UNITED STATES DISTRICT COURT
NORTHERN DISTRIC OF GEORGIA
ATLANTA DIVISION

D.A.G.H. Petitioner, vs. LADEON FRANCIS, *Field Office Director for ICE Atlanta Field Office; and* TODD LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement*; and KRISTI NOEM, *Secretary of Homeland Security* And PAMELA BONDI, *U.S. Attorney General.* Respondents.	)	CASE NO.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. This case challenges the unlawful re-detention of Petitioner, D.A.G.H. ("Petitioner"), who, until February 26, 2026, lived in the community under an Order of Supervision ("OSUP"). *See* Exhibit 1, OSUP. He is currently detained after his OSUP was unlawfully revoked. He has complied with all supervision requirements for many years without incident. Petitioner is currently detained at 180 Ted Turner Drive SW, Atlanta, Georgia. Since Petitioner is a crime victim with a U visa pending, he will be soon filing a

motion for use of a pseudonym with this Court in order to protect his identity.

2. Petitioner received a notice from USCIS that his U visa has been approved provisionally but he is awaiting a visa number since the fiscal year limit is the sole reason he is being placed on the waiting list. Exhibit 2.

3. On February 26, 2026, Petitioner was detained by ICE Atlanta Field Officer and taken into custody and summarily revoked his OSUP during a normal check-in. He was handed a revocation notice without explanation or meaningful opportunity to respond. Notwithstanding a prior removal order, Petitioner cannot be removed because USCIS has granted him Deferred Action and employment authorization on account of his being a qualifying crime victim. He has not received an initial custody review, a post-order custody determination explaining the basis for his continued detention, or any indication that removal is reasonably foreseeable. In fact, ICE cannot remove him because he was granted Deferred Action and Employment Authorization. Exhibit 3. Petitioner has been on the OSUP and dutifully reporting as ordered for more than seven years. Exhibit 1. Once the U visa is approved, the removal order against him will be subject to mandatory reopening and termination.

4. ICE's actions convert over seven years of stable supervision into indefinite

physical detention by administrative fiat. There has been no change in Petitioner's immigration posture, no changed circumstances, and no lawful basis to re-detain Petitioner. The revocation of Petitioner's OSUP and his continued incarceration—despite his compliance—violate both ICE's own regulatory framework and the constitutional guarantees of due process.

5. This Petition seeks immediate judicial intervention to remedy Petitioner's unlawful OSUP revocation and seeks release under the terms of the prior OSUP.

6. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

7. Petitioner therefore brings this action for injunctive, habeas corpus, and declaratory relief ordering Respondents to immediately release him from unlawful detention and to reinstate his Order of Supervision unless and until Respondents provide lawful justification and afford him the procedural protections required by statute, regulation, and the Constitution.

II. JURISDICTION

8. This Court has jurisdiction under 28 U.S.C. § 2241 and Article I, § 9, cl. 2 of the Constitution (Suspension Clause). This Court's subject matter jurisdiction further arises under Article III, Section 2 of the Constitution because Petitioner is raising constitutional issues and seeks immediate judicial intervention to remedy imminent violations of his constitutional rights by Respondents. In addition to the United States Constitution, this action arises under the Immigration and Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 551 et seq. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 because this action arises under federal law and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651. Petitioner does not seek to permanently enjoin execution of his final order of removal; he challenges only the legality of his current detention, the revocation or escalation of his Order of Supervision, and any removal or transfer during the pendency of this action that would frustrate this Court's jurisdiction over those claims.

9. The Supreme Court and Eleventh Circuit have recognized district courts' jurisdiction to entertain habeas petitions raising colorable constitutional claims—including those alleging deprivation of liberty without due process,

arbitrary or indefinite detention, and agency action contrary to law, based on Supreme Court precedent. Even though the government may detain individuals during removal proceedings, *Demore v. Kim*, 538 U.S. 510, 523 (2003), there are limitations to this power of the executive branch. Limitations like the Due Process Clause restrict the Government's power to detain noncitizens. *Id.*; "It is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment." *Reno v. Flores*, 507 U.S. 292, 306 (1993). Courts must review immigration procedures and ensure that they comport with the Constitution.

10. Petitioner is physically confined pursuant to ICE custody at the ICE Atlanta field Office following the summary revocation of his Order of Supervision earlier today on February 26, 2026. ICE took him into custody despite his compliance with supervision and without affording him notice, explanation, or a meaningful opportunity to respond to the revocation of his OSUP.

11. These restraints are not theoretical or supervisory in nature; they constitute complete physical confinement under federal authority. Petitioner is deprived of his liberty, separated from his U.S. citizen family, and held without any indication that removal is reasonably foreseeable. Such physical detention plainly satisfies the "in custody" requirement for habeas

jurisdiction under 28 U.S.C. § 2241. See *Zadvydas v. Davis*, 533 U.S. 678 (2001) (recognizing habeas jurisdiction over challenges to post-removal-order detention); see also *Jones v. Cunningham*, 371 U.S. 236 (1963) (habeas jurisdiction extends to significant restraints on liberty). Here, where Petitioner is subject to actual incarceration, the jurisdictional predicate is indisputable.

12. Accordingly, this Court has authority to review the legality of Petitioner's ongoing detention and the revocation of his long-standing Order of Supervision.

13. In *I.N.S. v. St. Cyr*, 533 U.S. 289 (2001), the Supreme Court held that federal courts retain *habeas corpus* jurisdiction under 28 USC § 2241, despite restrictions on judicial review enacted under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) and the Anti-Terrorism and Effective Death Penalty Act of 1996 (AEDPA). Consequently, section 2241 habeas review remains available to Petitioner.

14. Federal district courts have long been vested with jurisdiction to review the legality of immigration detention under 28 U.S.C. § 2241. The Supreme Court has repeatedly affirmed that habeas corpus is available to challenge not only the fact of detention, but also **the manner in which detention is imposed**, including whether the government has complied with statutory

and regulatory requirements and afforded due process. *See Demore v. Kim*, 538 U.S. at 516–17; *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). This jurisdiction is not displaced by the existence of a final order of removal or by the government's assertion of discretionary authority; rather, it is preserved for claims that alleged unlawful detention, deprivation of liberty without due process, or agency action contrary to law. The Suspension Clause further guarantees the availability of habeas review to test the legality of executive detention, particularly where, as here, the petitioner alleges ongoing deprivation of liberty in violation of constitutional and statutory safeguards. *See* U.S. Const. art. I, § 9, cl. 2; *Boumediene v. Bush*, 553 U.S. 723, 739 (2008).

15. Federal courts have specifically held that 8 U.S.C. § 1252(g) does not strip jurisdiction over habeas challenges to the revocation of an Order of Supervision and related detention, because such claims attack the legality and manner of detention—not the decision to commence proceedings, adjudicate the case, or execute a removal order. In *Ahmad v. Whitaker*, No. C18-287-JLR-BAT (W.D. Wash. Dec. 4, 2018), the court rejected the government's argument that revocation of an OSUP was barred by § 1252(g) and held that a noncitizen may use 28 U.S.C. § 2241 to challenge both continued custody and the process by which ICE cancelled an OSUP and

returned him to detention. The court held that § 1252(g) does not bar habeas jurisdiction over a challenge to OSUP revocation and re-detention, because such a claim attacks the *legality of detention* and the process used to cancel supervision, not the decision "to execute" the removal order. Likewise, in *Ferrari Rivera v. Wilcox*, No. C19-385-RSM-BAT, 2019 WL 13209736 (W.D. Wash. Sep. 24, 2019), the court held that a habeas challenge to the revocation of an OSUP "does not attack ICE's decision to execute his removal order; rather he challenges his detention prior to his removal," and therefore falls outside § 1252(g)'s narrow scope. And in *Alam v. Nielsen*, 312 F. Supp. 3d 574 (S.D. Tex. 2018), the court reached the same conclusion, holding that district courts retain habeas jurisdiction to review whether ICE complied with 8 C.F.R. §§ 241.4 and 241.13 when cancelling an OSUP and re-detaining the petitioner. Consistent with this narrow reading, courts addressing habeas challenges to the revocation of Orders of Supervision and related detention have held that such claims fall outside § 1252(g) because they attack the legality of custody and the process by which ICE cancelled an OSUP and returned the petitioner to detention, not the discretionary decision to execute a removal order. *See Ahmad v. Whitaker*, No. C18-287-JLR-BAT (W.D. Wash. Dec. 4, 2018); *Rivera v. Wilcox*, No. C19-385-RSM-BAT (W.D. Wash. Sept. 24, 2019); *Alam v. Nielsen*, 312 F. Supp. 3d 574 (S.D. Tex. 2018).

III. VENUE

16. Venue is proper in the United States District Court for the Northern District of Georgia because Petitioner is currently detained at the ICE offices in Atlanta, under the custody of the Department of Homeland Security (DHS). Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241. Additionally, with respect to Petitioner's non-habeas claims seeking declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because the Respondents are officers of United States agencies, the Petitioner is detained within this District, and there is no real property involved in this action.

Jurisdiction Not Barred by 8 U.S.C. § 1252(b)(9), § 1252(f)(1), or § 1252(e)(3)

17. 8 U.S.C. § 1252(b)(9) is a channeling provision that consolidates "judicial review of all questions of law and fact ... arising from any action taken or proceeding brought to remove an alien from the United States" into a petition for review of a final order of removal in the court of appeals. 8 U.S.C. § 1252(b)(9).The Supreme Court and courts of appeals have emphasized that § 1252(b)(9) applies only "with respect to review of an order of removal," not to independent challenges to detention or conditions

of custody that do not seek review of, or relief from, the removal order itself. Petitioner does not seek to invalidate his 2017 removal order, re-open his immigration case, or litigate the merits of removability in this Court. He challenges only (1) the legality of his civil detention following revocation of his Order of Supervision; and (2) DHS's failure to follow governing detention, supervision, and crime-victim policies and regulations in the face of a grant of deferred action on a pending U-visa. Those claims fall outside § 1252(b)(9) and remain cognizable in habeas and under 28 U.S.C. § 1331.

18. Section 1252(f)(1) likewise does not bar the individualized injunctive and declaratory relief Petitioner seeks. That provision limits the authority of lower courts to "enjoin or restrain the operation of" the detention and removal provisions in 8 U.S.C. §§ 1221–1232 "other than with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1). The Supreme Court has held that § 1252(f)(1) "is nothing more or less than a limit on injunctive relief," and that it bars class-wide injunctions but preserves injunctive relief "with respect to … an individual alien." *Garland v. Aleman Gonzalez*, 142 S. Ct. 2057, 2065 (2022). Multiple courts, applying Aleman Gonzalez, have held that § 1252(f)(1) does not preclude (a) declaratory relief, or (b) as-applied injunctions tailored to a single noncitizen's detention or

custody procedures. Petitioner seeks only individual, as-applied relief—release or reinstatement of his OSUP, a stay of removal and transfer sufficient to preserve this Court's habeas jurisdiction, and prospective compliance with constitutionally required OSUP-revocation procedures as to him. That relief does not "enjoin or restrain the operation" of any statute on a programmatic or class-wide basis and thus falls squarely within the individual-alien carve-out in § 1252(f)(1).

