IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

BLANCA RIVERA HERNANDEZ Petitioner, v. JASON STREEVAL, in his official capacity as WARDEN, STEWART DETENTION CENTER; and GEORGE STERLING, Deputy Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement, Respondents.	:	Case No.

<u>VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 8 U.S.C. § 2241</u>

INTRODUCTION

1. Petitioner Blanca Rivera Hernandez is a 51-year-old Mexican national who has lived in the United States for approximately 25 years, built a business, raised one United States citizen son, and spent the last five years fully complying with her Order of Supervision (OSUP). On February 19, 2026, immigration officers arrested her at a scheduled, routine check-in at the Atlanta ICE Field Office. There was no allegation of non-compliance. There was no determination by any authorized official that her circumstances had changed or that her removal had become significantly likely. There was no notice, no hearing, and no meaningful opportunity to respond before she was taken into custody. Upon information and belief, an Immigration and Customs Enforcement (ICE) Supervisory Detention and Deportation Officer signed

her revocation notice, an official who does not appear among the narrow class of officials whom the Department of Homeland Security (DHS) has expressly authorized to make this determination. Moreover, Ms. Rivera Hernandez's removal is not significantly likely in the reasonably foreseeable future. Her detention is unlawful, and this Court should order her immediate release.

2. The statutory and regulatory framework governing Ms. Rivera Hernandez's detention is clear. Under 8 U.S.C. § 1231(a)(6), the government's authority to detain a noncitizen following a final order of removal is limited to the period reasonably necessary to bring about removal. *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court determined that six months is presumptively reasonable. However, beyond that period, the government must affirmatively demonstrate that removal is significantly likely in the reasonably foreseeable future. *Id.* at 701. When the government releases a detainee on an OSUP because removal is not significantly likely—as it did here in December 2020—and subsequently re-detains that person years later, the re-detention triggers a separate and demanding set of procedural requirements under 8 C.F.R. §§ 241.4 and 241.13. Those regulations require, at minimum, a determination by an authorized official that changed circumstances now make removal significantly likely, written notice of the reasons for revocation, and a prompt informal interview. Upon information and belief, none of those requirements were satisfied here.

3. The government cannot justify Ms. Rivera Hernandez's recent detention under 8 U.S.C. § 1231, the implementing regulations, or *Zadvydas*. Ms. Rivera

Hernandez did not violate her OSUP. There is no evidence of any changed circumstances that would warrant her re-detention. The government has not identified any concrete steps it has taken to secure her removal to Mexico, nor has it made the individualized showing that removal is significantly likely in the reasonably foreseeable future that the law demands. Her detention was authorized not by the considered judgment of any qualified official but, upon information and belief, by ICE attorneys acting without the authority governing regulations require. Additionally, the revocation was inadequate under the Fifth Amendment Due Process Clause, and the government's after-the-fact position that any procedural deficiency can be cured following detention cannot supply what was required before Ms. Rivera Hernandez was deprived of her liberty.

4. A recent decision from the Court confirmed that Sections 1252(g) and 1252(a)(2)(B)(ii) do not bar review of whether ICE complied with its own procedures in revoking a noncitizen's supervised release. *T.C.T. v. Warden, Stewart Det. Ctr.*, No. 4:25-cv-373-CDL-CHW, 2025 U.S. Dist. LEXIS 274693, at *21-22 (M.D. Ga. Dec. 22, 2025), *R&R adopted*, 2026 U.S. Dist. LEXIS 36742, (M.D. Ga. Feb. 23, 2026).

5. That is precisely the challenge Ms. Rivera Hernandez raises here. *T.C.T.* also relied on Eleventh Circuit decisions reiterating the Supreme Court's statement that a six-month detention period is presumptively reasonable in the context of removal. *T.C.T.*, 2025 U.S. Dist. LEXIS 274693, at *7 (citing *Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009); *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051 (11th Cir. 2002)). The Court applied *Gozo* and *Akinwale* to hold that re-detention after an

OSUP restarts the removal period. *Id.* But the Eleventh Circuit did not address the removal period in the re-detention context. The Eleventh Circuit cases this district has relied on arose in continuous post-order custody and said nothing about the removal period restarting after release on an OSUP. *See Gozo*, 309 F. App'x at 346; *Akinwale*, 287 F.3d at 1051. Even in a similar context where an individual was returned to ICE custody following criminal sentence, this Court did not hold that the removal period automatically restarts upon re-detention. *See Meskini v. Att'y Gen. of United States*, No. 4:14-CV-42 (CDL), 2018 WL 1321576, at *4 (M.D. Ga. Mar. 14, 2018) (recognizing "a strong argument exists" for restarting the removal period following re-detention but deciding petition on different grounds).

