

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

YOUA LEE,

Petitioner,

v.

KRISTI NOEM, in her capacity as
Secretary of the United States Department
of Homeland Security;
TODD M. LYONS, in his official capacity
as Acting Director of the United States
Immigration and Customs Enforcement;
PAMELA BONDI, in her official capacity
as Attorney General of the United States;
MARY DE ANDA-YBARRA, in her
official capacity as Director, El Paso Field
Office, U.S. Immigration and Customs
Enforcement; and
JOHN OR JANE DOE, in their official
capacity as the Warden of the ERO El Paso
Camp East Montana, Texas,

Respondents.

Case No. 3:26-cv-432

**VERIFIED PETITION FOR WRIT
OF HABEAS CORPUS UNDER 28
U.S.C. § 2241**

INTRODUCTION

1. This case seeks the immediate release of Youa Lee from her unlawful detention by the Department of Homeland Security (“DHS”) U.S. Immigration and Customs Enforcement (“ICE”). ICE has unlawfully detained Ms. Lee since taking her into custody in Minnesota on or about January 21, 2026, in violation of her constitutional, statutory, and

regulatory rights. ICE is currently detaining Ms. Lee at ERO El Paso Camp East Montana in El Paso County, Texas, having spirited her thousands of miles away from her family.

2. The toll of this illegal detention is immense, both for Ms. Lee and her family. Ms. Lee suffers from a variety of medical issues for which her treatment has been disrupted. She reports that her health has been deteriorating further throughout her unlawful detention. Ms. Lee also has seven children and 19 grandchildren, all of whom are U.S. Citizens, and most of whom reside in the Minneapolis metropolitan area. Until her sudden detention, Ms. Lee lived with her son—a police officer—in Maplewood, Minnesota and served as a caretaker for her grandchildren. Two of her young grandchildren (ages two and four) are accustomed to sleeping with Ms. Lee, ask for her often, and are greatly upset by her absence.

3. Ms. Lee was born in Laos and came to the United States as a refugee 37 years ago, on September 12, 1989, settling in the Minneapolis area. *See* Ex. 1 (IPR Filing) at 2. Following a domestic dispute more than 20 years ago that left her husband dead, Ms. Lee accepted responsibility, pled guilty to Murder 2, and served her sentence. As a result, Ms. Lee was initially ordered removed to Laos on March 16, 2016. *See* Ex. 2 (Order of Removal). But because there was no significant likelihood of removal to Laos, she was given an Order of Supervision (“OSUP”) that same year. *See* Ex. 3 (Lee OSUP).

4. Ms. Lee complied with the terms of her supervised release. On January 21, 2026, Ms. Lee appeared with her son and daughter at the Bishop Henry Whipple Federal Building in Hennepin County, MN, for her annual check-in with immigration authorities. But her life was upended when ICE arrested Ms. Lee without notice or an opportunity to be

heard. ICE has given no reason for Ms. Lee's sudden detention, and none is apparent. Ms. Lee was subsequently transported miles from her family to ERO El Paso Camp East Montana in El Paso County, Texas, where she is currently held without access to needed medical care.

5. At no time prior to or during Ms. Lee's arrest did ICE give notice or provide a determination for why Ms. Lee was to be taken into custody. At the time of this filing, Ms. Lee still has not received any document notifying her of her OSUP revocation and explaining the reasons for her arrest, nor has she been afforded an interview to contest any purported reasons for the revocation of her OSUP—all steps explicitly required by ICE's own regulation. *See infra*; 8 C.F.R. § 241.13(i).

6. ICE has demonstrated a pattern of violations of 8 C.F.R. § 241.13(i) as ICE expands enforcement activity to increase rates of arrest and detention¹ and effectuate as many removals as possible to meet express quotas.² In light of these policy goals, ICE has a strong incentive to ignore the requirements 8 C.F.R. § 241.13(i) and favor quantity over quality. District courts nationwide have been confronted with numerous cases where Respondents have detained non-citizens on orders of supervision contrary to the

¹ White House Deputy Chief of Staff for Policy and Homeland Security Advisor Stephen Miller and Department of Homeland Security Secretary Kristi Noem have reportedly demanded that federal agents arrest 3,000 people a day. Brittany Gibson & Stef W. Kight, *Scoop: Stephen Miller, Noem Tell ICE To Supercharge Immigrant Arrests*, Axios (May 28, 2025), <https://www.axios.com/2025/05/28/immigration-ice-deportations-stephen-miller>.

² DHS's stated goal is to deport 1 million people per year. *Secretary Noem Commends President Trump and One Big Beautiful Bill Signing into Law: Historic Win for the American People and the Rule of Law*, Dept. of Homeland Security (July 4, 2025), <https://www.dhs.gov/news/2025/07/04/secretary-noem-commends-president-trump-and-one-big-beautiful-bill-signing-law>.

requirements of 8 C.F.R. § 241.13(i). *See, e.g., Phongsavanh v. Williams*, No. 4:25-CV-00426-SMR-SBJ, 2025 WL 3124032, at *4 (S.D. Iowa Nov. 7, 2025) (“In the substantial majority of these cases, courts have granted relief after finding that the Government failed to identify sufficient changed circumstances or demonstrate a significant likelihood of removal in the reasonably foreseeable future.”).