19. Section 1252(e)(3) is inapplicable. That subsection channels to the U.S. District Court for the District of Columbia certain facial or systemic challenges to "section 1225(b) ... and its implementation," including challenges to the validity of regulations or written policies implementing the expedited-removal system, and imposes a 60-day filing deadline. 8 U.S.C. § 1252(e)(3). Petitioner does not bring a facial or systemic challenge to the expedited-removal statute, any implementing regulation, or any written expedited-removal policy; nor does he invoke § 1225(b)(1) at all. Instead, he challenges (a) his continued post-order detention under 8 U.S.C. § 1231 and (b) DHS's disregard of governing supervision, detention, and crime-victim policies in the face of a U-visa-based deferred-action grant. Those are as-applied claims concerning the legality of his custody and DHS's treatment of benefits it has already conferred, and they fall outside §

1252(e)(3)'s narrow carve-out.

20. Finally, to the extent Respondents invoke 8 U.S.C. § 1252(g), that provision has been construed narrowly to bar only claims "arising from the decision or action ... to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). Courts have repeatedly held that § 1252(g) does not bar habeas or APA jurisdiction over challenges to post-order detention, revocation of Orders of Supervision, or the procedures used to effect re-detention—because such claims contest the legality and manner of custody, not the decision to execute a removal order. Petitioner's claims fit squarely within that line of authority.

IV. PARTIES

21. Petitioner, D.A.G.H, is a noncitizen. In 2018, he was released on an OSUP and remained faithfully compliant with that OSUP ever since. On February 26, 2026, he went to report as ordered at the ICE Atlanta office at 180 Ted Turner Drive and ICE revoked his long-standing OSUP and took him into custody, and he is currently detained there and imminently will be moved elsewhere.

22. Respondent Ladeon Francis is the Atlanta Field Office Director (FOD) for ICE. As such, Respondent Francis is responsible for the oversight of ICE

operations throughout Georgia. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that will arrest the Petitioner. He is used as the immediate *legal* custodian of the Petitioner.

23. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter "ICE"). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

24. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

25. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity as U.S. government agencies are Respondents in this Petition.

26. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA's waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—

necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

27. Petitioner acknowledges that under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), the proper respondent to the habeas claim is the immediate custodian, and Petitioner does not rely on these officials as "habeas respondents." Petitioner names federal officials in their official capacities solely to ensure the Court can issue effective relief on non-habeas claims, consistent with *Rumsfeld v. Padilla*. Respondents are named so the non-core claims, such as declaratory judgement and injunctive relief, can be granted effective, agency-directed relief to the officials with authority to implement it.

28. While the immediate custodian is a necessary Respondent for purposes of habeas relief, Petitioner's declaratory and injunctive claims require the inclusion of additional federal officials to ensure that the Court can grant complete and effective relief. The unlawful detention at issue flows from decisions made by DHS and ICE officials with authority over detention and the revocation of Orders of Supervision, including the relevant ICE Field

Office Director, whose actions are independent of the local jailer currently holding Petitioner. These officials—not the detention facility—possess the legal authority to revoke an OSUP, order continued detention, or effectuate Petitioner's release. Their inclusion is therefore essential to remedy Petitioner's ongoing unlawful detention and to prevent circumvention of this Court's orders through transfer, release followed by re-detention, or other forms of jurisdictional evasion. Maintaining these federal officials as Respondents ensures that any relief ordered by this Court can be promptly implemented at the agency level where policy and enforcement authority reside. Because complete relief cannot be afforded in their absence, these officials are proper and necessary parties under principles analogous to Federal Rule of Civil Procedure 19. *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682, 690–91 (1949); *Dugan v. Rank*, 372 U.S. 609, 611, 621–22 (1963). Their continued presence as Respondents is indispensable to meaningful judicial review and to ensure that the Court's authority is not nullified by unilateral agency action.

V. EXHAUSTION OF REMEDIES

29. No statutory exhaustion requirement applies to habeas petitions brought

under 28 U.S.C. § 2241. Moreover, any prudential exhaustion requirement must be excused as futile. Petitioner is already in ICE custody following the summary revocation of his Order of Supervision and remains detained without any meaningful procedural review explaining the basis for his continued confinement. ICE has already made its determination to detain Petitioner, rendering any administrative remedy ineffective or illusory.

30. There is no available administrative mechanism through which Petitioner can timely challenge the legality of his detention, the revocation of his long-standing OSUP, or the constitutional deficiencies in ICE's actions. Petitioner has not been afforded an initial custody review or any process that would permit him to contest his detention or seek reinstatement of supervision. Where an agency has effectively predetermined the outcome and is incapable of providing relief, exhaustion is not required. See *Gibson v. Berryhill*, 411 U.S. 564, 575 n.14 (1973); *Houghton v. Shafer*, 392 U.S. 639, 640 (1968).

31. Furthermore, even if an exhaustion requirement were applied, it would be futile because ICE lacks authority to adjudicate the constitutional claims raised in this Petition. ICE cannot remedy violations of due process arising from prolonged detention, the unlawful revocation of an Order of Supervision, or detention that is no longer reasonably related to removal.

Where, as here, the agency's actions are challenged as unconstitutional and no administrative forum can provide meaningful relief, exhaustion is excused.

32. Petitioner has exhausted all administrative remedies to the extent required by law, and Petitioner's only remedy is by way of this judicial action.

VI. STATEMENT OF FACTS AND PROCEDURAL HISTORY

33. Petitioner, D.A.G.H, is a noncitizen. In 2018, he was released on an OSUP and remained faithfully compliant with that OSUP ever since. On February 26, 2026, he went to report as ordered at the ICE Atlanta office at 180 Ted Turner Drive and ICE revoked his long-standing OSUP and took him into custody, and he is currently detained there and imminently will be moved elsewhere.

34. Petitioner is a crime victim with a U visa prima facie eligibility. Petitioner received a notice from USCIS that his U visa has been approved provisionally but he is awaiting a visa number since the fiscal year limit is the sole reason he is being placed on the waiting list. Exhibit 2.

35. On February 26, 2026, Petitioner was detained by ICE Atlanta Field Officer and taken into custody and summarily revoked his OSUP during a normal check-in. He was handed a revocation notice without explanation or meaningful opportunity to respond.

36. Notwithstanding a prior removal order, Petitioner cannot be removed because he has a Deferred Action granted by USCIS on account of him being a crime victim. an initial custody review, a post-order custody determination explaining the basis for his continued detention, or any indication that removal is reasonably foreseeable. In fact, ICE cannot remove him because he was granted Deferred Action and Employment Authorization. Exhibit 3. Petitioner has been on the OSUP and dutifully reporting as ordered for more than seven years. Exhibit 1. Once the U visa is approved, he will be eligible to reopen the prior removal order and remain here legally.

37. Petitioner is the principal petitioner on a U nonimmigrant visa application based on his cooperation with law enforcement as a qualifying crime victim. USCIS has issued him a bona fide determination on that petition, granted him deferred action, and approved an employment authorization document. Those actions reflect DHS's determination, acting through USCIS, that Petitioner merits humanitarian protection, is not an immigration-enforcement priority, and should be permitted to remain and work in the United States while his U-visa application is adjudicated. See, e.g., *Benitez v. Wilkinson*, 987 F.3d 46, 59–60 (1st Cir. 2021) (discussing USCIS's treatment of U-visa waitlist determinations and ICE's policy to

"respect USCIS's grant of deferred action" to U-visa petitioners). For U-visa petitioners placed on the waitlist or granted deferred action, ICE historically has treated removal as stayed absent new adverse factors, recognizing that a U-visa waitlist or deferred-action grant is the functional equivalent of a merits determination of eligibility for victim-based relief. Notwithstanding that backdrop, ICE has now re-detained Petitioner on a long-final removal order and is threatening to remove him during the pendency of his deferred-action period, without acknowledging, analyzing, or purporting to revoke his deferred-action or employment authorization grant.

38. Petitioner has had no new criminal convictions or changed circumstances. His life has been fully integrated into the community and has been crime-free, and ICE permitted him to remain at liberty for over seven years.

39. Petitioner has not received an initial custody determination, post-revocation review, or any explanation justifying his detention. ICE has not articulated any changed circumstances warranting the revocation of Petitioner's long-standing supervision.

40. ICE's abrupt revocation of Petitioner's OSUP and continued detention represents a sharp departure from more than eight years of agency practice, during which ICE repeatedly determined that supervision—not detention—was appropriate. Petitioner's detention now persists despite his extensive

compliance history, strong family ties, and absence of recent criminal conduct or changed circumstances.

41. As a result, Petitioner is currently subjected to prolonged immigration detention without meaningful process, notwithstanding ICE's prior determinations that he could safely and lawfully remain in the community under supervision.

42. For more than seven years, ICE consistently determined that Petitioner could safely remain at liberty under an Order of Supervision. During that period, he fully complied with all reporting requirements, maintained a stable residence had a family, incurred no new criminal convictions, and worked steadily to support his family.

VII. LEGAL FRAMEWORK FOR RELIEF SOUGHT

43. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); The U.S. Constitution guarantees that the writ of habeas corpus is "available to every individual detained within the United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004), (citing U.S. Const., Art. I, § 9, cl. 2). This includes immigration-related detention. *Zadvydas*, 533 U.S. at 687.

44. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008) (citations omitted). "[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id.* at 787. The Petitioner seeking habeas relief must demonstrate he is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286 (1941).

VIII. DUE PROCESS GOVERNS DECISIONS TO REVOKE AN OSUP

45. "The 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 (citation modified). "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.

46. Under substantive due process doctrine, a restraint on liberty like

revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (discussing constitutional limitations on civil detention).

47. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

48. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of "changed circumstances" that make removal significantly likely in the reasonably foreseeable future. Courts have repeatedly held that ICE must identify specific, individualized changes—such as new evidence of flight risk, danger to the community, or a concrete development making removal newly feasible. Vague or generic assertions, or the mere passage of time, are insufficient. *See Liu v. Carter*, 2025 WL

1696526 (D. Kan. Jun. 17, 2025); *Sun v. Noem*, 2025 WL 2800037 (S.D. Cal. Sep. 30, 2025); *Roble v. Bondi*, 2025 WL 2443453 (D. Minn. Aug. 25, 2025); *Sarail A. v. Bondi*, 2025 WL 2533673 (D. Minn. Sep. 3, 2025). Here, ICE has not identified any changed circumstances in Petitioner's case; there is no evidence of new travel documents, agreements with the destination country, or any other development that would make removal likely. The record reflects only continued compliance and stability, not any new basis for detention.

