

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Columbus Division**

MAO BIN DONG,

Petitioner,

v.

Case No. _____


JASON STREEVAL, Warden, Stewart Detention Center; LADEON FRANCIS, Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement; TODD LYONS, Acting Director, U.S. Immigration and Customs Enforcement; KRISTI NOEM, Secretary of Department of Homeland Security; PAMELA BONDI, Attorney General of the United States, *in their official capacities;*

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Mao Bin Dong (“Mr. Dong” or “Petitioner”) is a citizen and national of the People’s Republic of China (“China”) who was suddenly—without notice or process—detained by Respondents during a routine Immigration and Customs Enforcement (“ICE”) check-in on May 28, 2025. He has now been detained at the Stewart Detention Center in Lumpkin, Georgia, for over eight months without any process or recourse.

2. Mr. Dong immigrated to the United States in 1993 after fleeing China due to persecution  For over thirty years, Mr. Dong has lived in the United States with his wife and children. He is a proud father and owner of a restaurant in Buford, Georgia.

3. In 1999, an Immigration Judge ordered Mr. Dong removed from the United States to China. After appealing his case, Mr. Dong’s removal order became final in 2002 when the Board of Immigration Appeals (“BIA”) denied the appeal of his removal order.

4. In 2012, ICE detained Mr. Dong for three months at the Stewart Detention Center. ICE eventually released Mr. Dong after it was unable to obtain Mr. Dong’s Chinese travel documents. For thirteen years, Mr. Dong was at liberty in his community on an Order of Supervision (“OSUP”) with regular reporting requirements, with which he dutifully complied. But on May 28, 2025, without any rhyme or reason, ICE re-detained Mr. Dong during a routine annual ICE check-in. For the past eight months since, Mr. Dong has languished in an immigration prison with no end in sight.

5. Since his re-detention, Mr. Dong has received no indication that he will be released or deported to China within the reasonably foreseeable future. ICE has never requested that Mr. Dong meet or speak with the Chinese Consulate, nor seemingly completed any

application for a travel document.

6. Respondents' actions violate the U.S. Constitution, the Immigration and Nationality Act ("INA") and its implementing regulations, the Administrative Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules and procedures.

7. To remedy his unconstitutional and statutorily unauthorized detention, Mr. Dong is entitled to release.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question), 2241 (habeas corpus), and the Suspension Clause, U.S. Const., Art. I, § 9, cl. 2, as Mr. Dong is currently detained under color of the authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

9. Venue is proper in the United States District Court for the Middle District of Georgia pursuant to 28 U.S.C. § 1391(b)(2) and (e)(1) because Respondents reside in this District, Mr. Dong is currently detained in this District, where a substantial part of the events or omissions giving rise to this action occurred and continue to occur, and Mr. Dong's immediate physical custodian is in this District.

PARTIES

10. Petitioner Mao Bin Dong is a citizen of China currently detained at Stewart Detention Center in Lumpkin, Georgia. Mr. Dong has lived in the United States since 1993. Before his detention, Mr. Dong resided in Buford, Georgia. Respondents have detained Mr. Dong at the Stewart Detention Center since approximately May 28, 2025.

11. Respondent Jason Streeval is sued in his official capacity as Mr. Dong's immediate legal and physical custodian. Respondent Streeval is the Warden of Stewart Detention Center, where Mr. Dong is currently detained.

12. Respondent LaDeon Francis is sued in his official capacity as a legal custodian of Mr. Dong. Respondent Francis is the Field Office Director of the ICE Atlanta Field Office. In his role, Respondent Francis is responsible for ICE activities in the Atlanta Area of Responsibility, which includes Georgia, and its detention facilities, including Stewart Detention Center.

13. Respondent Todd Lyons is sued in his official capacity as a legal custodian of Mr. Dong. As the Acting Director of ICE, Respondent Lyons is responsible for the administration of immigration law pursuant to 8 U.S.C. § 1103.