6. The district has extended those decisions beyond *Akinwale* and *Gozo*. And even under this district's own precedent, *T.C.T.* recognized that a pattern of bad-faith cycling, releasing a person approaching the six-month period only to re-detain and restart the clock, would be distinguished from previous cases. 2025 U.S. Dist. LEXIS 274693, at *10-11. Ms. Rivera Hernandez's re-detention, executed at a scheduled compliance check-in with no violation, no changed circumstances, and no authorized determination of removability, presents the kind of arbitrary government action that *T.C.T.* preserved as distinguishable. *See id.*

7. Accordingly, Ms. Rivera Hernandez respectfully requests that this Court assume jurisdiction, issue an order to show cause, and order her immediate release. Without relief, she faces continued, potentially indefinite detention, the collapse of the business she has operated for 13 years, and ongoing separation from her U.S.

citizen son. Significantly, she currently has an approved Form I-130 and is pursuing a motion to reopen of her removal proceedings to allow her to adjust her status as the parent of a U.S. citizen.

JURISDICTION AND VENUE

8. This action arises under the U.S. Constitution, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act (APA), 5 U.S.C. § 551 *et seq.*

9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the U.S. Constitution (Suspension Clause). The Supreme Court confirmed in *Zadvydas* that § 2241 habeas proceedings are available for statutory and constitutional challenges to post-removal-period detention. 533 U.S. at 687–88.

10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651. To the extent Petitioner challenges the government's failure to follow its own regulations, the APA, 5 U.S.C. § 706(2)(A), provides an independent basis for relief. This Court's decision in *T.C.T.* confirms that §§ 1252(g) and 1252(a)(2)(B)(ii), which covers the decision to execute a removal order and discretionary decisions, do not deprive this Court of jurisdiction to review whether ICE adhered to its own procedures in revoking Petitioner's supervised release. 2025 U.S. Dist. LEXIS 274693, at *21-22.

VENUE

11. Venue lies in this Court pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), because Petitioner is detained within the Middle District of Georgia. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are employees, officers, or agents of the United States and a substantial a substantial part of the events or omissions giving rise to the claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the writ of habeas corpus or order Respondents to show cause "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* Given the ongoing deprivation of Ms. Rivera Hernandez's liberty, failure to follow any of the procedures required in revoking release, and because her removal is not likely in foreseeable future, an immediate order to show cause is warranted.

PARTIES

13. Petitioner Ms. Rivera Hernandez [redacted] has lived in the United States for 25 years, most recently in Conyers, Georgia. She entered the United States lawfully on or about January 29, 2001, on a B-2 visitor visa. She has been detained at Stewart Detention Center in Lumpkin, Georgia since February 19, 2026. She is the owner of a sports apparel business she has operated for 13 years, the mother of

an adult U.S. citizen son, and the beneficiary of an approved I-130 immigrant petition filed by her U.S. citizen son.

14. Respondent Jason Streeval is sued in his official capacity as Warden of the Stewart Detention Center. He is the individual in charge of the facility where Petitioner is currently detained. He has immediate physical custody over Petitioner, and in conjunction with DHS, ICE, and their agents, has the authority to release her.

15. Respondent George Sterling is sued in his official capacity as Deputy Field Office Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such he is a legal custodian of Petitioner with the authority to release Petitioner from ICE custody.

FACTUAL BACKGOUND

Ms. Rivera Hernandez Background and Lawful Entry

16. Petitioner is 51 years old and came to the United States from Mexico twenty-five years ago. On or about January 29, 2001, Ms. Rivera Hernandez was lawfully admitted into the United States on a B2 visa. **Exhibit A, I-94**. Petitioner has resided in the United States continuously since that time.