7. In those cases, as here, Respondents have engaged in a practice of arresting or “revoking” OSUP first and then attempting to establish a change in circumstances afterwards—a procedure that courts have resoundingly rejected. *See Nguyen v. Noem*, No. 25CV3032-LL-MMP, 2025 WL 3564211, at *2 (S.D. Cal. Dec. 12, 2025) (finding that the government did not submit a travel document request until six months after re-detaining the Petitioner); *Tran v. Noem*, No. 3:25-CV-02391-BTM-BLM, 2025 WL 3005347, at *2 (S.D. Cal. Oct. 27, 2025) (“§ 241.13(i)(2) requires that [the changed circumstances] determination is made before the removable alien has had his release revoked”); *Munagi v. McDonald*, No. CV 25-13175-NMG, 2025 WL 3688023, at *3 (D. Mass. Dec. 19, 2025) (“The question before the Court is not whether petitioner’s deportation is now likely in the reasonably foreseeable future but whether such likelihood existed at the time his OSUP was revoked.”).

8. Establishing changed circumstances only after re-arresting the noncitizen is not permitted by 8 C.F.R. § 241.13(i) or under the Due Process Clause of the U.S. Constitution. Moreover, the Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (2001). Detention for the sole

purpose of manufacturing an increased likelihood of removal that otherwise would not exist, to further Respondent's numerical targets for deportation, is unlawful.

9. In multiple cases, Respondents have attempted to point to changes in country policies, such as with Vietnam or Laos, to argue that such policies are a "change in circumstances" that establish a significant likelihood of removal. Courts have rejected this reasoning, finding that general policy changes do not establish a change in circumstances specific to the petitioner. *See Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025), *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 151 (D. Mass. 2025) (refusing to find Respondents' assertion of 300 removals to Vietnam as "pertinent" to inquiry.) Should Respondents raise that argument here, this Court should follow suit.

10. Ms. Lee brings this habeas action for an order requiring Respondents to immediately release her. Respondents' arrest of Ms. Lee violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the implementing regulations of the Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions. ICE's detention of Ms. Lee without a lawful reason, without giving her notice or an opportunity to be heard, without findings required by law, and in violation of agency rules renders her detention unlawful. The appropriate remedy is immediate release, as numerous federal courts across the country (including in the Fifth Circuit) have concluded in similar cases. *See, e.g., Escalante v. Noem*, No. 9:25-CV-00182-

MJT, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025); *Alnajjar v. GEO Group, Inc.*, 5:25-CV-0822-JKP, 2025 WL 3853217 (W.D. Tex. Dec. 23, 2025).

PARTIES

11. Ms. Lee has lived in the United States since 1989. Prior to her detention, Ms. Lee was residing in Maplewood, Minnesota. Since her arrest on or around January 21, 2026, Ms. Lee has been kept in ICE custody at ERO El Paso Camp East Montana in El Paso County, Texas.

12. Respondent Kristi Noem is named in her official capacity as the Secretary of the United States Department of Homeland Security. DHS is a department of the executive branch of the U.S. government that is tasked with administering and enforcing the federal immigration laws. Secretary Noem is ultimately responsible for ICE's actions; specifically, she is responsible for the administration and enforcement of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a). Secretary Noem is legally responsible for any effort to detain and remove Ms. Lee and as such is Ms. Lee's legal custodian.

13. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement. ICE is the agency within DHS that is specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States, and as such Acting Director Lyons is Ms. Lee's legal custodian.

14. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. Attorney General Bondi is responsible for continuing a custody case against a noncitizen and as such is Ms. Lee's legal custodian.

15. Respondent Mary De Anda-Ybarra is named in her official capacity as the Director for the ICE El Paso Field Office. Director De Anda-Ybarra is responsible for the enforcement of the immigration laws within this district, and for ensuring that ICE officials follow the agency's policies and procedures. As such, Field Office Director De Anda-Ybarra is Ms. Lee's legal as well as her immediate physical custodian as she is in charge of the Camp East Montana facility.

16. John or Jane Doe, in their official capacity as the Warden of ERO El Paso Camp East Montana in El Paso County, Texas, is responsible for the supervision and management of the facility in which Ms. Lee is detained. As such, they are Ms. Lee's legal as well as her immediate physical custodian as they are in charge of the Camp East Montana facility.

JURISDICTION AND VENUE

17. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

18. Nothing in 8 U.S.C. § 1252 deprives this Court of jurisdiction.

19. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651, the Suspension Clause, and the Court's inherent equitable powers.

20. Venue lies in the U.S. District Court for the Western District of Texas because it is the judicial district in which Ms. Lee is currently detained. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) ("The plain language of the habeas statute . . . confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement."). Venue is also proper in this Court under 28 U.S.C. § 1391(e)(1) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

STATEMENT OF FACTS

21. Ms. Lee is a citizen of Laos of Hmong ancestry born .

22. Hmong in Laos have long faced violent persecution at the hands of the Laotian government. Ms. Lee thus entered the United States as a refugee 37 years ago, on September 12, 1989, after living with her family in a refugee camp in Thailand. *See* Ex. 1 (IPR Filing) at 2. Ms. Lee became a lawful permanent resident on August 6, 1991. *Id.*

23. Ms. Lee settled in the Minneapolis / St. Paul area with her husband, raising 7 children. Each of Ms. Lee's children either became naturalized citizens or were born in the United States. She now has 19 grandchildren.

24. Ms. Lee lived without incident in the United States for 14 years and had no significant criminal history. But in 2003, Ms. Lee killed her husband in a domestic dispute, then attempted to take her own life. Ms. Lee accepted responsibility and pled guilty to Murder 2. She has nonetheless remained close with her children.