IX. STATUTE AND REGULATIONS GOVERN PROCEDURES FOR REVOKING AN OSUP

49. A non-citizen with a final order of removal "who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General." 8 U.S.C. § 1231(a)(3) (titled "Supervision after 90-day period").

50. A non-citizen may only be detained past the 90-day removal period following a removal order if found to be "a risk to the community or unlikely to comply with the order of removal" or if the order of removal was on specified grounds. *Id.* § 1231(a)(6).

51. But even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§

1231(a)(6)]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas*, 533 U.S. at 699-700.

52. The "removal period" defined in 8 U.S.C. §§ 1231(a)(1)-(a)(6) applies only **once:** it commences upon the final order of removal and runs for 90 days, during which detention is mandatory. After that period, if the government has not effected removal, the noncitizen must be released under an Order of Supervision (OSUP) unless continued detention is justified under the narrow circumstances set forth in § 1231(a)(6) and *Zadvydas*, 533 U.S. at 682–84, 699–701. Courts interpreting 8 U.S.C. § 1231(a)(1)(B) have held that the 90-day "removal period" begins when the removal order becomes administratively final and does not restart each time ICE chooses to redetain a noncitizen under a long final order. In *Diaz Ortega v. Lund*, No. 1:19-CV-670-P, 2019 WL 6003485 (W.D. La. Oct. 15, 2019), the court rejected the "restarting approach" and adopted the "expiration approach," holding that "[t]he removal period does not restart simply because an alien who has previously been released is taken back into custody," because § 1231(a)(1)(B) references a single removal period triggered only by the listed events. The court emphasized that reading the statute otherwise would create "countless 'conditional removal periods'" and render the statutory

triggering events meaningless. Likewise, *Hamama v. Adducci,* 2019 WL 2118784 (E.D. MI, May 15, 2019), held that the government could not "reset" the six-month *Zadvydas* period by redetaining class members, and aggregated time in ICE custody to determine whether detention had become presumptively unreasonable.

53. In Petitioner's case, the removal period began and expired nearly 8 years ago, after which he was released on an OSUP. There is no statutory or precedential authority permitting the government to restart the 90- or 180-day removal period each time it re-detains a noncitizen who has already been subject to a final order and released under supervision. *Bailey v. Lynch,* No. 16-2600, 2016 WL 5791407 (D.NJ, Oct 3, 2016) ("The removal period does not restart simply because an alien who has previously been released is taken back into custody.").[1]

54. As explained in *Diaz-Ortega v. Lund,* 2019 WL 6003485 (W.D. La. Oct. 15, 2019):

> A plain reading of the existing text disfavors the restarting approach. Section 1231 references '[t]he' removal period, a single period triggered exclusively by the latest of three possible events. No other contingencies are provided. Absent a later triggering event—which would, by definition, begin

[1] The court determined that Bailey's removal period began prior to his release on an order of supervision, making his subsequent re-detention not presumptively reasonable and subject to challenge under *Zadvydas.* The only exception to this rule is where an alien is the impediment to his own removal, such as not complying with travel document requirements.

> 'the' removal period—§ 1231(a)(1)(B) dictates that the removal period necessarily begins when a removal order becomes final, and necessarily ends 90 days later.

55. Courts across the country have rejected the government's "reset" theory, holding that the six-month presumptively reasonable period under *Zadvydas* does not restart with each re-detention. The only recognized exception to this rule is where the noncitizen is the impediment to his own removal, such as by refusing to cooperate with travel document requirements. Allowing the government to restart the clock with each re-detention would render the limitations imposed by *Zadvydas* meaningless and would be contrary to the plain language and purpose of § 1231(a)(6) and Supreme Court precedent (*Zadvydas*). Even if the 90-day period could theoretically restart, the six-month *Zadvydas* period does not, except where the noncitizen is the cause of the delay. Consistent with this reading, multiple courts have held that the six-month presumptive limit under *Zadvydas* is cumulative and does not reset each time ICE releases and then redetains a noncitizen under § 1231(a). In *Sied v. Nielsen*, 17-CV-06785-LB, 2018 WL 1876907 (N.D. Cal. Apr. 19, 2018), appeal dismissed, 18-16128, 2018 WL 6624692 (9th Cir. Sept. 14, 2018), the court aggregated successive § 1231(a) detention periods and held that "the six month period does not reset when the government detains an alien under 8 U.S.C. § 1231(a), releases him

from detention, and then redetains him again." In *Somsanuk v. Bondi,* No. C26-48-MLP, 2026 WL 221139, at *3 (W.D. Wash. Jan. 28, 2026), a district court similarly held that "[d]etention need not be continuous for purposes of the *Zadvydas* clock." "[W]here a petitioner has been detained and released by ICE multiple times after a final order of removal, 'the clock' on *Zadvydas*'s six-month period of presumptive reasonability does not re-start with each successive detention." *Id.* quoting *Abubaka v. Bondi,* 2025 WL 3204369, at *3 (W.D. Wash. Nov. 17, 2025). In *Alam v. Nielsen,* 312 F. Supp. 3d 574 (S.D. Tex. 2018), the court held that ICE's assertion that the "removal period" restarted when it cancelled Alam's OSUP and re-detained him more than a decade after his 2004 final order was "inconsistent with the statute's text," and concluded that his custody was "beyond the removal period" and governed by § 1231(a)(6) and 8 C.F.R. § 241.4, not a new 90-day clock. Likewise, in *Ahmad v. Whitaker,* CASE NO. C18-287-JLR-BAT (W.D. Wash. Dec. 4, 2018), the court treated Ahmad's detention years after his removal period had expired as post-removal-period custody under § 1231(a)(6), applied *Zadvydas*' "reasonably necessary" and "reasonably foreseeable future" limits, and explained that revocation of an OSUP and re-detention are governed by 8 C.F.R. §§ 241.4 and 241.13. Taken together with *Diaz-Ortega,* these decisions confirm that the government cannot

manufacture a fresh removal period simply by cancelling supervision and re-arresting someone whose original 90-day removal period expired years ago.

56. Separately, regulations purport to give additional reasons, beyond those listed in § 1231(a)(6), for revoking an order of supervision and re-detaining a noncitizen past the removal period: "(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2). The parallel provision at 8 C.F.R. § 241.13(i) permits revocation of an order of supervision issued under that section only if the noncitizen "violates any of the conditions of release" or if, "on account of changed circumstances," removal has become "significantly likely in the reasonably foreseeable future".

57. Because "[r]egulations cannot circumvent the plain text of the statute[,]" courts question whether these regulations are ultra vires of statutory authority. See, e.g., *You v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal period only if person is a risk to the community, unlikely to comply with the order of removal, or was ordered removed on specified

grounds). As *You v. Nielsen*, 321 F. Supp. 3d 451 (S.D.N.Y. 2018), explains, once the § 1231(a)(1) removal period has expired, the statute provides only two options: continued detention under § 1231(a)(6) upon a finding that the person is a danger or a flight risk, or supervised release under § 1231(a)(3); regulations cannot expand detention authority beyond those statutory bounds. And 8 C.F.R. § 241.4(b)(3) expressly provides that "[i]ndividuals granted withholding or deferral of removal ... who are otherwise subject to detention are subject to the provisions of this part 241," confirming that Part 241's custody-review and revocation procedures apply in full to noncitizens in Petitioner's posture.

X. PETITIONER'S OSUP IS GOVERNED BY SPECIAL PROCEDURES IN 8 C.F.R. § 241.13, NOT THE GENERAL REGIME IN § 241.4

58. Regulations distinguish between two different post-order custody regimes: the general post removal period review process in 8 C.F.R. § 241.4, and the "special review procedures" in 8 C.F.R. § 241.13 for noncitizens who have shown there is no significant likelihood of removal in the reasonably foreseeable future. Courts have repeatedly recognized that § 241.13 applies specifically to "those aliens who are subject to a final order of removal and are detained under the custody review procedures provided at § 241.4 after the expiration of the removal period, where the alien has provided good

reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future." *Adams v. Lowe*, No. 1:CV 11 0276, 2011 WL 663197 (M.D. Pa. Feb. 14, 2011); *G.P. v. Garland*, 103 F.4th 898, 901 (1st Cir. 2024) (holding 8 C.F.R. § 241.13 applicable and that, if the noncitizen "provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the [g]overnment must respond with evidence sufficient to rebut that showing" or release the noncitizen subject to supervision.).

59. Similarly, ICE's decision to re-detain a noncitizen who has been granted supervised release for which ICE asserts removal has become significantly likely in the reasonably foreseeable future, is governed by ICE's own regulation at 8 C.F.R. § 241.13(i)(2), requiring (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).

60. In *Hassanzadeh v. Warden*, No. ED CV 25-2113-DMG (MAAX), 2025 WL 3306272, at *3 (C.D. Cal. Nov. 25, 2025), the court explained that Section 241.13 was added in 2001 (in light of *Zadvydas*) and applies "where the alien has provided good reason to believe there is no significant likelihood of

removal ... in the reasonably foreseeable future." 8 C.F.R. § 241.13(a); Continued Detention of Aliens Subject to Final Orders of Removal, 66 FR 56967-01, 56968 (Nov. 14, 2001). The court continued that:

> If there is a determination under section 241.13 that there is no such significant likelihood, section 241.13(b)(1) allows for the release of the noncitizen under an OSUP if he is not a danger to the public or a risk of flight. If there are changed circumstances such that a significant likelihood of removal materializes, section 241.13 explicitly provides for revocation and sets forth procedures, including an initial informal interview promptly after the return to custody and a revocation custody review. *Id.* § 241.13(i)(2)-(3).

Id. at *4. The Court then held that "it would make little sense for Respondents to be able to avoid following the procedures set forth in section 241.13(i)—a regulation codifying the rule that a person whose release is revoked to enforce a removal order must receive an initial informal interview and other process—by saying that the revocation is due to it being "appropriate to enforce a removal order" against *Hassanzadeh* under section 241.4(l)(2)(iii). In short, *Hassanzadeh* was entitled to the process set forth in section 241.13(l) when he was redetained. It is undisputed that he was not afforded this process." *Id.*

61. In *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *4 (S.D. Fla. Sept. 9, 2025), a district court explained that:

> The distinction is salient because § 241.13(i) restricts revocation more that § 241.4(l)(2). Whereas § 241.4(l)(2)

> permits revocation in the discretion of the revoking official when an alien falls into one of the four specific categories, § 241.13(i) permits revocation only if (1) the alien "violates any of the conditions of release," or (2) "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)(1)-(2).