17. Ms. Rivera Hernández built a life of extraordinary depth and contribution in this country. She operates a sports apparel business in Brookhaven, Georgia, that she has owned and managed for approximately 13 years. She files taxes in accordance with the law. She is the mother of a 22-year-old United States citizen.

18. Petitioner has owned a sports apparel store for thirteen years and files her taxes according to the law. For the past year Petitioner's business has seen a

sharp decline in sales as her primarily Latino clientele has mostly stopped shopping at Plaza Fiesta, a shopping mall in Dekalb County, Georgia where Petitioner's business is located. The probability of Petitioner having to close her business on account of prolonged detention is high.

Removal Proceedings, Order of Removal, and Initial Detention of Nine Months

19. Ms. Rivera Hernandez was placed in removal proceedings in March of 2020. Although her attorney had paid a filing fee on her Application for Cancellation of Removal, the attorney never filed the application with the immigration court. Based on the attorney's error, the immigration judge found Petitioner had abandoned relief and ordered her removed on June 4, 2020. Petitioner timely appealed the decision to the Board of Immigration Appeals (BIA). On November 30, 2020, the BIA dismissed Petitioner's appeal, finding Petitioner failed to contest the Immigration Judge's determination that her application was abandoned. Petitioner then filed a motion to reopen the BIA's decision, but this motion was denied on June 28, 2022. On July 28, 2022, Petitioner filed a motion to reopen based on ineffective assistance of counsel, alternative motion to reconsider, and request for equitable tolling. To date, the motion remains pending before the BIA.

20. Ms. Rivera Hernandez's son, a United States citizen, filed an I-130 immigrant visa petition on her behalf on August 23, 2024. That petition was approved on December 15, 2025. **Exhibit B, I-130 Approval**. Ms. Rivera Hernandez is now prima facie eligible to seek adjustment of status, but for the outstanding order of removal that she is actively seeking to reopen.

21. Following the BIA's dismissal of her appeal in November 2020, Ms. Rivera Hernandez was detained at Irwin County Detention Center (ICDC) in Ocilla, Georgia for approximately nine months. While Petitioner was detained at ICDC an investigation ensued where it was reported that unnecessary and non-consensual medical gynecological procedures were being performed on immigrant women detained at ICDC. Petitioner participated in this investigation and when asked, provided testimony to the U.S. Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI). In a January 23, 2024 report, the DOJ Office of Inspector General found that "in fiscal years 2019 through 2021,…ICE Health Service Corps (IHSC) did not always properly process and authorize major surgical procedures for non-citizens in ICE custody."[1] The report further found, that for "two of six hysterectomies performed, the detained non-citizens' IHSC medical files did not include documentation to support a conclusion that a hysterectomy was medically necessary." *Id.*

22. Since ICE released Ms. Rivera Hernandez on an OSUP on or about December 23, 2020. **Exhibit C, Release Notification**. Upon information and belief, the OSUP imposed conditions of release including regular reporting to ICE, cooperation with ICE in obtaining travel documentation, compliance with all local, state, and federal laws, and cooperation with ICE's removal. Petitioner she has complied with all conditions, including annual check-ins with ICE. ICE's

[1] https://www.oig.dhs.gov/sites/default/files/assets/2022-01/OIG-22-14-Jan22.pdf

determination that Ms. Rivera Hernández should be released was premised on its finding that she posed no flight risk and no danger to the community.

Revocation of OSUP and Sudden Re-Detention at ICE Check-In

23. On February 19, 2026, Petitioner went to her annual ICE check-in at the Atlanta ICE Field Office. No circumstances had changed that make Petitioner a flight risk or danger to the community, and her removal is not significantly likely. Yet ICE arrested Petitioner during her check-in and took her into custody.

24. Prior to the check-in appointment, Petitioner's immigration attorney explained to two ICE supervisors that Petitioner has a pending motion to reopen with the BIA and that Petitioner had participated in a federal investigation with the DOJ and FBI. Petitioner's attorney further explained that Petitioner has trauma from being detained at ICDC. The only reason given for Petitioner's sudden re-detention was that ICE attorneys had authorized Petitioner's arrest and detention.

