UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IBRAHIM DIA

Petitioner-Plaintiff,

v.

JL JAMISON, in his official capacity as warden of The Philadelphia Federal Detention Center;

BRIAN MCSHANE, is the Acting Philadelphia Field Office Director for Immigration and Customs Enforcement's ("ICE") Enforcement and Removal Operations

TODD LYONS, in his Official Capacity as Acting Director of Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as: Secretary of the Department of Homeland Security.

DHS, THE U.S. DEPARTMENT OF HOMELAND SECURITY;

PAMELA BONDI,: Attorney General of the United States

Respondents-Defendants.

Verified Petition for Writ of Habeas Corpus

Administrative Number: A [redacted]

INTRODUCTION

1. This case challenges the unlawful detention of IBRAHIM DIA, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Philadelphia Federal Detention Center. Petitioner is neither a flight risk nor a danger to the community. But on or about February 12, 2026,after presenting himself, voluntarily, to the one of the required ICE check-ins he had had for the past eighteen years (18)

years ICE detained him without notice or opportunity to be heard, on, upon information and belief, the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules.

2. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously reviewed the Petitioner's previous ICE check-in .Since then, Petitioner has fully abided by the order's terms, as he has been doing for approximately fifteen (18) years, the period of time that he has been under an Order of Supervision.
3. Despite this fact, on March12, 2026, Respondent, without apparent reason suddenly revoked Petitioner's order of supervision and arrested him, \The Petitioner is detained at the Federal Detention Center in Philadelphia, Pennsylvania;
4. Respondent's 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,
5. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents to release him.

PARTIES

6. Petitioner, Mr. Ibrahim Dia has lived in the United States for approximately twenty-six (26) years. Prior to Petitioner's detention on or about March 12, 2026, he was residing with his family, at [redacted]
7. Respondent JL Jamison is the Warden of the Federal Detention Center. In this capacity, he is responsible for the custody of all individuals detained at the facility, where, upon information and belief, the Petitioner is currently located. IN this

capacity, he is responsible for the custody of the Petitioner. He is sued in his official capacity.

8. Respondent Brian McShane is the Acting Philadelphia Field Office Director for Immigration and Customs Enforcement's ("ICE") Enforcement and Removal Operations. In this capacity he is responsible for the custody of all noncitizens detained by ICE at FDC, Philadelphia, where the Petitioner was initially detained, and has the authority to order the release Rodriguez-Dudamel or transfer him to a different facility. He is one of the Petitioner's immediate custodians and is sued in his official capacity.

9. Respondent Todd Lyons is the Acting Director of ICE. In this capacity he is responsible for enforcing immigration laws, and as such is a legal custodian of the Petitioner. He is sued in his official capacity.

10. Respondent Kristi Noem is Secretary of Homeland Security. In this capacity she runs the Department of Homeland Security and is charged pursuant to 8 U.S.C. 1 103(a)(l) with administering and enforcing immigration laws. She is the ultimate legal custodian of the Petitioner and is sued in her official capacity.

11. The Department of Homeland Security ("DHS") is the agency of the federal government responsible for enforcing the immigration laws. DHS is also the Petitioner's legal custodian.

12. Respondent Pamela Bondi is the Attorney General of the United States and the head of the U.S. Department of Justice. Ms. Bondi shares responsibility for the implementation and enforcement of immigration laws along with Respondent Noem. Ms. Bondi is a legal custodian of the Petitioner. She is sued in her official capacity.

JURISDICTION AND VENUE

13. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, et seq., and Administrative Procedure Act, 5 U.S.C. § 551, et seq.

14. Venue is proper in this district because Respondent-Defendant Warden J.L. Jamison is Petitioner's immediate custodian and under 28 U.S.C. § 1391(e)(1) because Respondents are officers of United States agencies, Petitioner currently resides within this District, and there is no real property involved in this action.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

13. Petitioner is fifty-two (52) years old and came legally to the United States from Mali approximately twenty-six (26) years ago, on or about February 18,2000. Petitioner has resided in the United States continuously since then.