25. As a result of pleading guilty to a felony, the United States instituted removal proceedings against Ms. Lee on July 22, 2011. Ms. Lee was initially ordered removed to Laos on March 16, 2016. *See* Ex. 2 (Order of Removal). But because there was no significant likelihood of removal to Laos, she was given an Order of Supervision (“OSUP”) that same year. *See* Ex. 3 (Lee OSUP).

26. The difficulty of deporting Ms. Lee to Laos is in part that Ms. Lee has lost her Laotian citizenship by seeking refuge in the United States and thus has no legal status in Laos. In 2004, Laos adopted a new nationality and citizenship law that stripped anyone who left Laos for more than seven years of their Laotian citizenship. *See* Ex. 4. (Laos Nationality Act of 2004) Art. 20. If Ms. Lee is removed to Laos, she would be considered an ‘apatrid,’ a stateless person without citizenship in any country, by the Laotian government. Despite Ms. Lee’s final removal order designating her as a Laos national and citizen, Laos itself does not consider her as such, casting doubt as to the ability of Respondents to remove her to Laos, whether now or in the future. Moreover, the number of deportees physically removed to Laos has historically been low and irregular given Laos’ recalcitrance in accepting deportees—it regularly accepts them, but in small numbers.³

³ *See* U.S. Department of Homeland Security, *2018 Yearbook of Immigration Statistics*, Table 41 (Oct. 2019), available at <https://tinyurl.com/6d6zzekh>; U.S. Department of Homeland Security,

27. Ms. Lee was released from prison in 2019. She has lived with her son, a policeman, in Maplewood, Minnesota, since her release.

28. Ms. Lee worked as a seamstress following her release until 2025, when she retired. She has since become a caretaker for her grandchildren. Two of her youngest grandchildren are accustomed to sleeping with Ms. Lee at night. Ms. Lee has remained close to her family, with most of her children still residing in the Minneapolis metro area.

29. Ms. Lee developed a variety of health issues over the years, including Type 2 Diabetes, hypothyroidism, hypertension, PTSD, chronic migraines, and symptomatic internal hemorrhoids. *See* Ex. 5 (Lee Medical Note). She requires medical care and prescribed medications for these conditions.

30. Given Ms. Lee's close family ties to the Minneapolis area and significant health issues, Ms. Lee is not and has never been a flight risk. She has simply sought to spend what time she can with her loved ones.

31. Ms. Lee has strictly complied with her supervised release in all respects and has never missed a check-in. She has had no subsequent issues with the law. Ms. Lee's last OSUP check-in was January 24, 2024, at which ICE confirmed she was "in compliance with OSUP reporting requirements at this time since release." *See* Ex. 3 (Lee OSUP) at 2.

32. On or around January 21, 2026, Ms. Lee reported to the Whipple Building in Hennepin County, MN for her annual OSUP check-in. She was accompanied by two of her children. Ms. Lee had not been apprised of any change in status to her OSUP.

2022 Yearbook of Immigration Statistics, Table 41 (Nov. 2023), available at <https://tinyurl.com/msc5v9b9>.

33. Upon presenting her paperwork, Ms. Lee was asked to wait in the lobby. Two men then beckoned Ms. Lee through a door and refused to let her children accompany her. After Ms. Lee entered the door alone, one of the men informed her children that Ms. Lee was being detained. The men did not offer any explanation to Ms. Lee or to her children, then or later. Once Ms. Lee was taken into custody, Ms. Lee was given a document that she was unable to read due to a language barrier and was promised an interpreter to help her read it. But no interpreter was provided, and the document was taken away from Ms. Lee before anyone could help her understand its contents. Neither Ms. Lee nor her family know what the document was or what it said, including whether or not it related to the revocation of Ms. Lee's supervised release. Ms. Lee was not given any verbal explanation of the reasons she was taken into custody. Nor was Ms. Lee given the opportunity to contest her detention through any sort of interview.

34. As discussed above, Ms. Lee is not a citizen of Laos and left Laos decades ago. Ms. Lee's family and assets are located in the United States, she is of retirement age, and she is in poor health. It is unclear how it would be feasible for the United States to deport Ms. Lee to Laos under the circumstances. Meanwhile, Ms. Lee is left miles from her children and grandchildren, imprisoned for no discernable reason.

35. Ms. Lee had health issues prior to her detention, and her health (both physical and mental) has deteriorated since ICE detained her. She has developed serious chest pain that has not been diagnosed or treated. She is without her medication for her hypertension, which she takes when her blood pressure is elevated. Ms. Lee is without her medication for

her stomach ulcer and migraines, and despite her complaints of constant discomfort has only recently been provided relatively ineffective substitutes. She has been given only a mattress and thin blanket for sleep, and her requests for a pillow to help her deal with her pain by lying down have been denied. Ms. Lee is unable to manage her diabetes with her diet, as she does at home. And Ms. Lee has developed deep feelings of anxiety and depression, and wants badly to see her family again.

REQUIREMENTS OF 28 U.S.C. § 2243

36. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless Ms. Lee is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

37. Good cause requires a showing by the *Respondents*, which in this case cannot be made. The Petitioner has been detained for more than 21 days without any notice or information. Respondents have been on notice about providing justification and authority for Petitioner’s arrest and detention throughout that time.

38. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (citation omitted). “The writ of habeas corpus, challenging illegality of detention, is reduced to a sham if the trial courts do not act within a reasonable time.” *Jones v. Shell*, 572 F.2d 1278, 1280 (8th Cir. 1978). At the heart of habeas petitions is the ability to be heard quickly and

efficaciously. *Harris v. Nelson*, 394 U.S. 286, 291 (1969). As the *Harris* Court explained, “a habeas corpus proceeding must not be allowed to founder in a ‘procedural morass.’” *Id.* at 292 (quoting *Price v. Johnston*, 334 U.S. 266, 269 (1948)). Due to the nature of this proceeding, as well as Ms. Lee’s urgent health concerns, Ms. Lee asks this Court to expedite proceedings in this case as practicable.

LEGAL FRAMEWORK

Release on Supervision After a Final Order of Removal

39. When the government issues a final order of removal against a noncitizen, DHS has a presumptive 90-day “removal period” following the issuance of the order to remove that noncitizen. 8 U.S.C. § 1231(a)(1)(A). Upon expiration of the removal period, the Government may continue to detain a noncitizen under certain circumstances but must otherwise release them under conditions of supervision if removal cannot be effectuated. 8 U.S.C. § 1231(a)(6); *see also Roble v. Bondi*, 803 F. Supp. 3d 766, 770–71 (D. Minn. 2025). (“Not all noncitizens ordered removed from the United States can actually be removed from the United States . . . [u]nless it finds a suitable third country for removal, ICE cannot detain such noncitizens indefinitely.”). Under the Supreme Court’s landmark decision in *Zadvydas v. Davis*, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized.” 533 U.S. at 699.

40. The legal landscape changes upon a noncitizen’s release. “Once ICE releases a noncitizen on an Order of Supervision, ICE’s ability to re-detain that noncitizen is constrained by its own regulations.” *Roble*, 803 F. Supp. 3d at 771.

Revocation of Supervised Release Under 8 C.F.R. § 241.13(i)

41. 8 C.F.R. § 241.13(i) governs re-detention when ICE has previously determined that there is no significant likelihood of removal for a noncitizen under a final order of removal. *Cf. Abuelhawa v. Noem*, 4:25-CV-04128, 2025 WL 2937692, at *3 (S.D. Tex. Oct. 16, 2025) (clarifying that 8 C.F.R. § 241.4(l) controls “when the Government has *not* previously determined that there is no significant likelihood of removal”).

42. ICE may re-detain a noncitizen released on an Order of Supervision if the noncitizen “violates any of the conditions of release,” 8 C.F.R. § 241.13(i)(1), or “if, on account of changed circumstances, [ICE] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future,” *id.* § 241.13(i)(2). “These regulations clearly indicate, upon the revocation of supervised release, it is [ICE’s] burden to show a significant likelihood that the [noncitizen] may be removed.” *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025). The determination of changed circumstances regarding the likelihood of removal must be made *prior to or at the time of* revocation. *See Tran v. Noem*, No. 3:25-CV-02391-BTM-BLM, 2025 WL 3005347, at *2 (S.D. Cal. Oct. 27, 2025) (“§ 241.13(i)(2) requires that this determination is made before the removable alien has had his release revoked”).

43. The determination must be individualized to the noncitizen and address the “particular obstacles” to removing that individual. *Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025). Respondents cannot base their determination on facts about the designated country of removal—rather, they must point to concrete steps

taken to secure the petitioner's own travel documents. *See Nguyen v. Hyde*, 788 F. Supp. 3d 144, 152 (D. Mass. 2025). District Courts have held that generalized assertions made by Respondents do not constitute changed circumstances sufficiently individualized to the noncitizen to satisfy 8 C.F.R. § 241.13(i)(2).⁴

44. After finding an *individualized* changed circumstance, the “reasons” for that revocation must be stated in a notification given to the noncitizen “upon revocation.” 8 C.F.R. § 241.13(i)(3). Failure to provide this notice is grounds for habeas relief. *See Nguyen v. Noem*, 5:25-CV-176, 2026 WL 237282, at *10 (S.D. Tex. Jan. 28, 2026) (granting release and reinstatement of the OSUP because ICE failed to rebut evidence that Petitioner did not receive notice). And courts have held notice untimely when it occurs *after* the noncitizen has been taken into custody. *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (“Petitioner was not given any notice of the reasons for his re-detention prior to his arrest...despite both [8 C.F.R. § 241.4(l)(1) and § 241.13(i)(3)] requiring notice ‘upon revocation.’”).

⁴ Such inadequate assertions include: first, vague and conclusory statements by Respondents that “ICE is in the process of obtaining a travel document.” *Yee S. v. Bondi*, No. 25-CV-02782 (JMB/DLM), 2025 WL 2879479, at *5 (D. Minn. Oct. 9, 2025); *see also Sarail A. v. Bondi*, No. 25-CV-2144 (ECT/JFD), 2025 WL 2533673, at *4 (D. Minn. Sept. 3, 2025) (“notification ‘of the reasons for revocation’ requires ICE to do more than state that circumstances have changed”). Second, travel documents that are “pending” but not yet obtained or approved. *Balouch v. Bondi*, No. 9:25-CV-216-MJT, 2025 WL 2871914, at *3 (E.D. Tex. Oct. 9, 2025); *Quan v. Bowen*, No. 5:25-CV-02546-HDV-PVC, 2025 WL 3691858, at *5 (C.D. Cal. Nov. 14, 2025). Third, merely providing evidence of the number of successful removals to the Petitioner’s designated country of removal. *See Liu v. Carter*, No. 25-3036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17, 2025).

