in the United States. Every year, O.R.M.M. had to renew his employment authorization. To do so, each year, he had to submit proof of OSUP compliance to the Department of Homeland Security. His current work authorization document was issued in February 2025 and is valid until February 5, 2026. Exh. C.

b. ICE detained O.R.M.M. without notice outside of his home

23. In October 2025, masked, armed officers swarmed and handcuffed O.R.M.M. outside of his house. The officers did not identify themselves. The officers told O.R.M.M. he was being detained because of a 2022 removal order. O.R.M.M. does not have a removal order from 2022 and was still in compliance with the terms of his OSUP after his 2017 order of CAT protection.
24. Before taking O.R.M.M. to a detention center, masked officers posed for pictures with O.R.M.M., laughing and mocking him for being arrested. O.R.M.M. was then brought to an ICE processing center in Broadview, Illinois, where he spent one day before he was transported

to El Paso, Texas. At Broadview, O.R.M.M. was not permitted to call his family or his attorney to inform them where he had been taken.

25. On information and belief, O.R.M.M.'s supervision was terminated by ICE. However, he was given no copies of any document providing notice of, or justification for, the termination of his supervised release pursuant to his OSUP. Nor was he or counsel provided with any documentation, including an administrative warrant or detainer, as a basis for his removal from supervision and detention.
26. Authority to revoke an order of supervision on the basis of potential removal is governed by 8 C.F.R. § 241.4(l)(2), which confers that authority on the Executive Associate Commissioner and, where "circumstances do not reasonably permit referral [to him]," on the "district director" if she or he finds that revocation "is in the public interest."
27. On information and belief, ICE did not comply with those requirements. O.R.M.M. is aware that ICE has taken the position that authority to revoke supervision has been broadly delegated, such that it need not comply with the regulation as written. It cites a July 25, 2019, order issued by the Executive Associate Director of Enforcement and Removal Operations. That document reads in pertinent part:
- I hereby re-delegate to ERO Assistant Field Office Directors (AFODs), Supervisory Detention and Deportation Officers (SDDOs), Detention and Deportation Officers serving as Field Program Managers, and officers acting in that capacity, the following authorities: ****
- Authority under INA § 241 [8 U.S.C. § 1231] and 8 C.F.R. Part 241, relating to warrants of removal, reinstatement of removal, self-removal, and release of aliens from detention.
28. This document is insufficient to delegate authority to revoke supervision orders. *See Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *17 (W.D.N.Y. May 2, 2025). The *Ceesay* Court found that

the ICE officer lacked “authority to revoke release,” and thus that the supervision order “was not lawfully revoked”. *Id.* As such, it ordered the Petitioner’s release. *Id.*

c. Since his re-detention, ICE attempted to illegally remove O.R.M.M.

29. An immigration judge granted O.R.M.M.’s application for CAT deferral after determining that he faces a high probability of torture if forced to return to Honduras. Exh. B. This order bars ICE from removing O.R.M.M. to Honduras. Given this order of protection, O.R.M.M. was released from custody in 2018. Exh. A.
30. O.R.M.M. has been detained at the El Paso Camp East Montana Detention facility since October 19, 2025. ICE has nearly erroneously and illegally removed O.R.M.M. twice. Within his first week of detention, O.R.M.M. was marched toward a plane destined for Mexico in the middle of the night. O.R.M.M. was not permitted to call his attorney or family, nor was he afforded an opportunity to express a fear of removal to Mexico. For reasons unknown to O.R.M.M., he and other detained persons were returned to their bunks.
31. Then, on November 28, 2025, ICE illegally removed O.R.M.M. to Honduras. The 2017 court order prevents O.R.M.M.’s removal to Honduras, where his life would be in grave danger. Exh. B. O.R.M.M. was not permitted a phone call to his attorney prior to the flight, but he called a close friend who contacted his attorney. O.R.M.M.’s attorney then contacted his deportation officer about O.R.M.M.’s imminent, illegal removal. While O.R.M.M. was in flight to Tegucigalpa, Honduras, ICE recognized their grave error in his removal and permitted O.R.M.M. to remain on the flight back to El Paso Camp East Montana. ICE’s callousness nearly resulted in O.R.M.M.’s removal to Honduras, where he faces likely torture and death.
32. Most recently, on December 10, 2025 – two months after his detention – ICE served O.R.M.M. with a notice of intent to remove him to Mexico. Exh. D. O.R.M.M. expressed a fear of removal

to Mexico and was referred for a reasonable fear interview (RFI), which occurred on December 18, 2025. Believing removal to be imminent in the event the RFI was denied, O.R.M.M., through counsel, filed a motion to reopen and stay before the immigration court on December 17, 2025. Exhs. E, F. On December 19, 2025, the immigration court granted a stay of removal and directed the government to respond to O.R.M.M.'s motion to reopen within 30 days. Exh. G. O.R.M.M.'s proceedings as to Mexico remain ongoing and he cannot be removed there while the immigration court order granting a stay of removal is in place.