14. Petitioner was issued an order of voluntary departure on or about 04/10/2000.

15. Shortly thereafter he was placed into an Order of Supervision and issued a work permit. Attached Exhibit "A"

16. Petitioner is married to AISSATA TRAORE, a lawful permanent resident and he is the biological father of four (4) minor U.S. citizen children, for whom he is essentially the sole supporter. Proof of same is attached as Exhibit B.

17. Petitioner has no significant criminal record other than a theft misdemeanor in 2014 which was resolved with the return of the item in question.

18. Upon information and belief Petitioner is also the beneficiary of a relative petition filed on his behalf by his wife and would be eligible to obtain an immigrant visa based upon that approved petition in approximately one year, when the visa number becomes current. Proof of same is attached as Exhibit C.

19. As noted previously the Petitioner had a check-in with ICE, like countless check-ins before, on March 12, 2026, at which time ICE released Petitioner on a continuing order of supervision, Petitioner has complied with all conditions of the order. He has never missed a check-in with ICE over the eleven (11) or so years that he has been reporting.

21. More importantly, since his last check prior to the one on March 12,2026 **no circumstances have changed that make Petitioner a flight risk or danger to the community.**

22. Upon information and belief, at no time following Petitioner's arrest did ICE explain why it revoked Petitioner's order of supervision or give him an opportunity to respond to those reasons

23. Upon information and belief, at no time was a reason given for revoking a decision that was made approximately twenty-two (22) days before, with absolutely no changed circumstances.

24. Upon information and belief, at the time ICE revoked Petitioner's order of supervision, the agency had not secured travel documents necessary for removal from the United States

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision

25.. “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 v. Davis, 533 U.S. 678, 693 (2001) (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 (2001).

26. 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 v. Davis, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

26. “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).

Statute and Regulation Govern Procedures for Revoking an Order of Supervision

27. 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”).

28. 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).

29. 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 v. Davis, 533 U.S. 678, 699-700.

30. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained 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); see also id. § 241.13(i) (permitting revocation of an order of supervision only if a non-citizen "violates any of the conditions of release"). Because "[r]regulations 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).

31. It is clear, however, that 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. See Ceesay v. Kurzdorfer, 781 F. Supp. 3d 137, 161 (finding 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).

32. Upon revocation of an order of supervision, ICE must give a non-citizen notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(l)(1).

The APA Sets Minimum Standards for Final Agency Action

33.The Administrative Procedure Act authorizes judicial review of final agency action. 5 U.S.C. § 704.

34. 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).

35. ICE's revocation of an order of supervision is a final agency action subject to this Court's review.

36. The revocation here marked the consummation of ICE's decision-making process regarding Petitioner's custody.

37. The revocation was also an action by which rights or obligations have been determined or from which legal consequences flowed because it led ICE to detain Petitioner in violation of his rights under the Constitution, statute, and regulation.

CLAIMS FOR RELIEF

Count One

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

41. Petitioner realleges all paragraphs above as if fully set forth here.

42. When ICE issued Petitioner an order of supervision, it found that he is neither a danger to the community nor a flight risk.

43. When Respondents revoked the order of supervision, Petitioner had complied with every condition of the order and ICE had not secured necessary travel documents for removal. **No change in circumstances warranted the order's revocation.**

44. Petitioner's detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal.

45. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision, Petitioner's detention violates 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

46. Plaintiffs realleges all paragraphs above as if fully set forth here.

47. Mathews v. Eldridge, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

48. The first factor, the private interest at issue, favors Petitioner. "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.

49. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, 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 not just high, but certain. 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. Additionally, prolonged detention will make it virtually impossible to for the Petitioner to present his claim for Withholding of Removal and Convention against Torture given that detained individuals have a statistically lower rate of success than those not detained due to the obvious logistical barriers in presenting their claims.

50. The third factor, the government's interest, also favors Petitioner. When the government ignores law 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.

51. For these reasons, revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Three

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

52. Plaintiffs reallege all paragraphs above as if fully set forth here.

53. 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).

54. 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).

55. Respondents' revocation of Petitioner's order of supervision was contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause, as explained above.

56. The revocation was also not 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.

57. Petitioner's order of supervision was not revoked by the ICE Executive Associate Director. The officer who revoked the order did not first make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director.