45. Respondents have not identified circumstances particular to Ms. Lee to justify revocation of her release under 8 C.F.R. § 241.13(i) and did not give timely notice of any such reasons.⁵

46. To the extent that Respondents contend, after the fact, that Laos is now accepting more (although still relatively few) deportees, that is not sufficient to show an individual's removal would now be more likely. *See, e.g., Phongsavanh*, 2025 WL 3124032, at *4 (explaining courts have found “a new repatriation agreement with the petitioner’s home country” and claimed “exponential growth in removals to that country” did not establish changed circumstances justifying detention as to the specific petitioner); (citing *Nguyen*, 788 F. Supp. 3d at 151).

47. Under each of the last few administrations, Laos has historically accepted *some* deportees—often 5 to 10 in a year, and an undisclosed number in others.⁶ There are any number of individualized reasons Petitioner was not among them when she was ordered removed from the country nearly ten years ago—her criminal conviction, her lack of Laotian

⁵ In communications with counsel Petitioner has made it clear that she has not been informed of the reasons her OSUP was revoked. She was at one point following her detention handed a piece of paper that may or may not have related to her OSUP, but she made clear that she was unable to read it and the paper was taken back without anyone explained what it was or what it said. Counsel would normally submit a declaration from Petitioner, but the detention facility that houses Petitioner in El Paso does not provide any means to have Petitioner sign a declaration other than through U.S. mail which would not be expeditious enough. <https://www.ice.gov/detain/detention-facilities/camp-east-montana> Should Respondents contest this claim, Petitioner would request an evidentiary hearing on the matter.

⁶ *See* U.S. Department of Homeland Security, *2018 Yearbook of Immigration Statistics*, Table 41 (Oct. 2019), available at <https://tinyurl.com/6d6zzekh>; U.S. Department of Homeland Security, *2022 Yearbook of Immigration Statistics*, Table 41 (Nov. 2023), available at <https://tinyurl.com/msc5v9b9>.

citizenship, her financial status, her lack of family ties to Laos, or something completely different. *Cf. Zadvydas*, 533 U.S. at 684 (noting that the petitioner faced barriers to deportation related to statelessness). The fact that Laos recently accepted incrementally more deportees under different circumstances from Ms. Lee (roughly 100 last year) does not mean that Ms. Lee in particular, out of the roughly 4,700 *Laotians* with final orders of removal whom the current administration is systematically hunting down and detaining,⁷ is *significantly* more likely to be deported now in the sense it is “reasonably foreseeable” that this will happen soon. *Zadvydas*, 533 U.S. at 699.⁸ This argument, if accepted, would justify indefinitely detaining all of the thousands of *Laotians* (which indeed appears to be the goal) even as none of them is particularly likely to be deported soon. And it is mere speculation that Laos will continue to accept a larger number of deportees, particularly in the absence of any formal agreement to that effect. Indeed, given Laos’ small population and relative poverty, it is difficult to see how Laos could do so as a logistical matter.⁹

⁷ See H.R. 6034 H.R. 6034, 116th Cong. § 2, ¶ 8 (“There are currently over 4,700 long-time U.S. residents of Hmong, Lao, Khmu, and Mien or Yao descent with Final Orders for Removal who were born in the Lao P.D.R., fled persecution in Laos, were resettled in the U.S. as refugees, and now face deportation to Laos due to past criminal convictions.”), available at <https://www.congress.gov/bill/116th-congress/house-bill/6034/text>.

⁸ Petitioner notes that, while most courts have correctly followed the reasoning advanced here, at least one has not—seemingly based on a factual mistake. In *Saengnakhone*, the Court incorrectly believed that Laos had not taken *any* deportees until recently. *Saengnakhone v. Noem*, No. 25-cv-4775, 2026 WL 34132, at *5 (D. Minn. Jan. 6, 2026). But this assertion is simply incorrect—Laos did take deportees, as discussed above. The court’s reasoning was further unpersuasive, failing to heed the individualized determination contemplated under the law.

⁹ See, e.g., Alastair McCready, “*I feel hopeless*”: *Living in Laos on the brink*, BBC (Oct. 8, 2023), available at <https://tinyurl.com/ynx9wwhe> (“A sparsely populated, landlocked country of 7.5 million people, Laos is one of the region’s poorest and least developed nations.”).

48. Moreover, after a noncitizen has been timely provided notice containing individualized reasons for the OSUP revocation, ICE must “conduct an initial informal interview *promptly* after [the noncitizen’s] return to [ICE] custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification.” 8 C.F.R. § 241.13(i)(3) (emphasis added). At this informal interview, the noncitizen may submit evidence regarding the likelihood of removal and respond to ICE’s stated reasons for revocation.¹⁰ 8 C.F.R. § 241.13(i)(3); *see also Roble*, 803 F. Supp. 3d at 771; *Esmail v. Noem*, No. 2:25-cv-08325-WLH-RAO, 2025 WL 3030590, at *6 (C.D. Cal. Sept. 12, 2025). Again, Respondents have not followed their own procedure in this regard. Ms. Lee has been spirited away from her family and detained for weeks in substandard conditions with no opportunity to defend herself.

49. In sum, ICE has utterly disregarded statutory and regulatory requirements in its patently unlawful detention of Ms. Lee as part of an effort to detain and deport as many noncitizens as possible. But where fundamental liberties are involved, the law does not countenance this type of quantity-over-quality approach to the exercise of executive power.