LEGAL FRAMEWORK

33. Respondents' purported basis for detaining O.R.M.M. is 8 U.S.C. § 1231. ICE's authority to release people from detention is governed by 8 U.S.C. § 1231(a)(3), which grants ICE authority to release an individual "subject to supervision." Federal regulations specify that ICE may only release individuals and place them on an OSUP if they "demonstrate[] to the satisfaction of the Attorney General . . . that his or her release will not pose a danger to the community or to the safety of other persons or to property or a significant risk of flight pending such alien's removal." 8 C.F.R. § 241.4(d)(1); *see also id.* § 241.4(e)(6). These requirements—flight risk and danger—reflect constitutional constraints, since only individuals who pose a flight risk or danger may be civilly detained. *See Zadvydas v. Davis*, 533 U.S. 690 (2001).
34. ICE determined that O.R.M.M. was neither a flight risk nor a danger when they placed him on an OSUP after the immigration judge granted CAT protection from removal to Honduras in 2017. No new changes in O.R.M.M.'s security or flight risk have occurred, as approval of his recent work authorization document confirms. He remains in compliance with his OSUP order.
35. The INA specifies circumstances upon which a person may be released from custody, but it does not provide for re-detention except impliedly for a violation of those terms.

36. The regulatory framework (8 C.F.R. § 241.4(l), as pertinent here) authorizes revocation of an individual's release on an OSUP only in certain contexts. First, § 241.4(l)(1) permits revocation if the noncitizen has violated the conditions of release. That is not alleged to have occurred and indeed has not occurred here. O.R.M.M. was in full compliance with the conditions of his release when he was detained.
37. Second, revocation is permitted where one of four conditions is met: "(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 to commence removal proceedings against an alien; 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).
38. Revocations under § 241.4(l)(2) may be ordered by either the Executive Associate Commissioner or the "District Director." Revocation may be ordered by the District Director only upon a finding that revocation is in the public interest. *Id.*; see also *Matter of Sugay*, 17 I&N Dec. 637, *3 (BIA 1981) ("no change should be made by a District Director absent a change of circumstance."); *Trejo v. Warden of ERO El Paso E. Montana*, No. EP-25-CV-401-KC, 2025 WL 2992187, at *7 (W.D. Tex. Oct. 24, 2025) ("[m]any courts, including this one, have found that ICE's decision to release a noncitizen confers a significant liberty interest that cannot be revoked without an individualized determination by a neutral adjudicator"); *Marquez-Amaya v. Thompson*, No. 5:25-CV-1501-JKP, 2025 WL 3654327, at *6 (W.D. Tex. Dec. 15, 2025) ("Release under an Order of Supervision of a noncitizen who has been ordered removed invokes 'detailed regulations concerning when and how that Order of Supervision may be revoked.'" (citing *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *11 (S.D. Tex. Sept. 26, 2025))); *Panosyan v. Mayorkas*, 854 Fed. Appx. 787, 788 (9th Cir. July

29, 2021) (“absent changed circumstances, such as ‘reinvolvement with the criminal justice system, ICE cannot redetain Panosyan.”) (internal citations omitted).

39. Upon revocation of an order of supervision, ICE must give a noncitizen notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(l); *see also Trejo v. Warden of ERO El Paso E. Montana*, 2025 WL 2992187, at *7; *Marquez-Amaya v. Thompson*, 2025 WL 3654327, at *6; *K.E.O. v. Woosley*, 2025 WL 2553394, at *3 (W.D. Ky. Sept. 4, 2025); *Zhu v. Genalo*, No. 1:25-cv-6523-JLR, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025).
40. O.R.M.M. has, at minimum, a regulatory right to an explanation for the reasons of revocation as well as an interview to contest the basis for the revocation. At a minimum, ICE “has the duty to follow its own federal regulations.” *Haoud v. Ashcroft*, 350 F.3d 201, 205 (1st Cir. 2003) (quoting *Nelson v. I.N.S.*, 232 F.3d 258, 262 (1st Cir. 2000)); *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 266, 268 (1954). It has failed to do so here.
41. When the government fails to comply with its own regulations, as it did when it revoked O.R.M.M.’s release in violation of its own procedures, the action should be found invalid. *See Villanueva v. Tate*, 2025 WL 2774610, at *11; *K.E.O.*, 2025 WL 2553394, at *3; *Rombot*, 296 F. Supp. 3d at 388; *Ceesay*, 781 F. Supp. 3d at 166.
42. The decision to detain O.R.M.M. may be reviewed by this Court and may be vacated if found to be “arbitrary, capricious, an abuse of discretion and not in accordance with the law.” 5 U.S.C. §§ 706(2)(A), (E). Absent this Court’s intervention, O.R.M.M. does not have any “remedy” to challenge the decision of Respondents. *See Torres-Jurado v. Biden*, 2023 WL 7130898, *4 (S.D.N.Y. Oct. 29, 2023) (finding that “[a]lthough procedural requirements can seem like a mere formality, they promote ‘agency accountability’ and ensure that the parties—and where relevant, the public—can respond fully and in a timely manner to an agency’s

exercise of authority.”) (citing *Dept. of Homeland Sec. v. Bd. of Regents of Univ. of Calif.*, 591 U.S. 1, 22-23 (2020)).