58. Before revoking the order, Respondents did not make findings that Petitioner is dangerous or unlikely to comply with a removal order, as required by statute.

59. 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 he 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.

60. Nor did the Respondents give Petitioner notice of the reasons for revocation and opportunity to be heard.

61.The revocation should be held unlawful and set aside because it was 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

62. Petitioner realleges all paragraphs above as if fully set forth here.

63. 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).

64. Respondents' revocation of Petitioner's order of supervision was arbitrary and capricious because it violated statute, regulation, and the Constitution, as described above.

65. 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).

66. Respondents' decision to revoke Petitioner's order of supervision 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 his order of supervision and no new facts or changed circumstances suggest he would.

67. The revocation also "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).

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

69. Second, Respondents failed 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.

70. Third, Respondents failed 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 interest in effectuating a removal order and save it the expense of detention not needed to guarantee Petitioner's appearance.

71. Fourth, Respondents failed to consider Petitioner's substantial reliance interest, created by its instruction on Petitioner's release notification, the agenc would give an opportunity to arrange for an orderly departure once it obtained travel documents.

72. For these and other reasons, Respondents' revocation of Petitioner's order of supervision was arbitrary and capricious and should be held unlawful and set aside.

Count Five

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

73. Petitioner sets forth again all paragraphs above as if fully set forth here.

74. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C).

75. "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).

76. 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.

77. 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)

78. Respondents' revocation of Petitioner's order of supervision was based on ultra vires regulations. So it was in excess of statutory authority and should be held unlawful and set aside.

Count Six

Ultra Vires Action

79. Plaintiffs reallege all paragraphs above as if fully set forth here.

80. There is no statute, constitutional provision, or other source of law that authorizes Respondents to detain Petitioner.

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

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

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

d. Order Petitioner's immediate release;

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

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

Respectfully submitted,

Christine M. Flowers, Esquire
JOSEPH M ROLLO AND ASSOCIATES PC
2527 South Broad Street
Philadelphia PA 19107

DATED: 03/15/2026

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 the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED:

Christine M. Flowers.

Christine M. Flowers, Esquire
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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IBRAHIM DIA Petitioner-Plaintiff, V JL JAMISON, in his official capacity as warden of The Philadelphia Federal Detention Center; BRIAN MCSHANE, is the Acting Philadelphia Field Office Director for Immigration and Customs Enforcement's ("ICE") Enforcement and Removal Operations TODD LYONS, in his Official Capacity as Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as: Secretary of the Department of Homeland Security; DHS, THE U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI,: Attorney General of the United States Respondents-Defendants.	Verified Petition for Writ of Habeas Corpus Docket No. 26-cv-1669 (Henry, J.) Administrative Number: A[redacted]

PETITIONER'S REPLY TO THE GOVERNMENT'S ANSWER IN OPPOSITION TO HIS PETITION FOR A WRITE OF HABEAS CORPUS

A. INTRODUCTION

Petitioner, Ibrahim Dia filed his petition for habeas corpus on or about March 15, 2026, after he had been detained incident to his most recent ICE check in. Petitioner relies on the procedural history presented in that petition, and will not restate the facts in this reply. Petitioner wishes to address the arguments presented by the government in its response dated March 19, 2026.

B. PETITIONER'S DETENTION IS UNLAWFUL UNDER 8 USC SECTION 1231 IS VIOLATIVE OF 8 CFR SECTION 241.4 HAS VIOLATED HIS DUE PROCESS RIGHTS UNDER THE FIFTH AMENDMENT AND HAS VIOLATED THE ADMINISTRATIVE PROCEDURES ACT