14. Respondent Kristi Noem is sued in her official capacity as a legal custodian of Mr. Dong. As the Secretary of the Department of Homeland Security ("DHS"), she directs DHS and its components, which includes ICE, and is responsible for administering immigration laws pursuant to 8 U.S.C. § 1103.

15. Respondent Pamela Bondi is sued in her official capacity as a legal custodian of Mr. Dong. As the Attorney General of the United States, Respondent Bondi administers immigration laws pursuant to 8 U.S.C. § 1103(g), including the Executive Office of Immigration Review ("EOIR").

STATEMENT OF FACTS

16. Mr. Dong is a 60-year-old man who was born in China. In about 1993, Mr. Dong fled China and came to the United States seeking asylum. Mr. Dong has lived and worked in the United States continuously since entering the country. Together with his wife, he has raised three children here and built a life in Buford, Georgia, where he owns and operates a restaurant and

has been a member of the community for decades.

17. After arriving in the United States in 1993, Mr. Dong filed for asylum based on the persecution [REDACTED] Mr. Dong fled China after he and his wife [REDACTED]

18. In 1999, an Immigration Judge denied Mr. Dong's application for asylum and ordered Mr. Dong removed to China. *See* Ex. A (Removal Order dated Nov. 18, 1999). Mr. Dong filed a timely appeal to the BIA, which was subsequently denied in 2002, making his order of removal final. *See* Ex. B (BIA Order dated Apr. 17, 2002). Mr. Dong later filed a Motion to Reopen his proceedings, which was denied in 2005.

19. From 1993 to 2012, Mr. Dong lived at liberty in the United States with his family. In 2012, however, Mr. Dong was detained by ICE following a traffic stop in Florida. ICE detained Mr. Dong at the Stewart Detention Center for about three months. During that time, ICE applied for travel documents on Mr. Dong's behalf. The Chinese government denied Mr. Dong's requests because Mr. Dong lacked the requisite documents for a travel document. ICE ultimately released him on an OSUP because it was unable to obtain travel documents for him to China.

20. From 2012 to mid-2025, Mr. Dong returned to his daily life. Mr. Dong substantially complied with the terms of his OSUP and periodically reported to the Atlanta ICE Field Office as required by ICE, first reporting every three months, then every six months, and eventually, once per year.

21. In 2013 or 2014, Mr. Dong went to the Chinese Consulate to apply for a travel document as directed by ICE. Chinese Consulate officials could not verify Mr. Dong's Chinese citizenship, however, and denied his application for a travel document because he did not have a

passport, national identity card, or residency card, which the Chinese government requires to issue travel documents. In addition to visiting the Chinese Consulate in person, Mr. Dong called the Consulate several times seeking assistance with applying for travel documents only to be told again that the Chinese government could not verify his citizenship.

22. On May 28, 2025, Mr. Dong reported to the Atlanta ICE Field Office for a regularly scheduled check-in. Mr. Dong had no reason to believe that his May 28th check-in differed in any way from his many previous check-ins. That day, without notice or warning, ICE officers detained Mr. Dong.

23. ICE officers did not explain why Mr. Dong was being detained or state whether or why Mr. Dong's OSUP had been revoked. He was not given the opportunity to call his family or get any of his personal affairs in order.

24. Mr. Dong did not understand what was happening or why he was being detained. Mr. Dong, who speaks Mandarin and has limited English proficiency, asked the ICE officers for a Mandarin interpreter to no avail. He asked the ICE officers why he was being arrested numerous times, only to be told by an officer that his "case is closed" and nothing more.

25. Mr. Dong was provided no notice or warning that his OSUP had been revoked, either in the weeks leading up to his May 28 check-in, during the May 28 check-in, or at any time after he was re-detained. Nor did ICE give Mr. Dong a post-arrest opportunity to be heard regarding ICE's reasons for re-detaining him.

26. To date, Mr. Dong has received little to no communication from ICE regarding his travel documents or deportation to China. About three days after being re-detained, an ICE officer asked Mr. Dong for his signature, photograph, and to verify some information. Mr. Dong did not know the purpose of those documents. He asked ICE officers whether he would be going

back to China and was told “no, it depends.”

