UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

Sandra ACOSTSA DE MATA Petitioner, vs. KRISTEN SULLIVAN, Director, Atlanta ICE Field Office TODD LYONS, Director, Immigration Customs Enforcement; MARKWAYNE MULLIN, Secretary Department of Homeland Security; PAMELA BONDI, Attorney General; Respondents.	)	**CASE NO. 1:26-cv-** **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

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

I. INTRODUCTION

1. Petitioner, Sandra Acosta de Mata [redacted], files this verified habeas petition challenging her unlawful imminent detention by U.S. Immigration and Customs Enforcement ("ICE"). Petitioner is neither a flight risk nor a danger to

the community.

2. Petitioner is a citizen and national of Mexico, who has a final order of removal entered on November 20, 2013. She has been on an order of supervision with ICE since that time. She also has a prima facie determination which grants her deferred action based on her U visa application because she was the victim of a crime, and law enforcement signed a certification that she was helpful to their investigation, leading to her successful application for U visa[1]. Exhibit A.

3. Petitioner is a domestic violence victim. She has gone to counseling and taken her son to counseling. Exhibit E. She has worked hard to better herself and to provide a good life for her sons. She is currently a manager at a property rental company. She has two sons. Her older son, Salvador, born in 1997, has been granted Deferred Action for Childhood Arrivals (DACA). Her younger son, Jack, is a US citizen. He is over 21 and has sponsored the Petitioner for her green card. She would be eligible for adjustment of status but for the removal order from 2013.

4. When Petitioner last reported for her routine ICE check in in Atlanta in January as she had been doing for the past thirteen years, ICE held her for four hours, and they began the process of arresting her and taking her into custody. Her attorney

[1] Her U visa is not yet approved only because there is a years' long wait for a visa to become available (there are 10,000 visas allocated per year, and there are over 200,000 visas in the queue because Congress has never increased the annual cap). Based on the grant of deferred action, Ms. Acosta has had several employment permits, and can remain in the US as long as

called and intervened, at which time they said she would see the supervisor at her next check-in, and they would handle her case at that time.

5. Petitioner's next ICE check-in is April 8, 2026. She is terrified, and it is highly likely that she will be arrested at that time.

6. Petitioner challenges the legality of her imminent arrest by the Respondents and the categorical denial of any meaningful review of her individualized circumstances.

7. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously released Petitioner from ICE detention 13 years ago in 2013 under an order of supervision. Since then, Petitioner has fully abided by the order's terms, including attending regularly scheduled check-ins with ICE. He has applied for and been granted, an Employment Authorization Document ("EAD"), which she has been able to renew every two years, and which was granted for four years in 2023. Exhibit C.

8. Petitioner was charged with identity fraud and forgery in 2013. She was originally convicted, but this conviction were reopened and vacated. She then pled to the charge of possession of a false identification document under OCGA § 16-9-4(b)(1).[2] Despite this, ICE placed her on an order of supervision, which

[2] Petitioner was trying to escape a domestic violence situation during this incident, and had two young boys. She was struggling to earn sufficient funds to leave her abuser.

has continued for thirteen years. Petitioner has completely rehabilitated and has no new criminal charges.

9. Respondents are on the verge of revoking Petitioner's order of supervision and arresting her without notice, ignoring the fact that she has been granted deferred action as the victim of a crime.

10. 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.

11. Petitioner therefore brings this action for injunctive, habeas corpus, and declaratory relief ordering Respondents to be directed to immediately release Petitioner from custody.

II. JURISDICTION

12. This Court has jurisdiction under several legal provisions, including 28 U.S.C. § 2241, which grants federal courts the authority to issue writs of habeas corpus, and 28 U.S.C. § 1331, which provides for federal question jurisdiction.

13. This Court's subject matter jurisdiction further arises under Article III, Section 2 of the Constitution because Petitioner is raising the constitutional issues. Petitioner is seeking immediate judicial intervention to remedy an imminent

violation of her constitutional rights. In addition to the United States Constitution, this action arises under the Immigration & Nationality Act of 1952, as amended (INA), 8 USC § 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 USC § 1331 because this action arises under federal law and may grant relief pursuant to the Declaratory Judgement Act, 28 USC § 2201 et seq., and the All Writs Act, 28 USC § 1651.