Respondent government (hereinafter referred to as "government") argues that the Petitioner's detention is lawful under the above-cited statutory provision, stating that "an alien with a final order of removal is subject to the detention and removal standards set forth at 8 USC Section 1231." Government's Answer at page 9. The government acknowledges that the Petitioner has a 5 th Amendment claim under Zavydas v. Davis, 533 US 678 (2001), decided less than one year after the Respondent's prior order of voluntary departure was converted into an order of deportation on our about May 16, 2000, approximately twenty-six (26) years ago, but dismisses the Petitioner's claim that his prolonged detention violates the due process provisions of the Fifth Amendment by noting that "[at his check-in on March 12, 2026] ICE served Petitioner with a Notice of Revocation of his release based on a significant likelihood of his removal in the reasonably foreseeable future." Government Answer at page 6. This ignores the fact that the Respondent had been under an order of supervision since 2011, approximately fifteen (15) years, had been regularly complying with all of the requirements imposed by the government, and was the father of four (4) United States citizens for whom he is the sole financial support. He is also married to a Lawful Permanent Resident, and proof of same has already been submitted in connection with the habeas petition.

It is respectfully submitted that the government, while authorized to detain an individual for a certain limited period of time until it can effectuate removal, the suggestion that redetaining him under these circumstances approximately twenty six (26) years after his order of removal was entered and became final is a gross violation of his constitutional right and does not comply with the requirements of Zavydas, supra. The government, in its answer, simply notes that:

> When removal is not effectuated within the 90 day statutory period

> The government may continue to detain an alien-or to detain him again In the future for the purpose of executing the order-and there is no Statutory limit on how long that post-removal detention period may Last.
>
> Johnson v. Arteaga-Martinez 596 US 573,579 (2022)

In that case, the Respondent had been removed in 2012, returned that same year without apprehension, and was then re-detained in 2018, six years later. It is respectfully submitted that the facts of that case are clearly distinguishable from the one at bar, since the Respondent in Arteaga Martinez had been physically removed from the United States and returned, while the instant Petitioner's removal order has never been effectuated. Furthermore, the Respondent in Arteaga Martinez was re-detained six years after his re-entry, whereas the instant Petitioner was re detained twenty six (26) years after his last contact with the immigration service. Furthermore, there is no indication in the Arteaga Martinez case that the Respondent therein was under any order of supervision, or had any contact with the government between his re entry in 2012 and his re detention in 2018. In the case at bar, the Petitioner has been under an Order of Supervision for over fifteen (15) years, has been regularly reporting to ICE and has been in full compliance with the government's orders. He was, in fact, detained at his most recent check-in, which he attended voluntarily as he has attended all of this prior check-ins. The government has an updated address for him, and he has at no time attempted to evade supervision, nor has he failed to show up for his check-in when required by the government. Therefore, it is respectfully submitted that the government cannot argue that Arteaga Martinez stands for the wholesale proposition that the government can wait approximately a quarter century before deciding to detain an individual when it has made no reasonable efforts to remove him during that two and a half (2 ½) decade period of time, and then, as the government argues detain him indefinitely.

Furthermore, the government continues to state that the Petitioner has not "met his burden in demonstrating that there is not a significant likelihood of removal in the foreseeable future," referencing Zavydas. Government Answer at page 11. It is difficult to understand how the government can argue that it is now in a position to "imminently" remove the Petitioner after not having been able or willing to do so for the past quarter century. The government has provided no evidence that would establish changes circumstances, or any additional reasons as to why, in 2026, they have finally decided to remove him from the United States. The government references two criminal contacts that the Respondent had, the first in 2011 and the last one over a decade ago, in 2014. Notwithstanding the foregoing, the government apparently found that these contacts were not serious enough to warrant a revocation of the OSUP under which he was operating since 2011.

As noted above, the Petitioner herein was placed under an Order of Supervision or an OSUP over fifteen (15) years ago. The regulations which govern the condition of OSUP have been codified at 8 CFR Section 241.5(a) (1)-(5) Specifically, 8 CFR Section 241.4(1) sets out the process ICE must follow in revoking a noncitizen's OSUP. Paragraph (1) which is entitled "Revocation of Release" states that any alien whose OSUP is revoked "will be notified of the reasons for revocation of his or her release on parole" and "will be afforded an initial informal interview promptly after his or her return to ICE custody in order to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." Id. At Section 241.4(1)

It is respectfully submitted that in this case, although the Petitioner was given a cursory, and very "informal" interview in connection with the government's decision to revoke his OSUP, this does not comply with the spirit of the regulation particularly given the fact that it had been over a quarter century that this Petitioner has been known to the government, and there having been no changed circumstances since 2014, the government was unable to articulate any cognizable reason as to why, now, it has decided to seek removal. The cursory interview, which was memorialized in a one page form, and which in fact supports the Petitioner's arguments as to why he should not have been detained and his OSUP revoked, cannot be seen to satisfy the requirements of the Administrative Procedures Act, much less the Fifth Amendment.