Id. The court continued to explain that once released on an OSUP under § 241.13, ICE may only revoke the OSUP for the reasons specified in § 241.13(i). *Id.* at *5. Revocation under § 241.13(i) applies only to aliens released under § 241.13(g)—where ICE has formally determined that there is no significant likelihood that the alien will be removed in the reasonably foreseeable future. *Id.* citing § 241.13(i)(1) (applying to "[a]ny alien who has been released under an order of supervision under this section") and § 241.13(i)(2) (providing that ICE "may revoke an alien's release under this section").

62. As evidenced by these case citations above, multiple courts have applied § 241.13 specifically to long-term post-order detainees from countries that routinely refuse to issue travel documents, treating them as "*Zadvydas* cases" subject to the special procedures in § 241.13 rather than solely to § 241.4. *See also Yacouba v. District Director, ICE*, 593 F. Supp. 2d 737, 739 (M.D. Pa. 2008). These decisions state that § 241.13 is the controlling regulation for detainees who have shown "good reason to believe" there is no significant

likelihood of removal in the reasonably foreseeable future, with § 241.4 supplying the background custody-review mechanics.

63. The post-order custody regulations strictly cabin who may make custody and revocation decisions and when: for the first three months after the 90-day removal period expires, only "the district director or the Director of the Detention and Removal Field Office" may conduct the post-order custody review and decide whether to continue detention, and "[f]or any alien ... who has not been released or removed by the expiration of the three-month period after the review, all further custody determinations will be made by the Executive Associate Commissioner, acting through the [Headquarters Post-Order Detention Unit ("HQPDU")]." 8 C.F.R. § 241.4(c)(1)–(2). In addition, those regulations permit only certain officials to revoke an order of supervision: the ICE Executive Associate Director, a field office director, or an official "delegated the function or authority . . . for a particular geographic district, region, or area." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intend to revoke an order of supervision, they must first make findings that "revocation is in the public interest and circumstances do not reasonably

permit referral of the case to the Executive Associate [Director]." 8 C.F.R. § 241.4(l)(2). And for a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *Ceesay* further held that a delegation order that "refers only to a limited set of powers under part 241 that do not include the power to revoke release" insufficient to grant authority to revoke an order of supervision. *Id.*

64. Upon revocation of an order of supervision, the regulations require a specific, three-step process. First, DHS must notify the noncitizen of the reasons for revocation of release or parole. Second, the noncitizen must be afforded an "initial informal interview" promptly after return to ICE custody to respond to those stated reasons. Third, if the person is not released following that interview, the HQPDU "shall schedule the review process" and conduct a revocation custody review that includes "a final evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release." 8 C.F.R. § 241.4(l)(1)-(3).

XI. DUE PROCESS AND THE REGULATORY PROCESS FOR OSUP REVOCATION

65. Once the government has exercised its discretion to release an individual from immigration detention, revocation of that liberty interest is a

significant act that can only be carried out by high-level officials specifically designated in the regulations. Revocation of release under an OSUP implicates a protected liberty interest and must be accompanied by robust procedural and substantive safeguards. The agency must strictly follow its own regulations, as required by the *Accardi* doctrine, and must also provide constitutionally adequate notice and an opportunity to be heard before a neutral decisionmaker prior to revocation. The fact that only high-level officials may revoke these forms of release underscores the gravity of the liberty interest at stake and the need for accountability and individualized assessment.

66. Courts have consistently held that ICE's failure to provide the notice and informal interview required by 8 C.F.R. §§ 241.4(l)(1), 241.4(d), and 241.13(i)(3) violates both the regulations and due process. In *You v. Nielsen*, 321 F. Supp. 3d 451 (S.D.N.Y. 2018), the court held that, even assuming ICE had authority to revoke release under § 241.4, it could not detain the petitioner without providing him with notice and an informal interview as the regulations require. In *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017), the court found OSUP revocation unlawful where ICE relied on the wrong regulation and failed to provide an informal interview "promptly after" return to custody or to give a reasoned written decision, holding that

these failures violated 8 C.F.R. §§ 241.4 and 241.13 and the Fifth Amendment's Due Process Clause. In *Bonitto v. Bureau of Immigration & Customs Enforcement*, 547 F. Supp. 2d 747 (S.D. Tex. 2008), the court held that DHS's failure to conduct the mandatory 180-day post-order custody review and to give a reasoned written basis for continued detention violated 8 C.F.R. §§ 241.4 and 241.13 and the petitioner's procedural due process rights, emphasizing that those regulations "confer important rights upon aliens ordered removed" and must be followed. And in *Resil v. Hendricks*, Civil Action No. 112051 (JLL), 2011 WL 2489930 (D.N.J. June 21, 2011), the court described the regulatory post-order custody review scheme—including written notice, an interview, and a written decision under 8 C.F.R. § 241.4(k)(2)—as the mechanism by which DHS satisfies due process for post-order detention under 8 U.S.C. § 1231(a)(6). A recent order in the Southern District of New York illustrated what procedural due process ICE must follow in order to revoke an OSUP and re-detain an individual like Petitioner. *See Zhu v. Genalo*, No. 1:25-cv-06523 (JLR), 2025 WL 2452352, at *5–9 (S.D.N.Y. Aug. 26, 2025).

67. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen's order of supervision is only permissible if it serves a "legitimate nonpunitive objective." *Kansas v. Hendricks*, 521 U.S.

346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92 (discussing constitutional limitations on civil detention).

68. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a non-citizen's order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified). In addition to ICE's regulations that govern OSUP revocation, *Mathews v. Eldridge* requires a pre-deprivation hearing. Petitioner does not even have a determination from the appropriate district director that there is a "significant likelihood that the alien may be removed in the reasonably foreseeable future." Thus, the first condition to the revocation has not yet occurred.

69. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of "changed circumstances" that make removal significantly likely in the reasonably foreseeable future. As stated *supra*, courts have repeatedly held that ICE must identify specific, individualized

changes—such as new evidence of flight risk, danger to the community, or a concrete development making removal newly feasible. Here, ICE has not identified any changed circumstances in Petitioner's case; there is no evidence of new travel documents, agreements with the destination country, or any other development that would make removal likely. The record reflects only continued compliance and stability, not any new basis for detention.

XII. ONLY HIGH-LEVEL AUTHORIZED OFFICIALS CAN REVOKE AN OSUP

70. 8 C.F.R. § 241.4(l)(2) instructs that an OSUP can be revoked by the service if, and only if, the Executive Associate Commissioner (DHS Undersecretary for ICE) decides to revoke it when, in the opinion of the revoking official:

> (i) The purposes of release have been served;
> (ii) The alien violates any condition of release;
> (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
> (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

71. Internal delegation orders cannot override these regulatory assignments. Section 4(D)(3) of DHS Delegation Order 7030.2, Exhibit 5, expressly provides that any re-delegation to District Directors for Interior

Enforcement "shall not be construed to delegate ... any authority or responsibility exceeding that provided to INS District Directors by chapter 8 of the Code of Federal Regulations as in force on February 28, 2003." The relevant CFR provisions do not include ICE Officers as low as the ones working at SDC among those empowered to revoke OSUPs. Thus, any attempt to re-delegate this authority—whether by general delegation order or internal agency memorandum—is ultra vires and invalid.

72. In other cases undersigned counsel has appeared in, Respondents have filed ERO Delegation order from 2019 purporting to delegate OSUP revocation duties to lower level deportation officers. Undersigned counsel submits that the 2019 ERO delegation order is ultra vires.

73. ERO's authority to issue such delegation orders is entirely derivative of, and strictly limited by, the higher-level DHS Delegation Order 7030.2, which governs all delegations of authority within DHS—including those to ICE and its subcomponents such as ERO. Because ERO is a subcomponent of ICE, and ICE is subordinate to DHS, any delegation of authority by ERO must be expressly permitted by DHS Delegation Order 7030.2. If 7030.2 does not specifically authorize the delegation of OSUP revocation authority—or does not permit the high-level officials named in 8 C.F.R. § 241.4 to further delegate that authority to lower-level officials—then ERO DO 0001.1 cannot

lawfully confer such powers. In other words, a subordinate delegation order like 2019 ERO DO 0001.1 cannot expand or create authority beyond what is expressly permitted by the higher-level DHS Delegation Order 7030.2. Therefore, any purported delegation of OSUP revocation authority in ERO DO 0001.1 exceeds the scope of authority permitted by DHS Delegation Order 7030.2 and is invalid.

74. The Supreme Court has repeatedly affirmed that when Congress or an agency regulation enumerates particular officials to exercise a power, only those officials may act. In *United States v. Giordano*, 416 U.S. 505, 514–16 (1974), the Court held that delegation to others was not permitted where the statute authorized only the Attorney General or specially designated Assistant Attorneys General to approve wiretap applications (wiretap found unlawful when ordered by unauthorized person). The Court explained that the enumeration of authorized officials is both exclusive and exhaustive; delegation to others is impermissible absent explicit authorization. This principle was reaffirmed in *FEC v. Cruz*, 596 U.S. 289, 301 (2022), which held that an agency "literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute."

75. District courts have applied these principles in the immigration context,

holding that revocations of release by officials not named in the regulation are invalid and require restoration of release status. *See, e.g., Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2023); *Zhu v. Genalo*, 2025 WL 2452352, at *2–3 (S.D.N.Y. Aug. 26, 2025); *see also United States. v. Wyder*, 674 F.2d 224, 227 (4th Cir. 1982); *Santamaria Orellana v. Baker*, 2025 WL 2841886, at *3 (D. Md. Oct. 7, 2025) (holding that regulation that gave Executive Associate Commissioner authority to revoke an alien's release and require return to ICE custody could not be exercised by Deportation Officer). The court in *Santamaria Orellana*, citing *Giordano*, noted that "[a] statutory or regulatory provision requiring that a decision affecting personal rights be made only by a designated senior official is fairly deemed to be an important procedural safeguard". *Id.* at *5. The court also directly addressed Due Process: "Respondents nevertheless argue that the failure to adhere to this regulation does not amount to a due process violation. This Court, however, has already found in its earlier ruling in this case that the identified violations of the requirements of 8 C.F.R. § 241.4, including the requirement that an authorized official approve a Notice of Revocation of Release under 8 C.F.R. § 241.4(l)(2), implicate due process." *Id.* at *4.