14. The Eleventh Circuit has 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. Even though the government may detain individuals during removal proceedings, *Denmore v. Kim*, 538 U.S. 510, 523, 123 S.Ct. 1708, 155 L.Ed.2d 724 (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.; *Frech v. U.S. Att'y Gen.*, 491 F.3d 1277, 1281 (11th Cir. 2007) ("it is well settled that individuals in deportation proceedings are entitled to due process of law under the Fifth Amendment.") (citing Reno v. Flores, 507 U.S. 292, 306, 113 S.Ct. 1439, 123 L.Ed.2d 1 (1993)). Courts must review immigration procedures and ensure that they comport with the Constitution. See also J.G. v. Warden, Irwin Cnty. Detention Ctr., 501

F.Supp.3d 1331 (M.D. GA 2020).

15. In this case, Petitioner asserts substantial constitutional violations—including imminent deprivation of liberty without due process, arbitrary and capricious agency action, and the de facto revocation of a grant of deferred action status along with employment authorization with no due process whatsoever and no opportunity to be heard.

16. Like the Petitioner in *H.F.S.R v. Francis et al*, Petitioner is not yet in ICE custody. *See* 1:26-cv-238-AT (NDGA 01/20/2026). Her imminent detention is made nearly certain by ICE's behavior, almost arresting her after she was not free to go for four hours at her last check-in, and informing her they would address her case when she came back next time. Like H.F.S.R., Petitioner's relief would simply "prevent…" her "unlawful detention" and "does not ask the Court to decide on any action to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Quoting Reno v. Am-Arab Anti-Discrimination Comm.*, 525 U.S. 461, 482 (1999). While habeas is for those that are in custody, as this Court states in *H.F.S.R*, it should be construed "very liberally." *Clements v. Florida,* 59 F.4th 1204, 1213 (11th Cir. 2023). Like *Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973), this Petitioner's incarceration is not "speculative" – she was detained at the ICE office for four hours the last time she went, and is now under threat of detention at this check-in. The threat to

Petitioner's liberty in this case is certain.

17. Additionally, jurisdiction is supported by Article I, § 9, cl. 2 of the Constitution, known as the Suspension Clause, and Article III, Section 2, which addresses the Court's authority to hear constitutional issues raised by the Petitioner. The Petitioner seeks immediate judicial intervention to address imminent violations of constitutional rights by the Respondents. This action is grounded in the United States Constitution, the Immigration & Nationality Act of 1952, as amended (INA), 8 U.S.C. § 1101 *et seq.*, and the APA, 5 U.S.C. § 551 *et seq.* Furthermore, the Court may also exercise jurisdiction under 28 U.S.C. § 1331, as the 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.

18. The Court has authority to issue a declaratory judgement and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202. Additionally, the Court can utilize the All Writs Act and its inherent equitable powers to provide such relief. Furthermore, the Court has the authority to issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

19. This Court possesses federal question jurisdiction under the APA to "hold unlawful and set aside agency action" deemed "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," as outlined in 5 U.S.C. §

706(2)(A). In the absence of a specific statutory review process, APA review of final agency actions can proceed through "any applicable form of legal action," which includes actions for declaratory judgments, writs of prohibitory or mandatory injunction, or habeas corpus, in a court of competent jurisdiction, as specified in 5 U.S.C. § 703.

20. To prevent ouster of this Court's habeas jurisdiction, the Court should, pursuant to 28 U.S.C. § 1651(a) (All Writs Act) and 28 U.S.C. § 2241, issue an immediate limited order prohibiting Respondents from transferring Petitioner outside the court's District or otherwise retain jurisdiction while this action is pending; further, Petitioner should remain in the state of Georgia to have access to her counsel and to remain close to her children and community. Such relief is necessary in aid of jurisdiction because habeas is governed by the district-of-confinement/immediate-custodian rule, and transfer can frustrate effective review. *See Rumsfeld v. Padilla*, 542 U.S. 426, 441–42 (2004); *Ex parte Endo*, 323 U.S. 283, 307 (1944); *FTC v. Dean Foods Co.*, 384 U.S. 597, 603–05 (1966).

III. VENUE

21. Venue is proper in the United States District Court for the Northern District of Georgia because Petitioner resides in the Northern District of Georgia, and she is reporting to the ICE's Atlanta Field Office, located at 180 Ted Turner Drive SW,

Atlanta, Georgia 30303, which is the location of her imminent arrest and detention (at least until she is moved to an ICE facility). Respondents are the Petitioner's imminent or constructive custodians and Respondents exercise authority over Petitioner's imminent custody in this jurisdiction, as supported by *Hensly v. Mun. Ct, San Jose Milpitas Jud. Dist.*, 411 U.S. 345 (1973). 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 prospective 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 a substantial part of the events or omissions giving rise to these claims, including continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in this District. Furthermore, the Respondents are officers of United States agencies, the Petitioner resides within this District, and there is no real property involved in this action.