27. Since then, Mr. Dong has had minimal contact with ICE. Mr. Dong has functionally received no information at all about the status of his detention or deportation, and does not know when—or if—he will be deported to China.

28. Mr. Dong’s removal to China is not significantly likely in the reasonably foreseeable future given that the Chinese government has previously denied Mr. Dong’s requests for travel documents. China’s refusal to issue travel documents for Mr. Dong is unlikely to change, as Mr. Dong does not have the requisite documents to prove his Chinese citizenship. Moreover, China “has a well-documented history of refusing or slow-walking issuance of travel documents for its national[s] subject to removal from the United States.” *Xu v. Bondi*, No. 25-16274, 2026 WL 34682, *3 (D.N.J. Jan. 6, 2026); *see also Zheng v. Albarran*, No. 1:25-cv-01685, 2025 WL 3640676, *3 (E.D. Cal. Dec. 16, 2025) (considering evidence noting that China was identified as “uncooperative or recalcitrant” in 2024); *Wen Pan v. Oddo*, No. 3:25-cv-00265, 2025 WL 3960013, *4 (W.D. Pa. Dec. 1, 2025) (same, considering additional evidence that China will not issue a travel document without certain documents such as a Chinese birth certificate).

LEGAL FRAMEWORK

Post-Removal Order Detention Under 8 U.S.C. § 1231

29. 8 U.S.C. § 1231 permits ICE to detain noncitizens during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the [noncitizen] from the United States.” 8 U.S.C. § 1231(a)(1)(A). The removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of the

removal of the [noncitizen], the date of the court's final order.

- (iii) If the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.

Id. § 1231(a)(1)(B).

30. If an individual is ordered removed by an Immigration Judge and files an appeal, their removal order becomes administratively final upon dismissal of an appeal by the BIA. *See* 8 C.F.R. § 1241.1(a).

31. Detention is mandatory only during the 90-day "removal period." *See* 8 U.S.C. § 1231(a)(1)(A). After the 90-day removal period, detention is no longer mandatory, and ICE may release noncitizens on an OSUP. *See* 8 U.S.C. § 1231(a)(3).

32. The INA's implementing regulations provide a comprehensive regulatory scheme governing the issuance and revocation of OSUPs. The regulations state that ICE may release a noncitizen on an OSUP if he "would not pose a danger to the community . . . or a significant risk of flight," 8 C.F.R. § 241.4(d)(1), or if "there is no significant likelihood that [he] will be removed in the reasonably foreseeable future," *id.* § 241.13(g)(1).

33. For noncitizens released on OSUPs under § 241.13(g)(1), like Mr. Dong, the regulations specify certain conditions of release, including the requirement that the noncitizen "obey all laws, including any applicable prohibitions on the possession or use of firearms." *Id.* § 241.13(h)(1). ICE must advise these OSUP recipients of the consequences of violating their conditions of release. *Id.* § 241.13(h)(2). USCIS may grant these OSUP recipients employment authorization. *Id.* § 241.13(h)(3).

34. The regulations also specify when and how ICE may revoke an OSUP. *See id.* § 241.13(i). ICE may only revoke a person's OSUP under specific circumstances. Where a noncitizen has been released on an OSUP because ICE determined that there is no "significant

likelihood that the [noncitizen] will be removed in the reasonably foreseeable future,” *id.* § 241.13(g), revocation of release can occur only where the person has violated conditions of their release, *id.* § 241.13(i)(1), or where “changed circumstances” dictate that “there is a significant likelihood” of removal in the “reasonably foreseeable future,” *id.* § 241.13(i)(2). Those regulations require “(1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future.” *Kong v. United States*, 62 F.4th 608, 619–20 (1st Cir. 2023) (synthesizing process outlined at 8 C.F.R. § 241.13(i)(2)).