76. District courts have enforced these delegation limits in the OSUP context. In *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017), the court held that

ICE's revocation of supervised release was invalid where the decision was made by a field office director without clear regulatory authority and without the required publicinterest finding, explaining that the regulations reserve revocation to the Executive Associate Commissioner or a properly delegated district level official and that actions taken outside those delegations are void. In *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025), the court similarly found that a delegation order that "refers only to a limited set of powers under part 241 that do not include the power to revoke release" was insufficient to confer OSUP revocation authority and ordered the petitioner's release on that basis. And *Bonitto v. Bureau of Immigration & Customs Enforcement*, 547 F. Supp. 2d 747 (S.D. Tex. 2008), underscores that, under the *Accardi* doctrine, DHS must comply with the allocation of authority and procedures in 8 C.F.R. §§ 241.4 and 241.13 when detaining someone beyond the removal period. *Ceesay* ordered the petitioner's release solely on this basis, underscoring that unauthorized revocation is void ab initio and cannot sustain detention.-interest finding, explaining that the regulations reserve revocation to the Executive Associate Commissioner or a properly delegated district-level official and that actions taken outside those delegations are void. In -revocation

XIII. CHANGED CIRCUMSTANCES REQUIRED FOR RE-ARRESTING PETITIONER

77. Even if the government were permitted to revoke an OSUP and re-detain a noncitizen after a prolonged period of supervised release, it may do so only upon a showing of "changed circumstances" that make removal significantly likely in the reasonably foreseeable future (SLRRFF). *See* 8 C.F.R. § 241.13(i). There were no changed circumstances here. Petitioner's arrest is insufficient for a "changed circumstances" finding, especially since the charges were fully dismissed and expunged. This changed circumstances requirement is not a mere formality: Courts have repeatedly held that **ICE must identify specific, individualized changes**—such as new evidence of flight risk, danger to the community, or a concrete development making **removal newly feasible**. *Roble v. Bondi*, 2025 WL 2443453 at *4 (D. Minn. Aug. 25, 2025) (the regulations place the burden on ICE to first establish changed circumstances that make removal significantly likely in the reasonably foreseeable future); *Hernandez Escalante v. Noem*, No. 9:25-cv-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) ("The[ ] regulations clearly indicate, upon revocation of supervised release, it is [ICE's] burden to show a significant likelihood that the [noncitizen] may be removed."). Vague or generic assertions, or the mere passage of time, are insufficient. *See Phongsavanh v. Williams*, No. 4:25-CV-00426-SMR-SBJ, 2025

WL 3124032, at *4 (S.D. Iowa Nov. 7, 2025); *Liu v. Carter*, 2025 WL 1696526 (D. Kan. Jun. 17, 2025); *Sun v. Noem*, 2025 WL 2800037 (S.D. Cal. Sep. 30, 2025); *Sarail A. v. Bondi*, 2025 WL 2533673 (D. Minn. Sep. 3, 2025) (notification of "changed circumstances" without explanation is insufficient).

78. Here, ICE has not identified any changed circumstances in Petitioner's case; there is no evidence of new travel documents for him, nor any other concrete development that would make his removal significantly likely.

XIV. RESPONDENTS' ACTIONS VIOLATE PETITIONER'S GRANT OF DEFERRED ACTION AND DEPRIVE THIS COURT OF A MEANINGFUL REMEDY

79. Petitioner has been granted Deferred Action by USCIS based on a bona fide U-visa petition, which is valid through 2026. Respondents have not lawfully revoked his Deferred Action and thus cannot lawfully detain him for the purpose of executing a removal order. As courts have held, "a grant of deferred action is an affirmative immigration benefit that effectively makes it unlawful for a removal order to be executed while the alien has deferred action status." *Espinoza-Sorto v. Agudelo*, No. 1:25-CV-23201-GAYLES, 2025 WL 3012786, at *5 (S.D. Fla. Oct. 28, 2025).

80. 45. In *Fornalik v. Perryman*, 223 F.3d 523 (7th Cir. 2000), the Seventh Circuit

addressed a nearly identical situation where immigration authorities attempted to remove a noncitizen after granting Deferred Action, despite a preexisting removal order. The court held that the last agency action—in that case, the grant of Deferred Action—supersedes all prior actions, including any outstanding removal orders. The court reasoned that allowing inconsistent treatment by different branches of the same agency is impermissible, and that the most recent agency decision must control. Specifically, the court stated that "the last agency action supplants all prior ones," and reversed the district court's judgment, instructing it to enforce the Deferred Action grant and prevent removal during its validity period. The Seventh Circuit held that in situations of inconsistent treatment by immigration officials under the same governmental department (then INS, now DHS), the last agency action "supplants all prior ones," which in Petitioner's case is USCIS's Deferred Action grant. See id. at 530. Thus, the removal order against Petitioner is currently unenforceable.

81. Here, the grant of Deferred Action by USCIS is the last controlling action, and it supplants ICE's authority to execute the prior removal order. Courts have consistently found jurisdiction to review an agency's disregard of deferred action status and to enjoin removal. See, e.g., *Espinoza Cruz v. Eng*, No. 3:25-CV-919-CCB-SJF, 2025 WL 3469811, at *3 (N.D. Ind. Dec. 3, 2025).

82. Even if discretionary, once a benefit like Deferred Action is granted, it confers tangible liberty and property interests protected by the Due Process Clause. An agency may not arbitrarily rescind it without affording the recipient notice and an opportunity to be heard. See *Mertik v. Blalock*, 983 F.2d 1353, 1367 (6th Cir. 1993).

83. This Court has jurisdiction to address detention resulting from "the government's failure to honor benefits it has already granted." *Patel v. Hyde*, 2025 WL 3169875, at *1 (D. Mass. Nov. 12, 2025). If Respondents are free to unilaterally ignore a grant of deferred action, the benefit itself becomes meaningless. This position is supported by a broad consensus of federal courts. See, e.g., *Nevarz Jurado v. Freden et al.*, No. 25-CV-943-LJV, 2025 WL 3687264, at *6 (W.D.N.Y. Dec. 19, 2025); *Santiago v. Noem*, 2025 WL 2792588, at *3-4 (W.D. Tex. Oct. 2, 2025) (collecting cases).

84. Finally, Respondents' actions disregard Petitioner's substantial reliance interests, cultivated over years of compliance with Petitioner's OSUP and by the formal grant of Deferred Action. As the Supreme Court affirmed in *Department of Homeland Security v. Regents of the University of California*, 591 U.S. 1 (2020), an agency cannot rescind a policy generating such reliance interests without a reasoned explanation that considers those interests. Respondents have provided no such explanation. Their actions are therefore

arbitrary and capricious in violation of the APA.

XV. UNLAWFUL REVOCATION OF CRIME VICTIM POLICIES

85. 50. The Administrative Procedure Act (APA) requires federal agencies to engage in reasoned decision-making and prohibits actions that are arbitrary, capricious, or taken without observance of procedure required by law. See *Michigan v. EPA*, 576 U.S. 743, 750 (2015); *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 16, 20–23 (2020). When rescinding a prior policy, an agency must consider reasonable alternatives and address legitimate reliance interests engendered by the prior policy. *Id.* at 20–24, 28–34).

86. For over 15 years, and throughout the entirety of Petitioner's presence in the U.S., until 2025, ICE had policies in place to protect crime victims. The first published policy was ICE Policy Number 10076.1 published on June 17, 2011. Then on August 10, 2021, ICE expanded the policy in ICE directive 11005.3. See also Q&A explaining the revised and expanded policy.

87. ICE Directive 11005.3: Using a Victim-Centered Approach with Noncitizen Crime Victims, in effect at the time of Petitioner's Deferred Action grant, required ICE to refrain from taking civil immigration enforcement action against individuals known to have pending petitions or applications for

victim-based immigration benefits, such as U visa petitions. Courts have recognized the binding nature of such directives, noting that it is ICE's policy not to deport U visa petitioners who have been placed on the waitlist and granted deferred action. See *Meza Morales v. Barr*, 973 F.3d 656, 659 (7th Cir. 2020).

88. The current administration rescinded ICE Directive 11005.3 through ICE Policy Number 11005.4, citing only the January 20, 2025, Executive Order "Protecting the American People Against Invasion" as justification for a sweeping change in enforcement priorities. Exhibit 6. However, the new policy fails to provide any substantive rationale for abandoning the victim-centered approach, nor does it address the reliance interests of noncitizen crime victims and their families. This lack of reasoned explanation and failure to consider reliance interests is precisely the type of arbitrary and capricious agency action the APA prohibits. 5 U.S.C. § 706(2)(A), (D). When rescinding a prior policy, an agency must consider alternatives within the ambit of the existing policy and address any legitimate reliance interests engendered by the prior policy. *Regents*, 591 U.S. at 20–24, 28–34.

89. Because ICE or DHS changed its policy in contradiction to the previous policy, it was required to provide a more detailed and thorough explanation for the change, especially given the significant reliance interests at stake.

DHS failed to meet that standard here. Accordingly, ICE Policy Number 11005.4 should be declared a legal nullity as it was issued in violation of the APA, and the prior directive—ICE Directive 11005.3—should be reinstated. Under the prior directive, Petitioner should not be detained or removed while his U visa Deferred Action is valid and his visa petition is pending.

90. Even assuming ICE Policy Number 11005.4 is valid, ICE failed to follow its own procedures in Petitioner's case. The policy requires ICE officers to coordinate internally and consult with the Office of the Principal Legal Advisor (OPLA) before taking civil enforcement action against beneficiaries of victim-based immigration benefits. There is no indication that ICE considered Petitioner's crime-victim status, her pending U visa application, or her grant of Deferred Action when detaining her in July 2025 to enforce the prior removal order. This failure to follow internal procedures is itself a violation of the APA, which requires agencies to observe their own rules and procedures. See 5 U.S.C. § 706(2)(D).

91. ICE's actions have resulted in a de facto revocation of Petitioner's Deferred Action and employment authorization, depriving her of a liberty and/or property interest without due process of law. In various Circuits, it is well established that procedural due process requires the government to provide notice and a meaningful opportunity to be heard before depriving an

individual of a significant liberty or property interest. See *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Daily Servs., LLC v. Valentino*, 756 F.3d 893, 904 (6th Cir. 2014) ("The right to prior notice and a hearing is central to the Constitution's command of due process."); *Paterek v. Vill. of Armada, Michigan*, 801 F.3d 630, 649 (6th Cir. 2015) (to establish a procedural due process claim, a plaintiff must show (1) the existence of a protected property or liberty interest, (2) a deprivation of that interest, and (3) that adequate procedures were not afforded).

92. While Deferred Action and employment authorization are discretionary benefits, once granted, they confer tangible benefits and create a reasonable expectation of continued enjoyment for the duration of the grant, absent lawful revocation. The Sixth Circuit recognizes that when the government confers a benefit or status, it may not arbitrarily rescind it without affording the recipient notice and an opportunity to be heard. See *Mertik v. Blalock*, 983 F.2d 1353, 1367 (6th Cir. 1993) (recognizing a liberty interest in government-conferred benefits and the right to procedural due process before deprivation); *Women's Med. Prof'l Corp. v. Baird*, 438 F.3d 595, 611 (6th Cir. 2006) (procedural due process requires notice and an opportunity to be heard before deprivation of a protected interest).