22. Administrative remedies are also inadequate under these circumstances. Petitioner challenges the legality of her continued civil detention under the Constitution and the Immigration and Nationality Act, claims that fall squarely within the province of the federal courts.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. No statutory exhaustion requirement applies to habeas cases. Moreover, ICE's imminent unilateral policy violation revoking Petitioner's Order of Supervision ("OSUP") without notice leaves no administrative avenue to secure release; additional agency steps would be futile.[3] Further, ICE is also violating DHS's grant of deferred action, which will be redered moot by the Petitioner's detention. She will no longer be allowed to live in work in the Untied States while USCIS adjudicates her U visa – a form of relief that she is eligible for even with a final removal order. *See* 8 USC § 1182(d)(14). An administrative remedy may be inadequate where the administrative body is shown to be biased or has otherwise predetermined the issue before it. *Gibson v. Berryhill*, 411 U.S., 564 at 575, n. 14, 93 S.Ct. 1689, 36 L.Ed.2d 488 (1973). Requiring Petitioner to file for reconsideration with ICE "would be to demand a futile act" as Petitioner would not be granted relief while languishing in jail. See *Houghton v. Shafer*, 392 U.S. 639, 640 88 S.Ct. 2119, 20 L.Ed.2d 1319 (1968). See also *Santiago-Lugo v. Warden*, 785 F.3d 467 (11th Cir. 2015). However, even if there were any available remedies, the habeas statute does not require the Petitioner to exhaust them.

[3] These types of violations are becoming increasingly common.

24. Therefore awaiting Petitioner's arrest by respondents and for her to be taken to a detention center far from her family and possibly in another state only to be ineligible for any form of review of this determination and to be imminently deported, separated from her children, and forced to wait outside the US for years while her U visa becomes current is a failure of the system. The Board of Immigration Appeals lacks authority to grant habeas relief or to adjudicate the constitutional claims raised in this Petition. Because the Immigration Courts have expressly disclaimed jurisdiction to consider bond, no administrative remedy is available to address the legality of Petitioner's detention.

V. PARTIES

25. Petitioner, Sandra Acosta de Mata, is a citizen and national of Mexico who has been reporting to ICE since 2013; ICE nearly arrested her when she reported for her routine check in in January 2026 with no notice or individualized review. She was released until next time, which is April 8, 2026 (undermining at argument that ICE believes her to be a flight risk).

26. Respondent, Todd Lyons, is the acting Director of the United States Immigration and Customs Enforcement and is responsible for national detention policies and practices. He is being sued in his official capacity.

27. Respondent, Kristen Sullivan is the Atlanta Field Office Director of the Immigration and Customs Enforcement and exercises legal authority over Petitioner's detention. Respondent Sullivan is responsible for the oversight of ICE operations at the Detention Centers around Georgia. Respondent Sullivan is being sued in her official capacity. She is the head of the ICE office that plans to detain the Petitioner. She is also the constructive *legal* custodian of Petitioner.

28. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official 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.

29. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as her designees at the Executive Office for Immigration Review (EOIR).

VI. STATEMENT OF FACTS

30. Petitioner is a fifty-three year old native and citizen of Mexico who was inspected and admitted to the United States as a B-2 visitor on December 13,

2003, at Atlanta, Georgia and has not left since that time. In 2013, she was charged with identity fraud and forgery.[4] She was originally convicted, but this conviction was reopened and vacated. She then pled guilty to the charge of possession of a false identification document under OCGA § 16-9-4(b)(1), which is a misdemeanor. Petitioner was subsequently ordered removed in 2013 by an immigration judge. She tried twice to reopen her removal proceedings unsuccessfully (based on an argument that her notice to appear was defective because it did not list the time and place of her hearing and based on form I-130 - sponsorship by her US citizen son who is now over 21 and the fact that she made a lawful entry to the US). [redacted] which caused chronic pain. Exhibit G, Affidavit of Petitioner. As a result, law enforcement signed a form I-918B (U visa certification) on her behalf, and Petitioner applied for a U visa on July 18, 2018. Exhibit A. On August 11, 2023, after over five years of waiting, she was granted deferred action. The letter states that her petition is bona fide and she warrants a favorable exercise of discretion to receive employment authorization and deferred action. Exhibit A. It further states she has "been placed in deferred action" and that her deferred action status and employment authorization are valid for four years. *Id.* The letter further states that deferred action "is an act of