35. ICE must follow certain procedures when revoking a noncitizen’s OSUP under § 241.13. ICE must (1) “notif[y] the noncitizen] of the reasons for revocation of [their] release;” (2) “conduct an initial informal interview promptly after [their] return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation;” and (3) conduct a “revocation custody review” which evaluates whether any facts relevant to the revocation “warrant revocation and further denial of release.” *Id.* § 241.13(i)(3).

Constitutional Limits on Detention Under 8 U.S.C. § 1231

36. ICE may continue to detain some noncitizens who are not released on orders of supervision. Noncitizens who have been ordered removed because of certain criminal convictions, or those who are deemed to be “a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period.” 8 U.S.C. § 1231(a)(6). But that period of post-removal order detention is not without limits.

37. In *Zadvydas*, the Supreme Court applied the doctrine of constitutional avoidance to hold that § 1231(a)(6) authorizes detention only for “a period reasonably necessary to bring about that [noncitizen]’s removal from the United States,” which is presumptively no longer than

six months. 533 U.S. at 689, 701.

38. A person's continued detention pursuant to § 1231(a)(6) is constitutionally impermissible if it is not reasonably related to the statutory purpose of ensuring the individual's prompt removal or protecting against dangerousness in certain narrow circumstances. *Zadvydas*, 533 U.S. at 690. The justification of preventing a noncitizen's flight is "weak or nonexistent" where removal is not foreseeable, and detention based on dangerousness is only permissible "when limited to specially dangerous individuals and subject to strong procedural protections." *Id.* at 690–91.

39. To avoid the "serious constitutional problem" of indefinite civil detention under § 1231(a)(6), the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 690, 700–01. The Court determined that six months of detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government to justify continued detention if the noncitizen provides a "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. The noncitizen need not show that their removal is "impossible." *Id.* at 702. And once the burden shifts to the government, the government must do more than simply claim that "good faith efforts to effectuate . . . deportation continue." *See id.* If the government fails to rebut the noncitizen's showing that there is no significant likelihood of removal in the reasonably foreseeable future, the government must release the noncitizen. *See id.*; *Singh v. Att'y Gen.*, 945 F.3d 1310, 1313–14 (11th Cir. 2019).

40. The Eleventh Circuit has distilled a noncitizen's burden under *Zadvydas* into two elements. To state a claim under *Zadvydas*, the noncitizen must show (1) detention for over six

months, and (2) that there is no significant likelihood of removal in the reasonably foreseeable future. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

41. Release is the proper remedy for unconstitutionally prolonged post-removal-order detention. See *Zadvydas*, 533 U.S. at 699–700 (explaining that supervised release is the appropriate relief when “the detention in question exceeds a period reasonably necessary to secure removal” because, at that point, detention is “no longer authorized by statute”).

Agencies’ Obligation to Follow their Own Policies under Accardi

42. Under the *Accardi* doctrine, agencies are bound to follow their own rules affecting fundamental rights. *Accardi v. Shaughnessy*, 347 U.S. 260, 266–67 (1954) (holding that the Board of Immigration Appeals must follow its own regulations in the exercise of its discretion); see *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.”). “[U]nder deeply rooted principles of administrative law, not to mention common sense, government agencies are generally required to follow their own regulations.” *Fed. Defs. of New York, Inc. v. Fed. Bureau of Prisons*, 954 F.3d 118, 130 (2d Cir. 2020).

43. When an agency fails to adhere to its own policies as required by *Accardi*, courts typically frame the violation as arbitrary, capricious, and contrary to law under the Administrative Procedure Act (“APA”), see *Damus v. Nielsen*, 313 F. Supp. 3d 317, 336–37 (D.D.C. 2018), or as a due process violation, see *Sameena, Inc. v. U.S. Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) (“An agency’s failure to follow its own regulations ‘tends to cause unjust discrimination and deny adequate notice’ and consequently may result in a violation of an individual’s right to due process.”) (quoting *NLRB v. Welcome-American Fertilizer Co.*, 443 F.2d

19, 20 (9th Cir. 1971)). Agencies are bound to follow internal policies, guidance, and instructions that are not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991).

