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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

YANLING XIE, Petitioner, v. SERGIO ALBARRAN, Field Office Director of the San Francisco Immigration and Customs Enforcement Office; DAVID VENTURELLA, Acting Director of United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the United States Department of Homeland Security; TODD BLANCHE, Acting Attorney General of the United States, acting in their official capacities, Respondents.	CASE NO. **PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF** **ALIEN NUMBER:** [redacted]

I. INTRODUCTION

1. Petitioner Yanling Xie ("Petitioner" or "Ms. Xie"), by and through counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief challenging the Respondents' imminent unlawful re-detention and removal of Petitioner in violation of the Eastern District Court of California's judgment and injunction of May 1, 2026, the Due Process Clause of the Fifth Amendment, and 8 C.F.R. §§ 241.4(l) and 241.13(i).

2. Petitioner, Ms. Xie, is a citizen of China who suffered [redacted] before fleeing to the United States in September 2019. An asylum officer found that she established a credible fear of persecution. While detained and suffering from severe, undiagnosed mental illness, and without counsel, she withdrew her asylum application and accepted a removal order to escape detention, a waiver she lacked the competence to make in that context.

3. On or about October 14, 2025, ICE re-detained Petitioner by revoking her order of supervision without notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules. Petitioner then filed a habeas action with this Court.

4. On May 1, 2026, in *Yan-Ling X. v. Lyons*, No. 1:25-cv-01412 KES CDB (HC), this Court granted her petition for writ of habeas corpus, held that Respondents violated her procedural due process rights under the Fifth Amendment, entered judgment in her favor, and enjoined and restrained Respondents "from re-detaining Petitioner Yan-Ling X. unless and until they obtain a travel document for her removal, and unless and until they follow all procedures set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures."

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5. At her last ICE check-in on July 17, 2026, ICE wanted to take Petitioner into custody. She was accompanied by undersigned counsel. An ICE officer informed undersigned counsel that Respondents planned to re-detain Petitioner and transport her to a detention facility in Bakersfield, California. However, in light of Petitioner's fragile and suicidal mental state, Respondents changed their position and released her. The Government provided Petitioner no advance notice and no hearing prior to its intended revocation of Petitioner's release under an Order of Supervision. The Government instead disclosed that it had obtained a travel document from China dated June 15, 2026, but failed to show Petitioner any evidence of the purported travel document. Respondents offer no evidence that they had a scheduled departure date for Petitioner at the time of her arrest.

6. Indeed, it was ICE's prior and long-established practice to do so. The Government used to provide individuals notice that it had obtained a travel document, arrange for the person's removal, and communicate that through written notice, stating that it needed the person to appear for removal at a designated place and time.

7. ICE previously used Forms I-166 and G-56 to explicitly inform individuals that there is a travel document and that arrangements have been made for departure and/or that they would be detained for removal. Form G-56, the form advised the individual that their release was revoked and that they needed to report for detention for the execution of the individual's final order of removal. Respondents gave Petitioner a Form G-56 and stated the reason for her July 15, 2026 check-in as a "case review." They never stated that they would detain Petitioner and execute her final order of removal.

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8. Nevertheless, a "case review" is not notice. The G-56 conceals the true purpose of the appointment, re-detention and summary removal and thereby deprives Ms. Xie of precisely the procedural protections this Court ordered: knowledge of the reasons for revocation and a meaningful opportunity to respond before her liberty is taken. A travel document satisfies only the first condition of this Court's injunction, but it does not excuse noncompliance with the second.

9. ICE also failed to notify Petitioner of the reasons for the revocation of her release and did not conduct an initial informal interview on the day of her arrest, in compliance with 8 C.F.R. § 241.13(i)(3) which violates Judge Sheriff's order.

10. ICE never served any paperwork on her at the time of her arrest and did not ask her to sign any documents, including to sign that she was served with the Notice of Revocation of Release. Petitioner has had no conversation or informal interview with any ICE officer about the basis for her re-detention. No notice was provided, nor was Petitioner given an opportunity to respond. ICE never provided Petitioner with a copy of her travel document. Without access to the travel document—the sole asserted basis for her re-detention—it would have been impossible to afford Petitioner an opportunity to respond to reasons for her revocation.

11. Petitioner is scheduled to appear for an ICE check-in on July 22, 2026 at 2:00 p.m. On information and belief, Respondents plan to re-detain her and transport her to a detention facility without following the procedures set forth at 8 C.F.R. §§ 241.4(l) and 241.13(i), as ordered by Judge Sheriff. Respondents' stated reason for the re-detention is that they have obtained a travel document for Petitioner's removal. To date, however, Petitioner has not been provided with the travel document or an opportunity to respond.

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12. Petitioner also has a motion to reopen her removal proceedings, with an accompanying motion for stay of removal, pending before the Atlanta Immigration Court, filed on July 16, 2026 and July 21, 2026 respectively. Petitioner is requesting to reopen her removal proceedings based on *Matter of M-A-M-*, 25 I. & N. Dec. 474, 479–81 (B.I.A. 2011).

13. The Board of Appeal ("the Board") in *Matter of M-A-M-* held that "there is good cause to believe that the respondent lacked sufficient competency to proceed with the hearing," and granted the motion to remand. Ms. Xie's mental conditions have impaired her capacity to proceed with her removal proceedings. This mental competency issue, a material evidence, was unknown to the Court and Ms. Xie, which constitutes new and previously unknown evidence that warrants a favorable decision on her motion to reopen.