93. Accordingly, ICE's actions in detaining Petitioner and effectively revoking

Petitioner's Deferred Action and employment authorization—without prior notice or a meaningful opportunity to contest the deprivation—violate the Due Process Clause of the Fifth Amendment as interpreted by the Sixth Circuit. Such deprivations are constitutionally infirm and require judicial intervention to restore Petitioner's protected interests.

94. In sum, ICE's abrupt rescission of Directive 11005.3, without a reasoned explanation or consideration of reliance interests, and its failure to follow even the procedures of the new policy, are arbitrary, capricious, and unlawful under the APA. The prior directive should control in this case. Petitioner is likely to succeed on the merits of her claim that the de facto revocation of her Deferred Action and employment authorization is unconstitutional, and that ICE's rescission of Directive 11005.3 through Policy Number 11005.4 violates the APA and established principles of administrative law.

XVI. APA AND ACCARDI FRAMEWORK

The APA Sets Minimum Standards for Final Agency Action and authorizes judicial review of final agency action. 5 U.S.C. § 704.

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

96. ICE's revocation of an order of supervision —or the imminent threat thereof— is a final agency action subject to this Court's review.

97. Any revocation or re-detention decision would mark the consummation of ICE's decision-making process regarding Petitioner's custody and supervision. Recent decisions have reiterated that agencies are "generally required to follow their own regulations," and failure to do so renders their actions invalid. *See Fed. Defs. of New York, Inc. v. Fed. Bureau of Prisons*, 954 F.3d 118, 130 (2d Cir. 2020).

98. Such an action would also be one by which rights or obligations have been determined, or from which legal consequences would flow, because it would lead to Petitioner's detention in violation of his rights under the Constitution, statute, and regulation.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

99. Under the *Accardi* doctrine, a foundational principle of administrative law,

agencies must 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.").

100. *Accardi* is not "limited to rules attaining the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. See *Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *U.S. v. Heffner*, 420 F.2d 809, 812 (4th Cir. 1969) (under Accardi, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

101. Where a release notification issued alongside an order of supervision instructs that a non-citizen with a final order of removal will be given an opportunity to prepare for an "orderly departure," ICE's failure to follow that instruction is an *Accardi* violation. See *Ceesay v. Kurzdorfer*, 781 F. Supp.

3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), vacated and remanded on other grounds sub nom. *Ragbir v. Barr*, 2019 WL 6826008 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering release of petitioners to give an opportunity to prepare for orderly departure).

102. ICE's Detention and Removal Operations Field Policy and Procedures Manual (DROPPM), prescribes mandatory procedures for the revocation of orders of supervision or release, including: (1) a complete review of the circumstances surrounding the alleged violation; (2) prompt service of a Notice of Revocation of Release stating the reasons for revocation; and (3) an informal interview with the noncitizen to afford an opportunity to respond to the reasons for revocation. In Petitioner's case, ICE failed to conduct a timely review, and failed to provide the required post-order custody review.

103. Chapter 17.12(b) of the DROPPM prescribes a non-discretionary process for revocation of an OSUP. Specifically, **before revocation, ICE must conduct a complete review of the circumstances surrounding the alleged violation; promptly serve the alien with a Notice of Revocation of Release stating the reasons for revocation; and conduct an informal interview with the alien to afford an opportunity to respond to the reasons for revocation.** If

the alien is not released after the informal interview, ICE must initiate the Post Order Custody Review ("POCR") process. This process is not a mere technicality. The interview requirement is designed **to ensure that revocation decisions are based on accurate, individualized information and that the affected individual has a meaningful opportunity to contest the alleged violation before liberty is withdrawn.** The absence of this process increases the risk of arbitrary and capricious actions and erroneous deprivation of liberty, and it undermines the reliability and fairness of the agency's actions. Disclaimer language such as "Nothing in this manual may be construed to create any substantive or procedural right or benefit that is legally enforceable by any party against the United States, its agencies or officers, or any other person" does not foreclose Petitioner's argument. *Appalachian Power Co. v. EPA*, 208 F.3d 1015, 1022–23 (D.C. Cir. 2000).

104. The DROPPM and related regulations also require that revocation be based on individualized findings of changed circumstances, such as new evidence of flight risk, danger to the community, or a significant likelihood of removal in the reasonably foreseeable future. No such findings were made in Petitioner's case. Instead, the record reflects that he had a long history of compliance and strong family and community ties.

105. Courts applying *Zadvydas* have treated the individualized POCR and §

241.13 review process—written notice, an opportunity to submit evidence, and a reasoned written decision—as the minimum process required for postorder detention under § 1231(a)(6). Courts treat § 241.13 as the controlling regulation for detainees who have shown "good reason to believe" there is no significant likelihood of removal in the reasonably foreseeable future, with § 241.4 supplying the background custody-review mechanics.

106. Even where statutory frameworks grant ICE broad discretion in detention and release decisions, federal courts retain jurisdiction to review whether the agency complied with its own regulations, procedures and prior written commitments in the OSUP and its revocation procedures. This is supported by Eleventh Circuit precedent (*Gonzalez v. Reno*, 325 F.3d 1228 (11th Cir. 2003) ("[A]gencies must respect their own procedural rules and regulations...[and] the courts retain the authority to check...for procedural compliance", 1349), *Kurapati v. USCIS*, 775 F.3d 1255 (11th Cir. 2014), as well as various district court cases, for example *Barrios v. Ripa*, No. 1:25-cv-22644-GAYLES, 2025 WL 2280485 (S.D. Fla. Aug. 8, 2025), *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017) (Arbitrary OSUP revocation without adherence to agency rules is unlawful).

XVII. CAUSES OF ACTION AND CLAIMS FOR RELIEF

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

107. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

108. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

109. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. CONST. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This vital liberty interest is at stake when an individual is subject to detention by the federal government.

110. Under the civil-detention framework set out in *Zadvydas* and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

111. ICE necessarily determined that Petitioner was neither a danger nor a flight

risk when it issued the OSUP.

112. Now, despite Petitioner's full compliance with every condition of his Order of Supervision for almost eight years, ICE has given no notice of any change in circumstances that would warrant revocation. There are no criminal issues, Petitioner has complied with the OSUP, and there are no new adverse factors to justify detention.

113. Because Petitioner's removal is not reasonably foreseeable, any re-detention would not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

114. Respondents' revocation of Petitioner's OSUP, and his re-detention, therefore violate substantive due process under the Fifth Amendment to the U.S. Constitution.

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

115. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

116. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424

U.S. 319 (1976). Pursuant to *Mathews*, courts weigh the following three factors: (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." *Mathews*, 424 U.S. at 335.

117. The first factor, the private interest at issue, favors Petitioner as Petitioner's liberty interest is paramount. "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 v. Davis*, 533 U.S. 678, 690. ICE had already decided almost eight years ago in 2018 that Petitioner is not a flight risk, and does not pose a danger to the community. Petitioner has complied with all reporting requirements over the past eight years and does not have any adverse factors other than a recent arrest that resulted in dismissed charges. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). The right to be free of detention of indefinite duration pending a bail

determination, is "without question, a weighty one." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982).

118. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, also favors Petitioner. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty high (as they failed to provide notice and an opportunity to be heard). Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk. Likewise, the risk of erroneous deprivation of liberty is heightened when the same enforcement-oriented officers who arrest individuals also control the decision to revoke supervised release without any neutral decisionmaker or meaningful adversarial hearing. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955).

119. The third factor, the government's interest, also favors Petitioner. When the

government ignores law (and agency breaks its own regulations, policies and procedures) that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

120. Because Petitioner does not have a passport or any travel document, ICE cannot remove him in the reasonably foreseeable future.

121. For these reasons, revoking or acting to revoke Petitioner's order of supervision—without prior notice, findings, or an opportunity to be heard, and in light of current ICE practices of detaining supervised individuals during routine check-ins—would violate procedural due process under the Fifth Amendment to the U.S. Constitution.

122. ICE has not identified any recent and changed circumstances that would justify revocation or escalation of Petitioner's Order of Supervision.

Petitioner has not violated supervision, has no new criminal history, and continues to reside at the same address with his family. There is no evidence of increased flight risk, danger to the community, or any development making removal newly foreseeable. Absent such individualized findings, escalation to detention would be arbitrary, contrary to law, and in violation of due process.

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

123. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

124. 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).

125. 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).

126. Respondents' revocation of Petitioner's order of supervision, and the policies and practices giving rise to his detention, are contrary to the

agency's constitutional power under the Fifth Amendment's Due Process Clause, as explained above.

127. Any such revocation or detention would also not be in accordance with the INA and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances, as cited and discussed in the Statutory Framework section above.

128. Petitioner's order of supervision has remained valid for approximately eight years, and there is no indication that any authorized ICE official has made findings required under 8 C.F.R. § 241.4(l)(2) that revocation is in the public interest or that circumstances warrant referral to the Executive Associate Director. Nor is there any evidence that the authority to revoke has been lawfully delegated in Petitioner's case.

129. Before taking any action to revoke the order, ICE failed to follow the mandatory procedures in 8 C.F.R. §§ 241.4 and 241.13. In *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017), and *Bonitto v. Bureau of Immigration & Customs Enforcement*, 547 F. Supp. 2d 747 (S.D. Tex. 2008), the courts granted habeas relief where ICE either relied on inapplicable regulations or bypassed the required revocation procedures, including providing notice, conducting the informal interview, and performing post-order custody reviews with reasoned written decisions mandated by those

regulations. These courts treated such violations as both contrary to law and contrary to constitutional right under 5 U.S.C. § 706(2)(A)–(B).

130. Even assuming that regulations purporting to offer additional justifications for revocation of an order of supervision are not ultra vires, Respondents did not comply with them. Respondents could not make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because Petitioner had not. Nor could Respondents make findings that the purposes of release had been served or that it was appropriate to enforce a removal order, because it had yet to make final arrangements for Petitioner's removal.

131. Nor have Respondents provided Petitioner with notice of any intent to revoke supervision or an opportunity to respond as required by 8 C.F.R. § 241.4(l)(1).

132. Accordingly, any attempt to revoke Petitioner's order of supervision or place him in detention would be unlawful and must be set aside because it would be contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations.

COUNT FOUR
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)
Arbitrary and Capricious

133. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

134. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A).

135. Respondents' revocation of Petitioner's order of supervision and continued detention are arbitrary and capricious because they violate statute, regulation, and the Constitution, as described above.

136. An agency decision that "runs counter to the evidence before the agency" is also arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

137. Any such decision by Respondents would run counter to the evidence before the agency, which shows that Petitioner has consistently complied with his supervision, has never violated a condition of his order, and presents no evidence of flight risk or danger to the community.

138. Moreover, any decision to revoke or detain would have "failed to consider important aspects of the problem" before Respondents, making it arbitrary and capricious for multiple other reasons. *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

139. First, Respondents would fail to consider the serious constitutional concerns raised by revoking Petitioner's order of supervision without notice and opportunity to respond.