25. Petitioner was detained and taken to the Stewart Detention Center. Despite Petitioner's immigration attorney explaining that Petitioner has trauma from being detained at ICDC, the ICE supervisors explained they had inquired with ICE attorneys who had authorized Petitioner's arrest and detention.

26. Ms. Rivera Hernandez honored every condition of her OSUP for more than five years. She reported to ICE as required without fail. She cooperated with the government. She obeyed all laws and ordinances. She built her business, cared for her family, and remained an active and contributing member of her community. Not

once in five years did ICE allege that she had violated any condition of her supervised release.

27. During Ms. Rivera Hernandez's initial 9-month detention and in the nearly five years since she was released, ICE has not been able to remove her. It is unclear who signed the purported revocation of Ms. Rivera Hernandez's OSUP. Upon information and belief, the notice did not identify any specific changed circumstances warranting revocation and did not reflect any individualized assessment of Ms. Rivera Hernández's particular situation.

LEGAL FRAMEWORK

Statutory Framework for Post-Removal Order Detention

28. Following a final order of removal, the government's authority to detain is governed by 8 U.S.C. § 1231. Under § 1231(a)(1)(A), the government "shall remove" a noncitizen within 90 days. During this "removal period," detention is mandatory. 8 U.S.C. § 1231(a)(2). The removal period begins on the latest of: (i) the date the removal order becomes administratively final; (ii) if a court orders a stay, the date of the court's final order; or (iii) if the alien is detained for reasons other than immigration, the date of release from that detention. *Id.* § 1231(a)(1)(B).

29. After the 90-day removal period, § 1231(a)(6) provides that certain categories of noncitizens "may be detained beyond the removal period" or released under terms of supervision. The use of "may" is not a grant of unlimited authority. The Supreme Court in *Zadvydas* held that the statute "limits an alien's post-removal-

period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention." 533 U.S. at 689.

30. When the government cannot effectuate removal within the removal period, § 1231(a)(3) authorizes release under an Order of Supervision. The OSUP is the statutory mechanism by which the government acknowledges that removal is not presently achievable and releases the detainee into the community under conditions designed to ensure cooperation with future removal efforts. The regulations implementing this authority are codified at 8 C.F.R. §§ 241.4 and 241.5.

31. The regulations prescribe detailed procedures for the revocation of an OSUP. Under 8 C.F.R. § 241.4(l)(2), the authority to revoke supervised release and return a noncitizen to custody is expressly vested in "the Executive Associate Commissioner" (now the Executive Associate Director of ICE) and the district director. A district director may also revoke release when "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." *Id.* Under 8 C.F.R. § 241.13(i)(2), where the revocation is premised not on a violation of the OSUP but on a determination that removal has become significantly likely, the "Service" may revoke release if "on account of changed circumstances" it determines there is a significant likelihood of removal in the reasonably foreseeable future. Upon revocation, the alien must be notified of the reasons and afforded a prompt informal interview. 8 C.F.R. § 241.13(i)(3).

***Zadvydas* and the Reasonableness Limitation**

32. In *Zadvydas*, the Supreme Court held that § 1231(a)(6) contains an implicit limitation requiring that post-removal-period detention be reasonably necessary to bring about removal. *Id.* at 699. The Court established a six-month presumptive period of reasonableness. *Id.* at 701. After six months, once the detainee provides "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.*

33. The presumptively reasonable period of detention is not a bright line rule. *See Zadvydas*, 533 U.S.at 701. The Supreme Court made clear that whether detention is reasonable to secure removal will depend on a "set of particular circumstances" where "the habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699.

34. Above all, if there is no reasonably likelihood that the noncitizen will be removed in the foreseeable future, the government may not continue detention. *Id.* at 699–700.

35. The Eleventh Circuit has applied *Zadvydas* to hold that a petitioner states a claim when (1) the six-month period has expired when the habeas petition is filed, and (2) the petitioner provides evidence of good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g.*, *Gozo*, 309 F. App'x at 346; *Akinwale*, 287 F.3d at 1052. Both decisions arose in the context of continuous post-order detention from the time a removal order became final. Neither the Eleventh Circuit in *Akinwale* nor in *Gozo* addressed the distinct question

of whether the *Zadvydas* six-month removal period restarts upon re-detention following release on an OSUP.