44. Courts have the authority to review final agency actions under the APA, 5 U.S.C. § 704, which include those actions that (1) “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, 177–78 (1997) (citations omitted). ICE’s decision to revoke a person’s OSUP constitutes a final agency action. This action resulted in legal consequences for Mr. Dong, who is now detained in violation of his rights under the Constitution, Immigration and Nationality Act, and its implementing regulations.

45. When a final agency action is arbitrary, capricious, an abuse of discretion, or otherwise contrary to law, courts must “hold unlawful and set aside” that action. 5 U.S.C. § 706(2)(A).

CLAIMS FOR RELIEF

COUNT ONE VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1231 *Presumptively Unreasonable Detention under Zadvydas*

46. Mr. Dong re-alleges and incorporates by reference each allegation contained above.

47. Mr. Dong is currently detained under 8 U.S.C. § 1231(a)(6), as he is subject to a final order of removal, and has been detained beyond the mandatory 90-day removal period under 8 U.S.C. § 1231(a)(1)(A).

48. Mr. Dong’s continued detention violates 8 U.S.C. § 1231, as interpreted by *Zadvydas*. First, ICE has detained Mr. Dong far in excess of the six months deemed

presumptively reasonable. Since his removal order became final in 2002, Mr. Dong has faced approximately 11 months of cumulative post-removal order detention, including the past eight consecutive months.

49. Second, there is no significant likelihood of Mr. Dong's removal to China in the reasonably foreseeable future. Mr. Dong has been previously released from ICE detention based on a lack of a significant likelihood of removal in the reasonably foreseeable future. Since being released in 2012, the Chinese government has denied Mr. Dong travel documents and stated that they cannot verify his Chinese citizenship. To date, ICE has not shown any changed circumstances justifying his current detention; indicated that it currently has travel documents for Mr. Dong; or indicated whether it will even be able to procure travel documents for Mr. Dong.

50. Mr. Dong complied with any and all past directions to apply for a Chinese travel document both when he was previously detained, and later when he was released on an OSUP. Despite his diligent efforts, Mr. Dong has been unable to obtain a passport or travel documents from China. Indeed, the Chinese Embassy has explicitly denied Mr. Dong's request on at least one occasion. Since his redetention in May 2025, ICE has not asked Mr. Dong to complete a Chinese travel document application or to meet with a Chinese consular official. ICE has not told Mr. Dong that it has requested—let alone procured—travel documents on Mr. Dong's behalf. No circumstances exist to detain Mr. Dong beyond the statutory removal period, 8 U.S.C. § 1231(a)(6), as Mr. Dong poses no risk to the community and has shown efforts to comply with his order of removal over the past 24 years.

51. In similar cases, courts have found that there is no significant likelihood of removal in the reasonably foreseeable future for similarly situated Chinese petitioners. *See, e.g., Wen Pan*, 2025 WL 3960013 at *4 (finding that, under *Zadvydas*, Chinese petitioner's removal is

unlikely in the reasonably foreseeable future where petitioner did not have a Chinese birth certificate and China was more generally “uncooperative in accepting repatriation of its citizens”); *Qui v. Carter*, No. 25-3131, 2025 WL 2770502, *4 (D. Kan. Sept. 26, 2025) (same, granting habeas petition under *Zadvydas* due to lack of significant likelihood of removal in the reasonably foreseeable future).

52. No “sufficiently strong special justification” exists to justify Mr. Dong’s continued detention beyond the removal period and the presumptively reasonable six-month limit. *See Zadvydas*, 533 U.S. at 690–91. Mr. Dong is neither a flight risk nor danger to the community, nor has ICE made any showing to that end.

53. Mr. Dong’s continued detention violates 8 U.S.C. § 1231, and he is entitled to immediate release from Respondents’ custody.