[4] It was the sister of her abusive partner that contacted the police and reported the Petitioner for this incident.

administrative convenience which.... gives some cases a lower priority for removal." *Id.*[5]

31.Petitioner has two children, one is a US citizen age 21, and the other is 28 and has DACA. Her twenty-one-year-old son has filed an I-130 petition on her behalf. As the parent of a child over twenty-one, she would, in other circumstances, be eligible to adjust her status under INA § 245(a) to permanent resident since she also made a lawful entry. However, unless her removal order is reopened, she is not eligible. She can still obtain U visa status, and, after holding U visa status for four years, adjust status pursuant to her U visa. *See* 8 USC §1182(d)(14); 8 USC §1101(a)(15)(U); 8 CFR §214.14.

32.Petitioner, under Respondents' own regulations, should be treated as a lower priority for deportation. She has been treated as such for the past thirteen years, evidenced by her being placed on an order of supervision, granted employment authorization, and allowed to remain here in the US. She has now been in the Untied States for twenty-three years and has a bona fide deferred action letter. USCIS and ICE are both part of the Department of Homeland Security. Even though this is becoming a recent trend, ICE cannot unilaterally ignore deferred action grants just to detain and or deport more people.

[5] See generally the Trafficking Victims Prevention Act ("TVPRA"), Public Law 110-457. https://www.congress.gov/110/plaws/publ457/PLAW-110publ457.pdf

33. Petitioner is a productive member of society. She has been building a career, bettering herself with counseling, and she has raised two children into adulthood. She is a single mother who has escaped abuse and made the most she could of her life. She overcame many obstacles.

VII. ARGUMENT

LEGAL FRAMEWORK FOR RELIEF SOUGHT

34. Petitioner has a final order of removal. The immigration court does not have jurisdiction to release her if ICE detains her. If detained, she can and will be swiftly deported, despite her grant of deferred action and her bond fide determination letter and her family ties and longtime residence in the US. No individualized assessment of Petitioner's suitability for release will be conducted.

35. "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).

36. 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).

37. "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).

38. 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 a 90-day period").

39. 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).

40. 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.

PROCEDURE FOR REVOKING AN ORDER OF SUPERVISION

41. 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]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).

42. 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 intends 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).

43. ***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).

ADMINSTRATIVE PROCEDURES ACT

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

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

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

47. ICE has not put any process in place for revoking the order of supervision – it will simply revoke it – that is the only process.

48. Powerful legal consequences flow from this revocation.

THE ACCARDI DOCTRINE

49.61. 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.").

50. *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).

51. 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).

CLAIM FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Due Process Clause

52. The allegations in the above paragraph are realleged and incorporated herein.

53. The Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of liberty without due process of law. These protections extend to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

54. Whether the procedures accompanying a noncitizen's civil detention satisfy due process is evaluated under the balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private interest affected by official action; (2) the risk of an erroneous deprivation of that interest through the procedures used; and (3) the government's interest, including the function involved and the fiscal or administrative burdens that additional procedural requirements would entail.

55. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test to Petitioner's case:

a. Petitioner's liberty interest is paramount; the risk of erroneous deprivation is extreme considering that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. 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. at 34, 103 S.Ct. 321. Petitioner's liberty is being seriously threatened, and no consideration whatsoever is being given to the fact that she a victim of a crime granted deferred action. She has an interest in continuing to live in the same country as her sons, the country where her sons have spent nearly their entire lives. She has an interest in retaining the life and career she has built in the United States over the past 23 years. At minimum, the government must come forward with concrete, case-specific reasons that outweigh Petitioner's substantial liberty interest in continued release.

b. 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 are poised to violate those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certain (as they have not provided 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 great due to the lack of a non-independent adjudicator as ICE officers under the current Trump administration are subject to daily arrest quotas of noncitizens. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955).

c. 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.

d. In conclusion, all three *Mathews* factors favor Petitioner's position. The novel DHS and EOIR interpretations violate Petitioner's procedural due process rights under the Fifth Amendment. Collateral harms from detention—including separation from Petitioner's family and friends and Petitioner's ability to maintain employment—further underscore the weight of the private interest and the risk of erroneous deprivation. These are collateral consequences of continued confinement that amplify the ongoing liberty deprivation, are not compensable by money damages, and therefore weigh heavily in the *Mathews* balance and the equitable analysis, without expanding the scope of relief requested

56. If Respondents revoke the order of supervision that even though Petitioner had complied with every condition of the order for 13 years, it is completely unwarranted. No change in circumstances warrant an arrest. There are no new criminal issues; Petitioner has complied with the OSUP and has no new adverse factors to justify detention. In fact, in 2023, her grant of deferred action under her U visa make her case *more* favorable.