The Removal Period for Post-Final Removal Order Detention

36. Some courts, including this Court, have applied *Akinwale* and *Gozo* to suggest or hold that the removal period under § 1231 and *Zadvydas* restarts when a noncitizen is re-detained following release on an OSUP. *See T.C.T.*, 2025 U.S. Dist. LEXIS 274693, at *7; *O.K. v. Warden, Stewart Det. Ctr.*, No. 4:25-CV-257-CDL-CHW, 2025 WL 2970541, at *3 (M.D. Ga. Oct. 17, 2025); *see also Meskini*, 2018 WL 1321576, at *4 (recognizing argument in favor of restarting removal period in context of immigration detention resumed after criminal incarceration). These decisions rest on circuit court precedent that never actually addressed the removal period in this specific context.

37. The Eleventh Circuit's decisions in *Akinwale* and *Gozo* state the general rule that six-month period under *Zadvydas* commences at the beginning of the statutory removal period. That rule is uncontroversial as applied a noncitizen held in continuous ICE custody from the moment of a final removal order or throughout the removal period following a final removal order. Neither case involved a petitioner who had been released on an OSUP and subsequently re-detained. Neither case had occasion to address, and neither addressed, the specific legal question of whether re-detention after supervised release restarts the removal period at day one.

38. The contention that the government "may avoid the holding of *Zadvydas* and re-start the six-month presumptively constitutional detention clock by simply

releasing and then re-detaining a noncitizen has no basis in either the statutes, the regulations, or *Zadvydas* itself." *Villanueva v. Tate*, 801 F. Supp. 3d 689, 702 (S.D. Tex. 2025).

39. The text of § 1231 does not support the position that the removal period restarts with every new detention. 8 U.S.C. § 1231(a)(1)(B). The statute identifies three specific events that trigger the removal period and re-detention after an OSUP is not among them. 8 U.S.C. § 1231(a)(1)(B)(i)–(iii). The government could have removed Ms. Rivera Hernandez's during her initial detention in 2020, or at any point in the more than five years that she has remained under the OSUP. Instead, the government released her because removal to Mexico was not reasonably foreseeable. It would be inconsistent to read the statute as granting the government an entirely new removal period up to six months each time it elects to re-detain a person it previously released. *See Villanueva*, 801 F. Supp. 3d at 702.

40. The regulatory structure reinforces this conclusion. The regulations governing re-detention after a release on an OSUP, impose more process at re-detention than is required at the outset of initial post-order detention. 8 C.F.R. §§ 241.4 and 241.13. Section 241.4 requires an initial custody review promptly upon re-detention and a follow-up review within 90 days. Section 241.13(i) requires a finding of changed circumstances and a prompt informal interview. These requirements suggest that DHS understood that an individual re-detained after release under § 1231(a)(3) is not simply starting over at the beginning of the removal period. These provisions impose an elevated procedural burden at re-detention precisely because

the liberty interest at stake—acquired upon release back into the community after the government concluded it could not remove—is more significant, not less.

41. Permitting the government to restart the removal period each time it elects to re-detain would also create the indefinite detention scheme that *Zadvydas* forbids. *See Chen v. Holder*, No. CV 6:14-2530, 2015 WL 13236635, at *2 (W.D. La. Nov. 20, 2015). Even accepting, arguendo, this district's restart rule, *T.C.T.* itself acknowledged that a bad-faith cycling pattern would distinguish the holding. 2025 U.S. Dist. LEXIS 274693, at *10 (noting that if the government releases a detainee approaching the six-month period and then re-detains to restart the clock, "such a scenario might suggest bad faith" and would be distinguishable). The detentions in *T.C.T.* were separated by 25 years. *Id.* Ms. Rivera Hernandez's prior and current detentions are separated by five years, she was fully complying with the terms of her release, and she previously assisted government agencies with the investigation at ICDC.

OSUP Revocation Must Adhere to Regulation

42. The principle that agencies must follow their own regulations is bedrock administrative law. "[W]here the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures." *Romano-Murphy v. Comm'r*, 816 F.3d 707, 718 (11th Cir. 2016) (quoting *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This doctrine holds true even when an agency's regulations are more "rigorous than otherwise would be required." *Id.* (internal quotations omitted). "A failure to comply with binding procedural regulations renders the resulting agency action unlawful."