Due Process Limits on Revocation of Release

50. The laws and regulations discussed above do not exist in a vacuum. Section 241.13(i)(3) was enacted to afford the process required by the U.S. Constitution when ICE

¹⁰ When ICE does not state what factual or legal basis it relied on in determining that a changed circumstance exists, the noncitizen cannot assert a “meaningful challenge to the decision” to revoke release. *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2444087, at *8 (D. Md. Aug. 25, 2025).

decides to re-detain a noncitizen with a final order of removal. *See Santamaria*, 2025 WL 2444087, at *8.

51. “[T]he Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693 (cleaned up). “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.

52. Under the Due Process Clause, a restraint on liberty—such as the revocation of a noncitizen’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 held that the only legitimate objectives of immigration detention are to 1) prevent danger to the community or 2) prevent flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (explaining that civil detention violates the due process clause unless a special justification outweighs the “individual’s constitutionally protected interest in avoiding physical restraint”) (quoting *Hendricks*, 521 U.S. at 356).

53. In the context of revocation of release under 8 C.F.R. § 241.13(i), the only permissible justifications for re-detention under the regulation’s plain text are violation of the OSUP or a changed circumstance sufficiently individualized to the Petitioner’s own likelihood of removal. The regulations “place the burden on ICE to establish that ‘changed circumstances’ justified the revocation of release.” *Yee S. v. Bondi*, No. 25-CV-02782 (JMB/DLM), 2025 WL 2879479, at *4 (D. Minn. Oct. 9, 2025).

54. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty,” such as the decision to revoke a noncitizen’s order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (cleaned up). “The essence of due process is notice and an opportunity to respond.” *Roble*, 803 F. Supp. 3d at 772. Failure to timely notify a person of the reasons for their arrest, or failure to notify them at all, interferes with their due process right to a prompt, meaningful rebuttal.

55. For example, in *Morrissey v. Brewer*, the Supreme Court found that parolees had a liberty interest in remaining free, and thus could not have that liberty interest taken away without some required procedural protections, such as a determination of whether to revoke parole must be made by someone who is “not directly involved,” notice of such a revocation, and a hearing which is properly recorded. 408 U.S. 471, 482, 485-89 (1972). Those on OSUP have the same substantial liberty interest in remaining free, especially when, as with this Petitioner, that period of freedom can be indefinite—out of the control of the person released on supervision—thereby lasting decades. *See Nguyen v. Bondi*, No. EP-25-CV-323-KC, 2025 WL 3120516 at *5 (W.D. Tex. Nov. 7, 2025).

56. Under the *Mathews v. Eldridge* framework, the Court must balance (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional

or substitute procedural requirement would entail.” 424 U.S. at 335. All three favor the need for some form of hearing, notice and ability to be heard before an OSUP can be revoked.

The APA Invalidates Final Agency Actions That Do Not Comport with Law

57. The Administrative Procedure Act (“APA”) authorizes judicial review of final agency action. *See* 5 U.S.C. § 704. The APA instructs courts to set aside as unlawful final actions that are “arbitrary, capricious, an abuse of discretion, . . . or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

58. Final agency actions are those (1) that “mark the consummation of the agency’s decisionmaking process” and (2) “by which rights or obligations have been determined, or from which legal consequences will flow.” *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (cleaned up).

59. The revocation of Ms. Lee’s OSUP is a final agency action because it marks the consummation of the agency’s decisionmaking process under 8 C.F.R. § 241.13(i) and her resulting loss of liberty is a legal consequence.

60. ICE’s decision to re-detain Ms. Lee is arbitrary and capricious and not in accordance with law because the agency has failed to provide (1) notice and (2) an informal interview where Ms. Lee may rebut the reasons for revocation as required by 8 C.F.R. § 241.13(i). Indeed, ICE failed to give *any* rationale prior to acting. The revocation of Ms. Lee’s OSUP should be set aside as arbitrary and capricious under 5 U.S.C. § 706(2)(A).

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

61. The *Accardi* doctrine is a foundational principle of administrative law which requires agencies to follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

62. ICE violated the *Accardi* doctrine when it suddenly arrested Ms. Lee and revoked her OSUP without providing (1) notice and (2) an informal interview where Ms. Lee may rebut the reasons for revocation as required by 8 C.F.R. § 241.13(i).

63. Because Respondents violated agency regulations governing how and upon what findings it may properly revoke an Order of Supervision, the revocation of Ms. Lee’s OSUP should be set aside under the *Accardi* doctrine.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 C.F.R. § 241.13(i)

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

65. Before arrest, Ms. Lee had been in full compliance with the requirements of her OSUP and diligently attending every ICE check-in. At the time of revoking Ms. Lee’s release, ICE did not—and could not—make findings that Ms. Lee’s OSUP should be

revoked because 1) Ms. Lee has not violated any condition of release and 2) Ms. Lee's *individual* likelihood of removal to Laos had not changed. *See* 8 C.F.R. § 241.13(i). Neither Ms. Lee's conduct nor other circumstances supported re-detention, which is evidenced by Respondents' failure to give Ms. Lee any notice of the reasons for revocation or an opportunity to be heard. *See* 8 C.F.R. § 241.13(i).

66. Ms. Lee's detention cannot be justified by the two reasons for revocation of release authorized by 8 C.F.R. §§ 241.13(i)(1–2): violation of any of the conditions of release or changed circumstances showing a significant likelihood that the noncitizen may be removed in the reasonably foreseeable future.