COUNT TWO
VIOLATION OF THE
ADMINISTRATIVE PROCEDURE ACT, 8 U.S.C. § 706(2)(A)
Failure to Follow OSUP Revocation Policies & Regulations

54. Mr. Dong re-alleges and incorporates by reference each allegation contained above.

55. Agencies are required to follow their own regulations and policies. Courts must “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

56. ICE regulations provide that an OSUP may only be revoked when its conditions are violated, or where changed circumstances make removal reasonably foreseeable. *See* 8 C.F.R. § 241.13(i)(2), (f).

57. No circumstances have changed to support ICE’s revocation of Mr. Dong’s OSUP. Since 2002, ICE has been unable to effectuate Mr. Dong’s removal to China. ICE has not made

an individualized determination that removal has become significantly likely in the reasonably foreseeable future. *See Kong*, 62 F.4th at 619-20; *see also Zheng*, 2025 WL 3640676, at *2–3 (granting preliminary injunction and ordering release of petitioner where respondents failed to show changed circumstances); *Zhang v. Genalo*, No. 25-CV-06781, 2025 WL 3733542, *13 (E.D.N.Y. Dec. 28, 2025) (granting habeas petition and ordering release for Chinese petitioner finding no changed circumstances where ICE neither had valid travel document for the petitioner at the time of OSUP revocation nor even at the time of filing habeas petition); *Qui*, 2025 WL 2770502 at *3–4 (same); *Yang v. Kaiser*, No. 2:25-cv-02205, 2025 WL 2791778, *6 (E.D. Cal. Aug. 20, 2025) (granting in part motion for temporary restraining order where petitioner attempted to obtain travel documents for several years and was unable to do so, and respondents took no actions to “make petitioner’s removal more likely”); *Van Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150, 153 (D. Mass. 2025) (same, granting habeas petition for Vietnamese petitioner where respondents “did not identify any facts to support that ICE re-detained [the petitioner] based on changed circumstances”).

58. Mr. Dong has complied with efforts to procure travel documents for more than a decade to no avail. Upon information and belief, to date, ICE has not obtained travel documents for Mr. Dong to China, nor has ICE requested them.

59. ICE flagrantly violated its own regulations by failing to provide Mr. Dong with notice or an explanation of the reasons for revoking his OSUP whatsoever, or a prompt post-deprivation opportunity to hear and contest those reasons.

60. ICE’s failure to adhere to its own binding regulations governing the revocation of OSUPs violates the *Accardi* doctrine, under which agencies are required to follow their own policies. *See Damus*, 313 F. Supp. 3d at 337. ICE’s violation of its own binding regulations

renders Mr. Dong's redetainment unlawful. *See Rasakhamdee v. Noem*, No. 3:25-cv-02816, 2025 WL 3102037, at *5 (S.D. Cal. Nov. 6, 2025) ("Government agencies are required to follow their own regulations. . . . ICE failed to do so here. The Court's research indicates that every district court, except two, to consider the issue has 'determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered.'" (quoting *Rokhfirooz v. Larose*, No. 25-cv-2053, 2025 WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025))); *Hoac*, 2025 WL 1993771, at *5, *7 (finding likelihood of success on petitioner's *Accardi* claim when ICE failed to provide him with an informal interview and petitioner showed that there was no change in circumstances making removal likely, and ordering petitioner's release); *K.E.O. v. Woosley*, No. 4:25-cv-74, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025) (concluding that ICE's failure to provide petitioner with a Notice of Revocation promptly after her arrest violated ICE's regulations, ordering release based on petitioner's "illegal detention," and noting that "courts across the country have ordered the release of individuals" in ICE custody where ICE "violated their own regulations"); *Liu v. Carter*, No. 25-3036, 2025 WL 1696526, at *3 (D. Kan. June 17, 2025) (concluding that "because officials did not properly revoke petitioner's [OSUP] pursuant to the applicable regulations, that revocation has no effect, and petitioner is entitled to his release (subject to the same Order of Supervision that governed his most recent release)").

61. Accordingly, Respondents' revocation of Mr. Dong's OSUP should be set aside and this Court should order Respondents to release Mr. Dong.