Dilley v. Alexander, 603 F.2d 914, 920 (1979). The government cannot treat revocation procedures as optional. The government's revocation of Ms. Rivera Hernandez's OSUP violated the mandatory procedural requirements of 8 C.F.R. §§ 241.4 and 241.13 in at least three independent respects.

43. First, it is unclear if Ms. Rivera Hernandez's OSUP was revoked and if revoked, whether the official had authority to take that action. Section 241.4(l)(2) is unambiguous in its mandate that authority to revoke supervised release and return a noncitizen to custody is vested in "the Executive Associate Commissioner" and in narrow circumstances, the district director. 8 C.F.R. § 241.4(l)(2). To the extent that her OSUP was revoked by a Supervisory Detention and Deportation Officer or other similar official, such individuals hold neither title.

44. Respondents will likely argue that internal delegation orders extend authority to subordinate officials. But as numerous district courts have held, that delegation order lists specific actions under 8 C.F.R. Part 241 to which authority has been delegated, including warrants of removal, reinstatement of removal, self-removal, and release. Revocation of an OSUP is absent from that list. *See Funes v. Francis*, No. 25 Civ. 7429 (PAE), 2025 WL 3263896, at *18–19 (S.D.N.Y. Nov. 24, 2025) ("the absence of such a reference is decisive"); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161-62 (W.D.N.Y. 2025); *Santamaria Orellana v. Baker*, No. CV 25-1788-TDC, 2025 WL 2841886, at *3–5 (D. Md. Oct. 7, 2025); *Morales Sanchez v. Bondi*, No. 5:25-CV-02530-AB-DTB, 2025 WL 3651899, at *4–5 (C.D. Cal. Dec. 5, 2025).

45. In *T.C.T.* the Court rejected this argument on two grounds, neither of which applies to Ms. Rivera Hernandez's case. First, the case held that if an individual was released under § 241.13, then § 241.13(i)(2)'s use of "the Service" governed revocation, not § 241.4(l)(2)'s officer-specific limitation. 2026 U.S. Dist. LEXIS 36742, at *2. But here, upon information and belief, Ms. Rivera Hernandez's notice of OSUP references both § 241.4 and § 241.13, meaning § 241.4's officer-specific procedural requirements apply. Second, the Court held that even if the revocation were procedurally deficient, the error was curable by the government. 2026 U.S. Dist. LEXIS 36742, at *3. However, that rationale cannot be squared with the constitutional and regulatory framework which provides procedures that protect liberty before or at the time deprivation occurs, not well after a person is already detained. *See Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017).

46. Second, even if § 241.13(i)(2) alone governed, any purported revocation does not satisfy its requirements. That regulation authorizes revocation only "on account of changed circumstances" establishing "a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). There is no allegation that Ms. Rivera Hernandez violated her OSUP. The government has not identified any changed circumstances specific to her case that would establish that her removal is significantly likely. In the absence of any such showing, the revocation under § 241.13(i)(2) is invalid on its face.

47. Third, to the extent that ICE provided Ms. Rivera Hernandez with notice of OSUP revocation, it did not contain an individualized statement of the

changed circumstances that purportedly justified revoking her OSUP. Regulation requires that "upon revocation, the alien will be notified of the reasons for revocation." 8 C.F.R. § 241.13(i)(3). That requirement is not satisfied by boilerplate language that fails to identify what specifically changed about Ms. Rivera Hernandez's circumstances. *See Morales Sanchez*, 2025 WL 3651899, at *7 (noting generic revocation notices are insufficient to satisfy regulatory requirements).

Due Process Independently Requires Pre-Deprivation Procedures

48. Independently of the regulatory framework, the Due Process Clause of the Fifth Amendment prohibited the government from revoking Ms. Rivera Hernandez's supervised release and returning her to detention without adequate procedural protections. Under applicable framework stated in *Mathews v. Eldridge*, courts balance (1) the private interest affected; (2) the risk of erroneous deprivation and the probable value of additional safeguards; and (3) the government's interest, including fiscal and administrative burden. 424 U.S. 319, 335 (1976).