67. Respondents violated 8 C.F.R. § 241.13(i) by failing to meet their burden to make a changed circumstances determination prior to arresting a noncitizen who is on supervised release. *See Escalante*, 2025 WL 2206113, at *3 (“it is [ICE's] burden to show a significant likelihood that the [noncitizen] may be removed”); *Tran*, 2025 WL 3005347, at *2 (“§ 241.13(i)(2) requires that this determination is made before the removable alien has had his release revoked”).

68. Respondents further violated 8 C.F.R. § 241.13(i) by not providing Ms. Lee with any notice of the reasons for revocation or an opportunity to be heard as required by 8 C.F.R. § 241.13(i)(3).

COUNT TWO
Violation of the Fifth Amendment of the U.S. Constitution
Substantive Due Process

69. Ms. Lee realleges all paragraphs above as if fully set forth here.

70. Respondents have no legal basis to re-detain Ms. Lee under 8 C.F.R. § 241.13(i) and no basis to place her in immigration detention generally. The only legitimate purposes of immigration detention are preventing danger to the community or flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92.

71. Ms. Lee's re-detention does not bear a reasonable relationship to either of these purposes. Ms. Lee is not a danger to the community nor a flight risk. Ms. Lee is an aging woman in poor health whose occupation is caring for her young grandchildren. Her only desire is to spend what time she can with her family. She lives with her son, who is a police officer, and she has scrupulously followed the conditions of her supervised release. She made a mistake, accepted responsibility, paid dearly, and reconciled with her family. She will not break any law and lacks the desire, resources, and physical capacity to flee.

72. It is unlikely that the government will be able to deport Ms. Lee to Laos anytime soon, if ever. But on the off chance that it is, Respondents know where to find Ms. Lee. Respondents do not and cannot articulate a rationale for depriving Ms. Lee of her liberty, depriving Ms. Lee's family of their children's caretaker, and putting Ms. Lee's health at risk in the meantime—particularly as “the meantime” could be years.

73. Because Respondents have no legitimate objective in placing Ms. Lee in civil detention and have identified no basis to re-detain her under the relevant regulations, Ms. Lee's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT THREE
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

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

75. *Mathews v. Eldridge*, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government’s interest, including fiscal and administrative burdens that imposing additional or substitute procedural requirements would entail. 424 U.S. at 335.

76. The first factor, the private interest at issue, favors Ms. Lee. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvydas*, 533 U.S. at 690. Ms. Lee is irreparably harmed by her detention. *Dega M. Y.*, 2020 WL 4928321, at *3; *see Rosales-Mireles v. United States*, 585 U.S. 129, 139 (2018) (recognizing that “[a]ny amount of actual jail time is significant and has exceptionally severe consequences for the incarcerated individual.” (citation modified)). It has deprived her of contact with her children and grandchildren and put her health at risk.

77. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, also favors Ms. Lee. As discussed above, this case arises in the context of express quotas on detaining and deporting noncitizens, leading to indiscriminate and abusive practices on the part of ICE that have been roundly criticized by

judges across the country. The risk of erroneous deprivation of process this has created cannot be overstated—indeed, courts have faced an unprecedented wave of thousands of habeas petitions and granted the large majority.¹¹ The regulations specify under what narrow circumstance ICE may revoke supervised release and the procedural process that must be followed to do so, including timely notice and a prompt opportunity to be heard. 8 C.F.R. § 241.13(i). Respondents failed to adhere to the procedural requirements of the regulation, transforming the ‘risk’ of erroneous deprivation into a virtual certainty.

78. The third factor, the government’s interest, favors Ms. Lee as well. As discussed above, the government’s only legitimate interests in detaining Ms. Lee are preventing danger to the community or flight prior to removal. Detaining Ms. Lee when she presents neither risk fails to serve either interest. And when Respondents do not provide adequate notice and a prompt informal interview to contest the reasons for re-detention, more noncitizens are detained arbitrarily, wasting limited financial and administrative resources and hampering the efficiency of the entire immigration system. As more detained noncitizens file habeas petitions to challenge these unlawful re-detentions, the government must spend resources litigating in federal courts. Respondents would conserve time and

¹¹ See, e.g., Pratheek Rebala and Jeff Ernsthansen, *Immigrants Who Say Their Detention Is Illegal Have Filed More Than 18,000 Cases. It’s a Historic High.*, ProPublica (Feb. 10, 2026), available at <https://tinyurl.com/bdem74td> (“The Trump administration’s push for mass deportations has resulted in more than 18,000 challenges in federal court from immigrants claiming their detention is illegal, more than were filed under the last three administrations combined — including President Donald Trump’s first term. . . . A recent analysis by Politico found that over 300 judges have ruled against the administration’s new detention policies, while only 14 have upheld them.”).

resources—including the resources of the judiciary—by following procedural requirements rather than repeatedly ignoring them to hasten policy goals.

79. The Supreme Court “usually has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property.” *Zinermon*, 494 U.S. at 127. Only in a “special case” where post-deprivation remedies are “the only remedies the State could be expected to provide” can post-deprivation process satisfy the requirements of due process. *Id.* at 128. Moreover, only where “one of the variables in the Mathews equation—the value of predeprivation safeguards—is negligible in preventing the kind of deprivation at issue” such that “the State cannot be required constitutionally to do the impossible by providing predeprivation process,” can the government avoid providing pre-deprivation process. *Id.* at 129.