43. To comport with due process, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691.
44. Procedural due process constrains governmental decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause of the Fifth Amendment. Because O.R.M.M.’s detention in October 2025 lacked the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, his continued detention is unlawful. See *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976); see also *Perry v. Sindermann*, 408 U.S. 593, 601-03 (1972) (reliance on informal policies and practices may establish a legitimate claim of entitlement to a constitutionally protected interest). Infringing upon a protected interest triggers a right to a hearing before that right is deprived. See *Bd. of Regents of State Colleges v. Roth*, 408 U.S. 564, 569-70 (1972).
45. The revocation of O.R.M.M.’s release does not satisfy the minimum requirements of due process, because that revocation is not the product of any individualized review and alleges no relevant change in circumstances altering the original assessment of his risk of flight. See *Rombot*, 296 F. Supp. 3d at 388; see also *Torres-Jurado*, 2023 WL 7130898, *4 at *12 (S.D.N.Y. Oct. 29, 2023) (stating that “[d]ue process, at minimum” requires the government to afford meaningful notice and an opportunity to be heard) (citing *Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403 (S.D.N.Y. 2004)).

CLAIMS FOR RELIEF

COUNT I (VIOLATION OF THE APA)

O.R.M.M.'s Order of Supervision Has Not Been Validly Rescinded

46. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
47. Under the terms of the INA, the governing regulations, and the APA, Petitioner's release order has not been validly rescinded or terminated.
48. First, on information and belief (due to Respondents' failure to provide any documents to Petitioner), any local ICE agent who purported to revoke his supervision lacked authority to do so. Those agents have not been given express delegated authority to act by the Executive Associate Commissioner. Nothing in the July 25, 2019, delegation notice, *see supra* para 27, grants authority over supervision revocation to local ICE agents.
49. Second, even assuming *arguendo* that local ICE officers were authorized to revoke supervision, they were obliged to revoke it only on a finding that it satisfied the public interest based on materially changed circumstances. No one made any such finding.
50. O.R.M.M.'s re-detention is therefore contrary to law, arbitrary and capricious, and an abuse of discretion in violation of the APA and the Fifth Amendment.

COUNT II (VIOLATION OF THE FIFTH AMENDMENT)

O.R.M.M.'s Detention Violates the Fifth Amendment's Due Process Clause Because it Bears No Reasonable Relationship to Any Legitimate Purpose

51. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
52. To comport with due process, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent

- danger to the community pending the completion of removal. *Zadvydas*, 533 U.S. at 690-691.
53. Petitioner is neither a danger nor a flight risk. The detention of Petitioner is arbitrary on its face.
54. Petitioner has complied with the conditions of his release, as his current work authorization document confirms, and no change in circumstances exists to warrant the revocation of his OSUP.
55. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, his continued detention is unlawful.

COUNT III (VIOLATION OF THE APA)

O.R.M.M.'s Detention Violates the APA and the *Accardi* Doctrine

56. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.
57. When the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." *Accardi*, 347 U.S. at 266, 268. The *Accardi* doctrine also obligates agencies to comply with procedures it outlines in its internal manuals. *See Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (finding that an agency is obligated to comply with procedural rules outlined in its internal manual).
58. To the extent that Respondents have revoked O.R.M.M.'s OSUP without notice or an opportunity to be heard, they violated the statute and the applicable regulations—8 C.F.R. §§ 241.4(l) and 241.13(i)—by failing to provide him with a particularized notice of the reason(s) of the revocation of his release and an opportunity to respond to the allegations contained

therein.

59. His detention is therefore unlawful, arbitrary and capricious, and an abuse of discretion in violation of the APA and the *Accardi* doctrine.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner or, in the alternative, order Respondents to show cause why this Petition should not be granted within three days pursuant to 28 U.S.C. § 2243.
- c. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;
- d. Declare that O.R.M.M.'s detention violates the INA, the APA, pertinent regulations and the Due Process Clause of the Fifth Amendment; and
- e. Order such other relief as this Court may deem just and proper.

Dated: January 16, 2026

Respectfully submitted,

s/ Colleen Cowgill

Colleen Cowgill*

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**Pro hac vice admission pending*

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 16th of January 2026.

s/ Colleen Cowgill

Attorney for Petitioner