49. Each *Mathews* factor weighs decisively in Ms. Rivera Hernandez's favor. Her private interest is the most elemental of liberty interests—freedom from physical detention. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). She entered the United States lawfully, has resided here for 25 years, operated a business for 13 years, and was living in full compliance with her OSUP when she was arrested. She has a 22-year-old U.S. citizen son. She is the beneficiary of an approved I-130. She cooperated with a federal investigation of ICDC. Her interest in remaining free while the government pursues removal is substantial and well-established. *See Young v.*

Harper, 520 U.S. 143, 146–47 (1997) (recognizing liberty interest of persons released into community under supervised status).

50. The risk of erroneous deprivation is high and the burden by imposing constitutionally adequate procedures is low. "The regulations enacted by the government itself are intended to ensure that noncitizens who have been released to supervision do not arbitrarily have that supervision revoked." *Villanueva v. Tate*, 801 F. Supp. 3d 689, 704 (S.D. Tex. 2025). Assuming Ms. Rivera Hernandez's OSUP was revoked, it was unlikely that revocation was authorized by the appropriate official and failed to contain specific assessment of changed circumstances. Upon information and belief there was also no individualized assessment of Ms. Rivera Hernandez's flight risk or dangerousness, even though ICE had already determined at the time of her release in 2020 that she posed neither. Providing Ms. Rivera Hernandez with notice of the specific changed circumstances and a meaningful opportunity to respond before her OSUP was revoked would have imposed minimal burden on the government. ICE conducts custody reviews and pre-deprivation hearings regularly. The incremental cost of affording that process to Ms. Rivera Hernández was negligible compared to her significant liberty interest.

51. Before ICE stripped Ms. Rivera Hernandez of her liberty, due process requires, at least, written notice of the claimed reasons for revocation, reasons for the revocation based on her particular circumstances, and a meaningful opportunity to be heard. Ms. Rivera Hernández received none of these protections. She did not violate any condition of her release. She received no advance notice of any impending

revocation. She was given no opportunity to present evidence or argument as to why she should remain at liberty until the moment of removal. Instead, she was arrested at an ICE check-in, the very mechanism designed to ensure her ongoing cooperation with removal efforts.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1231(a)(6) and Supreme Court Precedent

52. Petitioner incorporates by reference all preceding paragraphs.

53. Petitioner's detention is unlawful under *Zadvydas* and the Due Process Clause of the Fifth Amendment. The Eleventh Circuit has never held that the *Zadvydas* six-month removal period restarts upon re-detention after release on an OSUP. *Akinwale* and *Gozo* addressed continuous post-order detention and did not interpret the statutory removal period in the re-detention context. This district's extension of those decisions to the re-detention scenario is not compelled by binding authority and is inconsistent with the text of § 1231, the logic of *Zadvydas*, and the regulatory structure of 8 C.F.R. §§ 241.4 and 241.13. Furthermore, removal to Mexico is not significantly likely in the reasonably foreseeable future, and the government cannot justify her continued detention.

54. In the alternative, even if this Court applies the restart rule, Petitioner's arbitrary re-detention at a scheduled ICE check-in, no violation of OSUP, no changed circumstances, no authorized revocation determination, a pending BIA motion, an approved I-130, and the government's prior determination that Petitioner poses no flight risk or danger, all demonstrate that removal is not significantly likely in the

reasonably foreseeable future. The government cannot establish a significant likelihood of removal through the absence of individualized evidence or by relying on a removal order that Petitioner is actively and in good faith seeking to reopen. Petitioner is entitled to release under *Zadvydas* and the Due Process Clause.

COUNT TWO
Violation of 8 U.S.C. § 1231 and Implementing Regulations (8 C.F.R. §§ 241.4 and 241.13)

55. Petitioner incorporates by reference all preceding paragraphs.

56. To the extent ICE revoked Petitioner's OSUP, that revocation and her subsequent re-detention violated the mandatory procedural requirements of 8 C.F.R. §§ 241.4 and 241.13. The revocation notice was not issued, upon information and belief, by the class of officials authorized to revoke supervised release under 8 C.F.R. § 241.4(l)(2). The government made no individual determination, based on changed circumstances, that Petitioner's removal is significantly likely in the reasonably foreseeable future as required by 8 C.F.R. § 241.13(i)(2). The government failed to provide Petitioner with written notice of the specific reasons for revocation as required by 8 C.F.R. § 241.13(i)(3).