Here, the Petitioner is being detained because of an immigration officer's determination that there is a reasonably foreseeable probability that he will be removed in the near future. There is no allegation of any changed circumstances and, if anything, the only changed circumstances would be favorable to the Petitioner. In the past quarter century, he has established two new possible forms of relief, including an application for non LPR Cancellation of Removal under Section 42 B of the Immigration and Nationality Act. He is also, as noted above, the spouse of a Lawful Permanent Resident, and the father of four US Citizen children, all minors. Furthermore, his last admission to the United States was pursuant to a tourist visa, which would arguably make him eligible for adjustment of status as a result of his marriage to his spouse who, upon information and belief, is in the process of attempting to naturalize. Finally, it is important to note that, again upon information and belief subsequent to a conversation with the Petitioner, undersigned counsel was informed that the Petitioner provided valuable assistance to the government in connection with an investigation into the car wash at which the Petitioner was employed, an investigation which resulted in convictions for the owners of the business. While counsel has not been able to verify the exact details of the investigation and the nature of the Petitioner's involvement, it is clear that at the very least, he has been on the government's radar and in compliance with their requests for many years.

At no part of its Answer has the government referenced any of the relief that is available to the Petitioner, and speaks only to the government's desire to remove the Petitioner imminently. It is difficult to understand how this would be possible, given the fact that the Petitioner still retains the right to present his applications for relief, including an additional possible application for asylum and withholding of removal based upon changed circumstances. That application has not yet been filed, but removal of the Petitioner prior to filing would deprive him of the right to seek such relief. Therefore, any suggestion that removal is "imminent" is without merit, given the fact that the government has articulated no changed circumstances which would essentially justify a twenty-six (26) year delay in removing a man who has, at all times, been known and cooperating with the government. This is not someone who just came to the attention of the government, or was just apprehended while living under the radar in the United States. The Petitioner has been known to the government for over a quarter of a century, and the government has failed to adequately explain why it has now decided to revoke his decade-long Order of Supervision.

Finally, there are no facts to suggest that the Petitioner's detention at this point is required to assure his presence at the moment of an allegedly "imminent" removal. As noted above, for over fifteen (15) years, this Petitioner has complied with all of the requirements set out by the government, faithfully attending his ICE check ins. He has extensive family ties in the area, including his four minor children who are US Citizen and a wife who is a Lawful Permanent Resident, he is gainfully employed pursuant to work authorization and he has been paying his taxes and otherwise complying with the law. With respect to his two criminal convictions, the last one occurred over twelve (12) years ago, and neither involved violence, and there are no grounds to suspect that this husband and father poses a risk to society, or that he would not appear for additional hearings or appointments in connection with his request for relief.

C. CONCLUSION

For the foregoing, reasons, Petitioner argues that the appropriate remedy here is his immediate release from custody, in order to rectify the violation of the rights described, supra. The government has failed to establish that those rights were not violated, has failed to establish that the Petitioner was given sufficient notice of why his Order of Supervision was revoked, has failed to establish whether the government is in fact in a position to remove him "imminently," and has failed to establish any legitimate reason for having re detained him over a quarter century after his order of removal became final. Wherefore, and for the reasons stated above, Petitioner respectfully requests that his Petitioner for Habeas Corpus be granted.

Respectfully submitted

Christine M. Flowers

CHRISTINE M. FLOWERS, ESQUIRE

JOSEPH M ROLLO AND ASSOCIATES PC

ATTORNEYS FOR PETITIONER

Dated: March 23, 2026

CERTIFICATE OF SERVICE

I certify that on this date I filed the foregoing Reply to the Government's Answer In Opposition to the Petition for Habeas Corpus via the court CM/ECF System, thereby making it available for viewing and download for all parties in this case.

Dated: March 23, 2026

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