80. All *Mathews* factors favor Ms. Lee and the provision of notice and the opportunity to be heard in the context of revocation of supervised release. *See Mathews*, 424 U.S. at 333. The revocation of Ms. Lee’s Order of Supervision without timely notice and a meaningful opportunity to respond should be set aside for violating procedural due process under the Fifth Amendment to the U.S. Constitution.

COUNT FOUR

Violation of Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A), (B), & (D)

81. Ms. Lee realleges all paragraphs above as if fully set forth here.

82. Under the APA, a court shall “hold unlawful and set aside agency action . . . found to be . . . not in accordance with law” or “contrary to constitutional right, power, privilege, or immunity.” 5 U.S.C. §§ 706(2)(A–B). The APA also requires a court to set

aside and hold unlawful agency action that is “without observance of procedure required by law.” *Id.* § 706(2)(D).

83. The APA’s reference to “law” in the phrase “not in accordance with law,” “means, of course, *any* law, and not merely those laws that the agency itself is charged with administering.” *FCC v. NextWave Pers. Commc’ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original). This includes the United States Constitution. *Id.*

84. Respondents’ re-detention of Ms. Lee while she was on an Order of Supervision is contrary to the agency’s constitutional power under the Fifth Amendment’s Due Process Clause, as explained above.

85. Ms. Lee’s re-detention was also not in accordance with the INA and implementing regulations governing under what circumstances ICE may revoke supervised release. *See* 8 C.F.R. § 241.13(i).

86. At the time of revoking Ms. Lee’s release, ICE did not—and could not—make findings that Ms. Lee’s OSUP should be revoked because 1) Ms. Lee has not violated any condition of release and 2) Ms. Lee’s individual likelihood of removal to Laos had not changed. *See* 8 C.F.R. § 241.13(i). Ms. Lee’s conduct does not support re-detention. Neither do other circumstances support re-detention, which is notably evidenced by Respondent’s failure to give Ms. Lee any notice of the reasons for revocation prior to or after her arrest or an opportunity to be heard. *See* 8 C.F.R. § 241.13(i).

87. Federal district courts across jurisdictions have granted noncitizens habeas relief under similar circumstances. *See, e.g., Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137,

163-64 (W.D.N.Y. May 2, 2025) (collecting cases and rejecting the government’s argument that an initial informal interview is only required if supervision is revoked based on a violation of conditions of release); *K.E.O. v. Woosley*, 4:25-CV-74, 2025 WL 2553394, at *4-6 (W.D. Ky. Sept. 4, 2025) (finding due process violation where ICE failed to provide notice and interview as required under 8 C.F.R. § 241.13); *Roble*, 803 F. Supp. 3d at 774.

88. An agency decision that “runs counter to the evidence before the agency” is arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983). Respondents’ decision to re-detain Ms. Lee runs counter to the evidence before the agency that Ms. Lee would comply with a demand to appear for removal without detention. Ms. Lee has attended every ICE check-in since her release seven years ago and has never violated any condition of her Order of Supervision. No new facts suggest that Ms. Lee is likely to change course now.

89. Accordingly, because ICE failed to comply with its own regulations, Ms. Lee’s detention should be held unlawful and set aside because it was (1) arbitrary, capricious, and not otherwise in accordance with law, *see* 5 U.S.C. § 706(2)(A); (2) contrary to the agency’s constitutional authority, *see id.* § 706(2)(B); and (3) not in accordance with the INA and implementing regulations, *see id.* § 706(2)(D).

COUNT FIVE **Violation of the *Accardi* Doctrine**

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

91. Under the *Accardi* doctrine, Ms. Lee has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v.*

Shaughnessy, 347 U.S. 260, 268 (1954) (“If Petitioner can prove the allegation [that the agency failed to follow its rules in a hearing] he should receive a new hearing”).

92. Respondents violated agency regulations 8 C.F.R. § 241.13(i) governing upon what findings and how the agency may properly revoke an Order of Supervision. *See, e.g., Ceesay*, 781 F. Supp. at 162-163 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89 (D. Mass. 2017); *see also, e.g., Zhu v. Genalo*, 798 F. Supp. 3d 400, 413 n.3 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, Civ. No. 26-cv-1204-AA, 2025 WL 2430267, at *15 (D. Or. Aug. 21, 2025) (releasing habeas Petitioner where revocation of an ICE Order of Supervision was ordered by someone without regulatory authority to do so).

93. Respondents have failed to give Ms. Lee notice of any changed circumstances as required by 8 C.F.R. § 241.13(i)(2). Ms. Lee has also not been given a formal interview

94. Under *Accardi*, Respondents’ actions should be set aside for violating agency procedures, rules, or instructions.

REQUEST FOR AN ORDER TO SHOW CAUSE

95. Within three days, unless good cause for a delay is shown, “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

96. Ms. Lee respectfully requests that the Court issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why a writ of habeas corpus should not be granted.

PRAYER FOR RELIEF

WHEREFORE, Ms. Lee requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Declare that Ms. Lee's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;
- c. Order Ms. Lee's immediate release and place her back on the original Order of Supervision;
- d. In the alternative grant Ms. Lee a bond hearing to decide whether he currently poses a flight risk or danger to the community; and
- e. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

DATED: February 12, 2026

/s/ Cyrus Morton
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**Pro hac vice forthcoming*

VERIFICATION

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed the factual assertions in this petition with Petitioner and her daughter, who is acting on Petitioner's behalf and who I understand to have personal knowledge of the facts alleged herein. I hereby verify that the statements made in this Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.

Date: February 12, 2026

/s/ Charlie C. Gokey
Charlie C. Gokey