57. The government's failure to follow the mandatory procedural requirements governing OSUP revocation renders Petitioner's re-detention unlawful. On this basis alone, Petitioner is entitled to immediate release.

COUNT THREE
Violation of the APA and *Accardi* Doctrine

58. Petitioner incorporates by reference all preceding paragraphs

59. Agency action that is "arbitrary, capricious, . . . or otherwise not in accordance with law" must be set aside. 5 U.S.C. § 706(2)(A). The government's revocation of Petitioner's OSUP and her resulting detention are not in accordance with law because the government failed to follow the mandatory procedural requirements of 8 C.F.R. §§ 241.4 and 241.13. Under *Accardi*, agencies are bound by their own duly promulgated regulations and a failure to comply renders the resulting action invalid. *See Dilley*, 603 F.2d at 920. Post-hoc ratification by the government during litigation cannot cure the statutory and constitutional injury already inflicted by Petitioner's unlawful detention.

60. The government's revocation action was also arbitrary and capricious on its substantive merits. Petitioner had been complying with every condition of her OSUP for more than five years. She never violated her OSUP or the law. There were no changed circumstances here. The government offers no individualized basis for concluding that her removal is now significantly likely. Its decision to revoke her supervised release under those circumstances is evident arbitrary agency action that the APA prohibits.

61. 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). ICE's decision to revoke Petitioner's OSUP ran counter to the evidence before the agency that Petitioner would comply with a demand to appear for removal without detention. Petitioner has never violated a condition of her order of supervision and no new facts or changed circumstances suggest she would.

COUNT FOUR

Violation of Fifth Amendment Due Process

62. Petitioner incorporates by reference all preceding paragraphs.

63. "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 (cleaned up). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001).

64. Petitioner has a fundamental and well-established liberty interest in remaining free from detention. She entered the United States lawfully, has resided here for 25 years, lived in full compliance with her OSUP for more than five years, and established the family, business, and community ties that the Supreme Court in *Morrissey v. Brewer* recognized as constituting liberty interests protectable by the Due Process Clause. 408 U.S. 471 (1972).

65. Under *Mathews v. Eldridge*, each factor weighs in Petitioner's favor. Her interest in being freedom from imprisonment is the most fundamental of liberty interests. The risk of erroneous deprivation is high, particularly because there was no change in circumstances, no determination on flight risk or danger before any purported revocation of Petitioner's OSUP, and no pre-deprivation opportunity for Petitioner to respond to reasons for revoking her release. The government's interest in dispensing with pre-revocation process is minimal, given that ICE conducts custody reviews regularly and Petitioner had been complying voluntarily with reporting requirements for five years. The Constitution required, at minimum,

meaningful advance notice and an opportunity to respond before Petitioner's liberty was extinguished.

66. Petitioner's re-detention without constitutionally adequate process violates the Fifth Amendment. She is entitled to immediate release and to an order prohibiting re-detention without pre-deprivation notice and a hearing before a neutral decisionmaker.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the U.S. District Court for the Middle District of Georgia while this Petition is pending;

c. Issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring Respondents to release Petitioner immediately from unlawful detention;

e. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, and the APA;

f. Declare that the revocation of Petitioner's Order of Supervision was procedurally invalid and without statutory authority;

g. Order that Respondents are enjoined and restrained from re-detaining Petitioner without first providing her with individualized written notice of the specific reasons for any proposed revocation of supervised release, a meaningful opportunity to be heard and to present evidence before a neutral decisionmaker, and a determination by an authorized official that re-detention is warranted

h. Award Petitioner costs and reasonable attorneys' fees; and

i. Order such other relief as this Court may deem just and proper.

Date: March 3, 2026

Respectfully Submitted,

/s/ *Alexis Ruiz*
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Attorney for Petitioner

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

I am submitting this verification on behalf of Petitioner Blanca Rivera Hernandez as his attorney. I have discussed with Ms. Rivera Hernandez the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the forgoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: March 3, 2026

/s/ *Alexis Ruiz*
Alexis Ruiz
aruiz@ruizimmigrationlaw.com

Attorney for Petitioner