COUNT TWO

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

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

58. 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).

59. 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).

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

61. The revocation will also not be in accordance with the INA and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances.

62. Petitioner's order of supervision is very unlikely to be revoked by the ICE Executive Associate Director. ICE has not made findings that revocation is in the public interest and that circumstances do not reasonably permit referral to the Executive Associate Director. Nor is there any evidence that the officer been delegated authority to revoke an order of supervision.

63. Respondents did not make findings that Petitioner is dangerous or unlikely to

comply with a removal order, as required by statute.

64. Even assuming that regulations purporting to offer additional justifications for revocation of an order of supervision are not ultra vires, Respondents cannot make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because Petitioner has not. Nor can Respondents make findings that the purposes of release has been served or that it was appropriate to enforce a removal order, because the Petitioner has deferred action and should not be a priority for removal.

65. Respondents have not notified Petitioner of any revocation or given her an opportunity to respond;

66. Any revocation not following these lawful procedures should be blocked and or set aside.

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

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

68. 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).

69. 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).

70. It would be arbitrary and capricious for Respondents to revoke Petitioner's order of supervision since she has done nothing to justify it's revocation, and she has in fact been granted deferred action. Petitioner has never violated any order of supervision condition and no new facts or changed circumstances suggest he would.

71. Any revocation would also "fail… 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). These include the constitutional concerns, the deferred action grant, failing to consider reasonable alternatives, and failing to consider Petitioner's reliance on being allowed to remain on the order of supervision, and she has for years without incident.

COUNT FOUR

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

72. The allegations in the above paragraphs are realleged and incorporated herein.

73. 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).

74. "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).

75. 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.

76. Regulations that purport to give Respondents authority to revoke an OSUP 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).

77. Any revocation of Petitioner's OSUP under these circumstances is in excess of authority and should be set aside.

COUNT FIVE

Ultra Vires Action

78. The allegations in the above paragraphs are realleged and incorporated herein.

79. There is no statute, Constitutional provisions, or source of law that authorize the Respondents to detain the Petitioner.

COUNT SIX

Violation of the Accardi Doctrine

80. The allegations in the above paragraphs are realleged and incorporated herein.

81. Respondents will violate agency regulations governing when and upon what findings it may properly revoke an order of supervision if it revokes Petitioner's order. "As a result, this Court cannot conclude that [a revoking officer] has 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).

82. Respondents will also be in violation of agency instructions in Petitioner's release notification to give an opportunity to prepare for an orderly departure when they revoked Petitioner's order without advance notice.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the imminent deprivation of liberty and irreparable harm:

(1) Assume jurisdiction over this matter under 28 U.S.C. §§ 2241 and 1331 and the Suspension Clause;

(2) Issue an Order to Show Cause, ordering Respondents to justify why this writ should not be granted to Petitioner and the basis of Petitioner's detention in fact and law, **within the 3 days authorized by the statute**;

(3) Enjoin Petitioner's transfer outside of Georgia, the transfer of Petitioner's current habeas proceedings outside of this Court's jurisdiction, and enjoin Petitioner's removal from the United States, and prohibit any change of Petitioner's immediate custodian, without prior leave of Court while this action is pending, pursuant to 28 U.S.C.

§§ 1651(a) and 2241;

(4) Declare that Petitioner's OSUP cannot be revoked without following proper procedures;

(5) Declare that Petitioner's cannot be arrested by ICE because she has deferred action status as the victim of a crime and has done nothing to violate that status;

(6) Declare that Respondents' actions, as set forth herein, and Petitioner's detention violate the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, and the *Accardi* doctrine;

(7) Grant Petitioner a Writ of Habeas Corpus and order Respondents not to arrest Petitioner;

(8) Enjoin Respondents from detaining Petitioner in the future absent changed circumstances such as new criminal conduct;

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

(10) Waive or set a nominal security under Fed. R. Civ. P. 65(c); and

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

Respectfully submitted,

This 6th Day of April, 2026.

Rachel Effron Sharma
DreamPath Law, LLC
5425 Peachtree Parkway NW
Norcross, GA 30092
rachel@dreampathlaw.com
Tel: (470) 273-3444

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's family members and have reviewed various 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 USC § 2242.

This 6th day of April 2026.

Rachel Effron Sharma
DreamPath Law, LLC
5425 Peachtree Parkway NW
Norcross, GA 30092
rachel@dreampathlaw.com
Tel: (470) 273-3444