140. Second, Respondents would fail to consider the increased administrative burden to the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk nor a danger to the community and for whom the agency does not have travel documents needed to effectuate removal, including financial and administrative costs incurred by the agency due to unnecessary detention. Moreover, **ICE cannot lawfully remove Petitioner he was granted Deferred Action Grant by USCIS.**

141. Third, Respondents would fail to consider reasonable alternatives to revoking Petitioner's order of supervision that were before the agency, like simply continuing release under the order of supervision and scheduling a future time and date to appear for removal. This alternative would vindicate the government's interests in effectuating a removal order and save it the expense of detention not needed to guarantee Petitioner's appearance.

142. Fourth, Respondents would fail to consider Petitioner's substantial reliance interest, created by the agency's consistent practice over two decades of allowing him to remain under supervision and instructing that individuals under such orders will be given an opportunity to arrange for an orderly

departure once travel documents are obtained.

143. A noncitizen released from immigration custody acquires a protected liberty interest in remaining at liberty, grounded in the government's own determination that the individual is neither a flight risk nor a danger to the community. This interest is heightened by the individual's reliance on that status to build family, community, and employment ties. Before this liberty can be withdrawn, both the regulatory and constitutional framework require meaningful process—including advance notice and an opportunity to be heard before a neutral decisionmaker. As the Supreme Court has emphasized, "The essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (cleaned up).

144. Numerous recent cases from district courts across the country have reached the same conclusion: noncitizens released on recognizance cannot be arbitrarily re-detained without individualized findings, notice, and a meaningful opportunity to be heard. These courts have granted habeas relief and injunctive orders where the government failed to honor the reliance interests and procedural safeguards inherent in its own release decisions. Arbitrary re-detention, absent evidence of noncompliance, flight

risk, or danger, is unlawful and subject to judicial remedy.[2]

145. For these and other reasons, any attempt by Respondents to continue detaining Petitioner, or to revoke his order of supervision or re-detain him in the future, would be arbitrary and capricious and should be declared unlawful and enjoined.

COUNT FIVE
Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C) In Excess of Statutory Authority

146. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

147. Under the APA, a court shall "hold unlawful and set aside agency action . .

[2] *Zhu v. Genalo*, No. 1:25-cv-06523 (JLR), 2025 WL 2452352, at *5–9 (S.D.N.Y. Aug. 26, 2025); *Cifuentes Rivera v. Arnott*, No. 4:25-cv-00570-RK, Dkt. No. 19 (W.D. Mo. Oct. 7, 2025) (holding that under an Order of Supervision pursuant to immigration regulations, 8 C.F.R. §§ 241.4 and 241.13, the petitioner was entitled to an informal interview upon detention based on a revocation of her supervised release order, which she can "contest and challenge, the reasons for her detention"); *Diaz v. Wofford*, No. 1:25-CV-01079 JLT EPG, 2025 WL 2581575, at *3-5 (D. Ariz. Sept. 5, 2025) (granting preliminary injunction requiring petitioner's immediate release and permanently enjoining the government from re-detaining petitioner without due process compliance based on application of section 1226 where the DHS's failure to follow the regulation procedures in 8 C.F.R. 241.8 and failing to provide notice as required under 8 C.F.R. 241.4 where petitioner was released on own recognizance due to lack of space, was a derivative applicant on his wife's asylum application, and there was no evidence petitioner failed to comply with his terms of supervision); *M.S.L. v. Bostock*, No. 25-cv-01204, 2025 WL 2430267 (D. Or. Aug 21, 2025) (granting temporary restraining order requiring petitioner's immediate release where the DHS's failure to provide notice as required under 8 C.F.R. § 241.4 and there was no evidence petitioner failed to comply with her terms of supervision); *see also Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass 2017) (holding ICE violated the Due Process Clause of the Fifth Amendment by detaining petitioner without advance notice, a hearing, or an interview, despite his full compliance with the conditions of his release. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2023) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so). *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intend to revoke an order of supervision, they must first make findings that "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]."

. found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

148. "An agency . . . literally has no power to act—including under its regulations—unless and until Congress authorizes it to do so by statute." *FEC v. Cruz*, 596 U.S. 289, 301 (2022) (internal quotation marks and citation omitted).

149. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, if removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§1231(a)(6]. In that case, of course, the alien's release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

150. Regulations that purport to give Respondents authority to revoke an order of supervision on grounds other than those listed § 1231(a)(6) are ultra vires and in excess of statutory authority because "[r]egulations cannot circumvent the plain text of the statute." *You v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018). Any attempt by Respondents to revoke Petitioner's

order of supervision or detain him under such regulations would therefore be in excess of statutory authority and must be held unlawful and set aside, particularly where removal is not reasonably foreseeable under existing legislation protecting the Petitioner's rights.

COUNT SIX
Ultra Vires Action and Violation of the *Accardi* Doctrine

151. Petitioner realleges and incorporates all paragraphs above as if fully set forth here.

152. There is no statute, constitutional provision, or other source of law that authorizes Respondents to revoke Petitioner's order of supervision or place him in detention absent the findings required by 8 U.S.C. § 1231(a)(6) and its implementing regulations.

153. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions.

154. Under the *Accardi* doctrine, Petitioner 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 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

155. Respondents' de facto revocation and modification of terms of Petitioner's

OSUP and anticipated actions to revoke Petitioner's order of supervision and redetain him would violate agency regulations governing who and upon what findings such actions may lawfully occur. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Petitioner "is entitled to release on that basis alone." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); see also, e.g., *Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (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). These decisions apply the Accardi doctrine in the post-order detention context, holding that DHS's failure to follow its own custody review and OSUP revocation regulations invalidates continued detention. *Bonitto v. Bureau of Immigration & Customs Enforcement*, 547 F. Supp. 2d 747 (S.D. Tex. 2008), found that DHS's failure to conduct the 180day POCR required by § 241.4(k)(2) violated procedural due process and ordered compliance with the regulatory scheme. *Resil v. Hendricks*, No. 11-2051 (JLL), 2011 WL 2489930 (D.N.J. June 21, 2011) likewise treated the individualized POCR process as the minimum due process required for post-order detention under § 1231(a)(6). *Ahmad v. Whitaker*, CASE NO. C18287JLRBAT (W.D. Wash. Dec. 4, 2018), and *Alam v.*

Nielsen, 312 F. Supp. 3d 574 (S.D. Tex. 2018) applied the same principles to revocations of supervised release under §§ 241.4 and 241.13.

156. Respondents routinely fail to follow internal agency instructions contained in Petitioner's release notification, which require that individuals under supervision be given an opportunity to prepare for an orderly departure prior to any change in custody status. Revocations by unauthorized officials are both ultra vires and "important procedural safeguards" whose violation itself raises due process concerns.

157. Under *Accardi*, any action by Respondents to revoke Petitioner's order of supervision or to disregard the instructions contained in his release notification would violate agency procedures, rules, or instructions and should be set aside.

COUNT SEVEN
Alternative Claim: Prolonged Detention in Violation of 8 U.S.C. § 1231(a)(6) and *Zadvydas*

158. Petitioner realleges and incorporates by reference all prior paragraphs and pleads this count in the alternative and in addition to his claims challenging the unlawful revocation of his OSUP.

159. Detention and release of noncitizens under a final order of removal are governed by 8 U.S.C. § 1231. During the 90-day "removal period" defined in § 1231(a)(1), detention is mandatory. 8 U.S.C. § 1231(a)(2). If the

noncitizen is not removed within that period, the statute provides that the person "shall be subject to supervision" under regulations prescribed by the Attorney General, 8 U.S.C. § 1231(a)(3), and authorizes continued detention only for limited categories of aliens—those who are inadmissible, removable on specified criminal or security grounds, or "determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6).

160. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that § 1231(a)(6), read in light of due process, does **not** authorize indefinite post-order detention. Instead, detention is limited to "a period reasonably necessary to bring about [the noncitizen's] removal," and is "presumptively reasonable" for six months. *Id.* at 689, 701. Once the noncitizen shows "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the Government to "respond with evidence sufficient to rebut that showing," and if it cannot, the noncitizen must be released under supervision. *Id.* at 699–701.

161. In *Clark v. Martinez*, 543 U.S. 371 (2005), the Court made clear that the *Zadvydas* construction of § 1231(a)(6)—including the six-month presumptively reasonable period and the requirement that detention end once removal is no longer reasonably foreseeable—applies uniformly to all

categories of aliens covered by § 1231(a)(6). The Fifth Circuit has likewise recognized, citing *Clark*, that *Zadvydas'* six-month framework "applies uniformly to all categories of aliens covered by the statute."

162. Numerous courts have applied this two-step *Zadvydas* test: (1) the noncitizen must have been detained more than six months after the removal period began, and (2) must present "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," at which point the burden shifts to the Government to rebut that showing with evidence.

163. By regulation, individuals granted withholding of removal or deferral of removal under the Convention Against Torture remain under a final order of removal but are detained or supervised under 8 U.S.C. § 1231 and 8 C.F.R. part 241. 8 C.F.R. § 241.4(b)(3). The withholding/deferral framework itself confirms that such relief bars removal to the country of feared persecution or torture but does not reopen or vacate the underlying removal order. *See* 8 C.F.R. §§ 1208.16–1208.17, 1208.31. Consistent with that structure, courts have held that a noncitizen with a reinstated removal order who is pursuing or has obtained withholding or CAT deferral is detained under § 1231 and subject to the custody-review and revocation procedures in 8 C.F.R. §§ 241.4 and 241.13.

164. Petitioner's posture fits squarely within this framework. His removal order has been final since 2018, when the Immigration Judge ordered him removed. His current detention—now well beyond the 90-day removal period and approaching 180 days of continuous post-order custody since ICE re-detained him on February 26, 2026—occurs "beyond the removal period" within the meaning of § 1231(a)(6), not within a new 90-day clock. *See Alam v. Nielsen*, 312 F. Supp. 3d 574, 581 (S.D. Tex. 2018) (rejecting the argument that the "removal period" restarts when ICE cancels an OSUP and re-detains an individual years after the original final order, and holding that such custody is "beyond the removal period" and governed by § 1231(a)(6) and 8 C.F.R. § 241.4).

165. Petitioner satisfies the first step of the *Zadvydas* analysis because he has now been detained for more than six months in the aggregate after his removal period began and expired in 2018, and his current stint of post-order re-detention has already exceeded the 90-day removal period and is approaching the six-month presumptively reasonable period recognized in *Zadvydas*.

166. Petitioner also easily meets his initial burden to provide "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701.

167. Once a detained noncitizen makes this showing, the burden shifts to the Government to bring forward "evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701. To meet that burden, DHS typically must point to concrete evidence of a realistic removal path—such as current travel documents, an accepting country, or ongoing negotiations that have historically produced removals to the relevant state. Respondents here have produced no such evidence; they have not identified any country of removal, any pending travel-document request likely to be granted, or any bilateral removal arrangement that would make Petitioner's deportation reasonably foreseeable.

