

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

Lou L., Petitioner, v. Warden, ERO El Paso Camp East Montana facility, Pamela Bondi, Attorney General, Kristi Noem, Secretary, U.S. Department of Homeland Security, Todd M. Lyons, Acting Director of Immigration and Customs Enforcement, Executive Office for Immigration Review, and David Easterwood, Acting Director, St. Paul Field Office Immigration and Customs Enforcement. Respondents.	Case No. 3:26-cv-00407-LS PETITIONER'S EMERGENCY MOTION FOR IMMEDIATE RELEASE
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PETITIONER'S EMERGENCY MOTION FOR IMMEDIATE RELEASE

Petitioner, Lou Lee, through counsel, moves this Court for an Order directing his immediate release from custody. The Great Writ of habeas corpus

is not a static or slow-moving remedy; it is an urgent constitutional safeguard designed to provide a swift adjudication of the legality of a prisoner's detention. Because Petitioner's current detention is predicated on a procedurally void revocation of his Order of Supervision—marked by a failure to follow agency regulations and the falsification of official records—immediate release is the only lawful remedy. Respondents oppose this Motion.

I. LEGAL AUTHORITY: HABEAS AS A SWIFT AND SPEEDY REMEDY

The Supreme Court and the Fifth Circuit have repeatedly affirmed that the core purpose of habeas corpus is to provide a prompt solution to illegal imprisonment.

- ***Preiser v. Rodriguez*, 411 U.S. 475 (1973):** The "central objective" of the writ is to provide "speedy relief."
- ***Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484 (1973):** The writ's "extraordinary" nature requires "swift and imperative justice."
- ***Van Zandt v. Thompson*, 839 F.2d 1215 (5th Cir. 1988):** Incorporating the principle that the writ is designed to afford a "swift and imperative remedy" in all cases of illegal restraint.
- ***Johnson v. Rogers*, 917 F.2d 1283 (10th Cir. 1990) (Cited in 5th Cir. practice):** Noted that the writ of habeas corpus "is intended to be a

speedy remedy" and that delays in the process are particularly scrutinized.

- ***Bridges v. Wixon*, 326 U.S. 135 (1945)**: In the immigration context, the Court ruled that "strict compliance with the [agency's] rules" is required, especially when an individual's liberty is at stake.

II. STATEMENT OF FACTS

On **February 4, 2026**, Immigration and Customs Enforcement (ICE) arrested Petitioner and revoked his Order of Supervision (OSUP). ICE provided Petitioner with documentation (See **Exhibit A**) claiming that a mandatory interview was conducted on the day of his arrest.

This statement is factually false. No such interview occurred. Petitioner was never afforded the opportunity to speak with an officer or contest the revocation. By failing to conduct the required interview and subsequently falsifying the record to suggest compliance, ICE bypassed the mandatory procedural safeguards established by its own regulations. Exh. A, pp. 1-2.

It seems that ICE served a secondary Notice of Revocation of Release on Mr. Lee without a signature by an immigration official or date, but with proof of service from February 16, 2026; after Mr. Lee was already in ICE detention for 12 days in El Paso, TX. Exh. A, p. 3-4.

III. ARGUMENT

A. The Accardi Doctrine: ICE Failed to Follow Its Own Binding Regulations

Under the *Accardi* Doctrine, "an executive agency must be rigorously held to the standards by which it professes its action to be judged." *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). The Fifth Circuit holds that when an agency fails to follow its own regulations to the prejudice of an individual, the resulting action is unlawful. *See United States v. Marshall*, 910 F.2d 1241 (5th Cir. 1990).

ICE's failure to comply with 8 C.F.R. § 241.4 and internal revocation protocols—specifically the interview requirement—renders the current detention legally unauthorized.

B. Violation of Fifth Amendment Due Process

The Fifth Amendment's Due Process Clause protects all "persons" within the United States. *Zadvydas v. Davis*, 533 U.S. 678 (2001). ICE's failure to provide a meaningful interview—while simultaneously asserting in official paperwork that such an interview took place—is "fundamentally unfair." *Animashaun v. INS*, 990 F.2d 1490 (5th Cir. 1993). Petitioner was prejudiced because he was deprived of the regulatory opportunity to prove his compliance with the OSUP, which would have precluded re-detention.

C. Respondents State Petitioner's Argument for a Due Process Violation Under *Zadvydas* is Premature, Yet Holds Petitioner to the "good reason" Standard

In Respondent's memorandum in response to the Habeas Corpus petition and supplement, they state that "Petitioner cannot show 'good reason' to believe that removal is unlikely in the reasonably foreseeable future," however, Respondents argue that Petitioner's due process violation argument is premature because Petitioner has not been detained for six months. Therefore, how can Petitioner argue there's no good reason to keep him detained, when the threshold six month period has not even passed according to the law cited by Respondents?

More so, Respondents failed to even prove removal is likely in the foreseeable future because they did not say anything regarding this in their Response. In addition, the reason why Petitioner's OSUP was revoked was due to changed circumstances such that there *is* a significant likelihood of removal in the reasonably foreseeable future. Yet Respondents provide nothing in their Response regarding this significant point. They also cannot provide how that is possible now, given that it wasn't possible before when Petitioner was granted his OSUP in 2004.

D. There is a Measles Outbreak in the East Montana El Paso Texas Facility and Petitioner is Not Vaccinated

Petitioner also argues for a speedy outcome on this case due to the recent measles outbreak at the East Montana El Paso ICE detention facility, where fourteen cases have been confirmed so far in a facility of approximately 1,500 people. See Exhibit B. In addition, about 1 in 5 unvaccinated people in the U.S. who get measles is hospitalized. See Exhibit C. Due to the risk of irreparable damage that Petitioner could receive, Petitioner urges this Court to make a decision on his habeas corpus case. Petitioner's wife has confirmed he is not vaccinated against measles.

IV. CONCLUSION

Because the Supreme Court and the Fifth Circuit mandate that habeas corpus be a "swift and imperative remedy," and because Petitioner's detention is based on a procedurally defunct and factually misrepresented revocation, this Court should grant the motion and order Petitioner's immediate release.

Respectfully Submitted,

Dated this 18th of March of 2026

By: /s/ Sherene Mostaghimi

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Dated this 18th of March of 2026

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Dated this 18th of March of 2026 By: /s/ Joseph D. Kantor

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

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. My firm has discussed the factual assertions in this petition with Petitioner's wife. I hereby verify that the statements made in the attached Emergency Motion for Immediate Release are true and correct to the best of my knowledge.

Date: March 18, 2026

/s/ Sherene Mostaghimi

Sherene Mostaghimi