COUNT THREE
VIOLATION OF THE DUE PROCESS CLAUSE OF THE
FIFTH AMENDMENT TO THE U.S. CONSTITUTION
Failure to Follow OSUP Revocation Policies & Regulations

62. Mr. Dong re-alleges and incorporates by reference each allegation contained

above.

63. Regulations governing OSUPs ensure that individuals, who have been free to live in their communities, are not erroneously deprived of their due process right to liberty. “[T]he fundamental requirement of due process is the opportunity to be heard ‘at a meaningful time and in a meaningful manner.’” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

64. By failing to give Mr. Dong any of the processes due to him under binding ICE regulations before re-detaining him and revoking his OSUP, *see* 8 C.F.R. § 241.13(i)(2), ICE has flouted its responsibility to give Mr. Dong the notice and opportunity to be heard he is owed under the Constitution. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 166 (W.D.N.Y. 2025) (holding that “because ICE did not follow its own regulations in deciding to re-detain [petitioner],” including by failing to provide him with required initial interview, “his due process rights were violated, and he is entitled to release”); *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *9 (S.D. Fla. Sept. 9, 2025) (noting that the OSUP revocation regulations are not “ticky-tacky procedural requirement[s],” but rather essential procedural safeguards that “strike[] at the heart of what due process demands” and ordering petitioner’s release because of respondents’ failure to comply with OSUP revocation regulations); *Zhu v. Genalo*, No. 1:25-CV-06523, 2025 WL 2452352, at *9 (S.D.N.Y. Aug. 26, 2025) (“ICE’s failure to follow its own regulations and provide Petitioner with notice or an interview violated Petitioner’s procedural due process rights”); *M.S.L. v. Bostock*, No. 6:25-cv-01204, 2025 WL 2430267, at *12 (D. Or. Aug. 21, 2025) (holding that ICE’s failure to follow its own regulations in detaining petitioner, including by “failing to provide a timely Notice of Revocation of Petitioner’s Order of Supervision” and “failing to provide Petitioner with a ‘prompt’ informal interview so that she

could contest the reasons for her revocation,” “violated Petitioner’s constitutional due process rights”).

65. Respondents’ failure to adhere to its own binding regulations governing the revocation of OSUPs violate Mr. Dong’s due process rights under the Fifth Amendment.

66. Mr. Dong is entitled to immediate release under conditions no more restrictive than his prior OSUP.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Mao Bin Dong respectfully requests that the Court:

- A. Assume jurisdiction over this matter;
- B. Order Respondents to show cause why the writ should not be granted, to “be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243;
- C. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- D. Enjoin Respondents from transferring Petitioner outside of this judicial district pending litigation of this matter or his removal proceedings;
- E. In the event that this Court determines that a genuine dispute of material fact exists regarding the likelihood of Petitioner’s removal in the reasonably foreseeable future, or regarding any other material factual issue, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *See Singh*, 945 F.3d at 1315–16;
- F. Declare that Petitioner’s detention violates the Immigration and Nationality Act;
- G. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution;
- H. Declare that ICE Respondents’ failure to follow their own binding rules and policies on revocation of orders of supervision with respect to Petitioner’s arrest and ongoing detention violates the Administrative Procedure Act and the Due Process Clause of the Fifth Amendment;

- I. Grant a Writ of Habeas Corpus, ordering Respondents to immediately release Petitioner from their custody based on any or all of the findings above;
- J. Award Petitioner's costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- K. Grant such further relief as the Court deems just and proper.

Dated: February 6, 2026

Respectfully submitted,

/s/ Alexandra M. Smolyar

Alexandra M. Smolyar, GA Bar No. 419582

Meredyth Yoon, GA Bar No. 204566

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

I hereby verify that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

Dated: February 6, 2026

/s/ Alexandra M. Smolyar

Alexandra M. Smolyar

Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that I filed this Petition for Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of this filing to all participants in this case. I hereby certify that I have served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(2).

Dated: February 6, 2026

Respectfully submitted,

/s/ Alexandra M. Smolyar
Alexandra M. Smolyar