168. Because Petitioner has been detained beyond the presumptively reasonable period and has shown good reason to believe that there is no significant likelihood of his removal in the reasonably foreseeable future—and because Respondents have failed to rebut that showing with evidence of a realistic removal plan—his continued detention is no longer authorized by 8 U.S.C. § 1231(a)(6) as construed in *Zadvydas* and *Clark*. At a minimum, he must be released under appropriate conditions of supervision pursuant to § 1231(a)(3) and the post-order custody regulations in 8 C.F.R. §§ 241.4 and 241.13.

169. Accordingly, even if this Court were to conclude that ICE lawfully revoked

Petitioner's Order of Supervision—a position Petitioner vigorously disputes—his ongoing detention nonetheless violates 8 U.S.C. § 1231(a)(6), *Zadvydas*, and the Due Process Clause because it has become prolonged without any significant likelihood of removal in the reasonably foreseeable future. Petitioner is entitled to habeas relief and immediate release under supervision on this alternative ground.

COUNT EIGHT
Unlawful Rescission and Non-Compliance with Crime-Victim Directives (ICE Directive 11005.3 / Policy 11005.4) as Applied to Petitioner

170. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

171. For more than a decade, DHS and ICE have maintained national victim-protection policies governing enforcement against noncitizen crime victims with pending or approved victim-based applications, including U-visa petitioners. In 2011 and again in 2021, ICE issued formal victim-centered directives (including ICE Directive 11005.3) committing the agency to avoid civil-immigration enforcement actions against known U-visa petitioners and recipients of U-visa–based deferred action absent exceptional circumstances, and to coordinate with USCIS before taking any enforcement action that could undermine those protections. See *Benitez*, 987

F.3d at 59–60 (describing ICE's victim-protection directive and policy to defer to USCIS's U-visa deferred-action grants).

172. In early 2025, ICE replaced Directive 11005.3 with a new policy (Policy 11005.4) issued in response to a January 20, 2025 Executive Order that broadly shifted enforcement priorities. According to that order, ICE purported to rescind the prior victim-centered directive and narrow the protections available to crime victims like Petitioner. Yet the new policy provides no reasoned explanation for abandoning the prior directive's explicit protections for U-visa applicants with deferred action, does not meaningfully grapple with the substantial reliance interests those policies created for noncitizen crime victims and law-enforcement agencies, and fails to consider obvious, less-disruptive alternatives—contrary to the requirements articulated in *Regents*, 591 U.S. at 19–24, 28–34.

173. Even assuming arguendo that Policy 11005.4 was validly promulgated, ICE has failed to follow its own victim-protection procedures in Petitioner's case. There is no indication that ICE consulted with USCIS about Petitioner's U-visa petition and deferred-action grant, considered his crime-victim status and cooperation with law enforcement, or documented any exceptional circumstances justifying detention and attempted removal of a known U-visa deferred-action recipient—steps that ICE's victim policies

and practice require in order to comply with the APA and the *Accardi* doctrine.

174. As applied to Petitioner, ICE's rescission of Directive 11005.3 and implementation of Policy 11005.4 are therefore arbitrary, capricious, and "without observance of procedure required by law" in violation of 5 U.S.C. § 706(2)(A), (D). Petitioner is entitled to (a) a declaration that, as applied to him, any rescission or narrowing of prior crime-victim protections without consideration of his reliance interests and U-visa deferred-action status is unlawful; and (b) an order requiring ICE to comply with its victim-protection obligations and to refrain from detaining or removing him in a manner inconsistent with those obligations while his U-visa-based deferred action remains in effect.

COUNT NINE
Violation of the Fifth Amendment and the APA — Unlawful Disregard of Deferred Action and U-Visa Victim Protections

175. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

176. Under the Administrative Procedure Act, a reviewing court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," or that is "contrary

to constitutional right." 5 U.S.C. § 706(2)(A), (B).

177. DHS, acting through USCIS, has conferred on Petitioner a series of interlocking victim-based benefits: a bona fide determination on his U-visa petition, a grant of deferred action, and employment authorization tied to that deferred-action grant. Federal courts and DHS's own guidance recognize that, once granted, U-visa–based deferred action is treated as an affirmative humanitarian protection that generally precludes removal absent new adverse factors or a lawful revocation. See *Benitez v. Wilkinson*, 987 F.3d 46, 59–60 (1st Cir. 2021) (discussing ICE Directive 11005.2 and DHS's policy to respect USCIS's grant of U-visa deferred action and not pursue removal absent a new basis).

178. By re-detaining Petitioner on his 2017 removal order and moving to effectuate removal despite a still-valid deferred-action grant, ICE is effectively nullifying or revoking that grant and its associated employment authorization without acknowledging the USCIS decision, without making any individualized revocation determination, and without providing Petitioner with notice or an opportunity to be heard. That unexplained departure from DHS's settled victim-protection practices fails to consider Petitioner's substantial reliance interests in the continuity of his deferred-action and work authorization and is precisely the sort of arbitrary

and capricious agency action the Supreme Court condemned in *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19–24 (2020). It is also inconsistent with the DHS-wide recognition, reflected in U-visa guidance and ICE victim policies, that crime-victim petitioners with deferred action will ordinarily not be removed while their humanitarian applications are pending.

179. Independently, by treating Petitioner's extant deferred-action and employment-authorization grants as a nullity and re-detaining him without any pre-deprivation notice or hearing, Respondents have deprived him of significant liberty and property interests without the process required by the Fifth Amendment. See *Mathews v. Eldridge*, 424 U.S. 319, 333–35 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner's multi-year reliance on his DA/EAD to remain lawfully in the community and support his family magnifies those interests and underscores the need for reasoned explanation and fair procedures before those benefits are effectively rescinded.

180. For these reasons, Respondents' decision to detain Petitioner and pursue his removal during the pendency of his U-visa-based deferred action is arbitrary, capricious, not in accordance with law, and contrary to constitutional right within the meaning of 5 U.S.C. § 706(2)(A)–(B).

Petitioner is entitled to declaratory and injunctive relief requiring DHS to honor his existing deferred-action grant and to refrain from executing his removal order while that grant remains in force, absent a lawful, reasoned revocation decision preceded by constitutionally adequate process.

COUNT TEN
Violation of the Fifth Amendment and the APA –
Unlawful Revocation of Deferred Action and Employment Authorization

181. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

182. ICE's actions in detaining Petitioner and effectively revoking her Deferred Action and employment authorization, without prior notice or a meaningful opportunity to contest the deprivation, violate the Due Process Clause of the Fifth Amendment as interpreted by the Sixth Circuit. See *Cleveland Bd. of Educ. v. Loudermill*, 470 U.S. 532, 542 (1985); *Mertik v. Blalock*, 983 F.2d 1353, 1367 (6th Cir. 1993). These actions are also arbitrary and capricious under the APA, 5 U.S.C. § 706(2)(A). Petitioner is entitled to declaratory and injunctive relief restoring her Deferred Action and employment authorization and prohibiting further deprivation absent due process.

XVIII. CONCLUSION AND PRAYER FOR RELIEF

183. The unlawful detention of Petitioner violates Petitioner's due process rights. But for intervention by this Court, Petitioner has no means of effectuating his release from ICE custody.

184. Taken together, the foregoing evidence and legal context demonstrate that Petitioner's detention causes immediate and severe harm. These injuries are concrete, ongoing, and irreparable, and they cannot be remedied through post hoc relief, weighing heavily in favor of immediate judicial intervention.

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

(1) Assume jurisdiction over this matter;

(2) **Declaratory Relief:** A declaration that the revocation of Petitioner's Order of Supervision ("OSUP") without individualized written notice, a bona fide finding of changed circumstances, an informal interview, or a meaningful opportunity to respond was unlawful and violated his rights under the Due Process Clause of the Fifth Amendment, as well as governing statutes and regulations, including 8 U.S.C. § 1231 and 8 C.F.R. §§ 241.4 and 241.13, and that such action is invalid under the *Accardi* doctrine and controlling case law;

(3) **Grant Petitioner a Writ of Habeas Corpus** and order Respondents to immediately release Petitioner from custody and reinstate his prior OSUP

conditions, or substantially similar conditions, thereby restoring him to the status quo ante;

(4) **Enjoin** Respondents from any future revocation of Petitioner's OSUP or re-detention absent full compliance with all regulatory and constitutional requirements, including but not limited to: (i) individualized written notice of the proposed revocation and the specific reasons therefor; (ii) a bona fide individualized finding of changed circumstances indicating a significant likelihood of removal in the reasonably foreseeable future, as required by 8 C.F.R. §§ 241.4 and 241.13; and (iii) affording Petitioner a prompt informal interview and meaningful opportunity to respond to the stated reasons before a neutral and lawfully authorized decisionmaker;

(5) An order requiring that Respondents, in any future attempt to revoke or re-detain Petitioner must strictly comply with these regulatory and constitutional safeguards, and that Respondents document such compliance in the record and provide Petitioner with copies of all relevant regulatory requirements, legal requirements and constitutional Due Process mandates;

(6) Enjoining Respondents from modifying any release ordered by this Court without prior leave of Court (including, but not limited to, electronic monitoring devices);

(7) Declare that Respondents' actions, as set forth herein, and Petitioner's

continued detention violate the Due Process Clause of the Fifth Amendment, the INA and its implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine;

(8) Declare that the revocation or de facto revocation of Petitioner's OSUP, without notice and an opportunity to be heard, violated the Due Process Clause of the Fifth Amendment and the APA;

(9) Declare that the rescission of ICE Directive 11005.3 and the promulgation of ICE Policy Number 11005.4 was arbitrary, capricious, and unlawful under the Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (D), and that ICE Directive 11005.3 remains in effect unless and until lawfully rescinded in accordance with the APA;

(10) Enjoining Respondents from enforcing ICE Policy Number 11005.4 and requiring Respondents to comply with ICE Directive 11005.3 in all matters affecting Petitioner, unless and until lawfully rescinded in accordance with the APA;

(11) Declare that the revocation or de facto revocation of Petitioner's Deferred Action and employment authorization, without notice and an opportunity to be heard, violated the Due Process Clause of the Fifth Amendment and the APA;

(12) An order requiring Respondents to reinstate Petitioner's Deferred Action and

employment authorization, and enjoining Respondents from revoking or denying these benefits in the future absent full compliance with due process and the APA;

(13) Award Petitioner reasonable attorney's fees and costs; and

(14) Grant such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 26th day of February, 2026.

/s/ Karen Weinstock
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner and have reviewed various immigration documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 U.S.C. § 2242.

This 26th day of February, 2026.

/s/ Karen Weinstock
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