14. Petitioner appeared pro se in her removal proceedings before the Immigration Judge. Ms. Xie was never provided with the appropriate safeguards to assist her in removal proceedings. She suffered from depression and suicidal ideation arising from the trauma of [redacted] That condition was serious enough to compromise her ability to understand the nature and object of the proceedings and to make reasoned decisions about her own case. These are exactly the signs that, under *Matter of M-A-M-*, should have triggered further inquiry and the implementation of safeguards.

15. Because Ms. Xie was mentally incompetent during her removal proceedings and was not afforded the safeguards required by *Matter of M-A-M-* at the time she waived appeal and withdrew her asylum application, her right to due process was violated.

16. Petitioner's motion is supported by psychological evaluation and contemporaneous treatment records establishing that she was not competent when she waived her asylum claim, and that she suffers from posttraumatic stress disorder, major depressive disorder, generalized anxiety disorder, and panic disorder, with ongoing suicidal ideation and self-harm. Removal to China, the country where she suffered persecution, before any adjudication of that motion would

extinguish her opportunity to be heard and inflict irreparable harm, including a substantial risk of psychological decompensation. Thus, Petitioner seeks not to be re-detained or removed unless and until Respondents comply with 8 C.F.R. §§ 241.4(l) and 241.13(i), and that she be afforded a meaningful opportunity to litigate her pending motion to reopen before removal renders it a nullity.

17. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution, 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., the Administrative Procedure Act, 5 U.S.C. §§ 702–706, 28 U.S.C. § 1361, and 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act). This Court additionally retains the inherent authority to enforce its own judgment and injunction of May 1, 2026.

II. JURISDICTION AND VENUE

18. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). Petitioner is "in custody" for purposes of § 2241. Although at liberty pursuant to this Court's order of May 1, 2026, she remains subject to a final order of removal and to an order of supervision imposing conditions and restraints "not shared by the public generally." *Jones v. Cunningham*, 371 U.S. 236, 240 (1963).

19. 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, and the Fifth Amendment of the United States Constitution. This Court also possesses continuing jurisdiction to enforce its own injunction entered in No. 1:25-cv-01412. A federal court's power to enforce compliance with its judgments is inherent and does not expire upon entry of judgment.

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20. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are officers of the United States acting in their official capacities, and a substantial part of the events giving rise to the claim occurred in the Northern District of California.

III. REQUIREMENTS OF 28 U.S.C. § 2243

21. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the 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.*

22. Habeas corpus is "perhaps the most important writ known to the constitutional law … affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from her within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

IV. PARTIES

23. Petitioner Yanling Xie is a native and citizen of People's Republic of China.

24. Respondent Sergio Albarran is Field Office Director of the San Francisco Immigration and Customs Enforcement Office. As such, Sergio Albarran is responsible for Petitioner's supervision, threatened re-detention and removal. He is named in his official capacity.

25. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement. He is named in his official capacity.

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26. Respondent Markwayne Mullin is the Secretary of Homeland Security and is Petitioner's ultimate legal custodian. He is named in his official capacity.

27. Respondent Todd Blanche is the Acting Attorney General of the United States Department of Justice, one of Petitioner's legal custodians, named in his official capacity.

V. LEGAL FRAMEWORK

This Court's May 1, 2026 Injunction and the Regulatory Procedures It Incorporates

28. On May 1, 2026, this Court granted Ms. Xie's habeas petition as to her procedural due process claim, denied Respondents' motion to dismiss, entered judgment for Petitioner, and enjoined Respondents from re-detaining her "unless and until they obtain a travel document for her removal, **and** unless and until they follow **all procedures** set forth in 8 C.F.R. §§ 241.4(l), 241.13(i), and any other applicable statutory and regulatory procedures." (Order, Doc. 23, No. 1:25-cv-01412, at 2 (emphasis added).) The injunction's two conditions are conjunctive and sequential: procurement of a travel document does not authorize re-detention unless the regulatory procedures have also been followed. The phrase "unless and until" requires compliance before re-detention.

29. Under 8 C.F.R. § 241.4(l), release may be revoked only in defined circumstances, and upon revocation "the alien will be notified of the reasons for revocation of his or her release," and "will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification."

30. Moreover, under 8 C.F.R. § 241.13(i), release may be revoked for purposes of removal only where, "on account of changed circumstances," the agency "determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future," 8

C.F.R. § 241.13(i)(2); and upon revocation the alien must be notified of the reasons, afforded a prompt informal interview, and permitted to respond and submit evidence bearing on the likelihood of removal, 8 C.F.R. § 241.13(i)(3).

31. These procedures are mandatory; an agency is bound to follow its own regulations, and action taken in violation of them is invalid. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).

32. Notice that conceals the true reason for a government action is no notice at all. The revocation of conditional liberty requires, at minimum, notice of the claimed grounds and an opportunity to be heard. *Morrissey v. Brewer*, 408 U.S. 471, 481–89 (1972). In *Chhoeun*, the court condemned precisely the practice Respondents employ here: individuals summoned to "what they assumed were perfunctory meetings" with ICE and detained "without any explanation or notice," a practice the court held created a high "risk of erroneous deprivation" because it stripped detainees of any chance to gather documents or contact counsel before losing their liberty. *Chhoeun*, 306 F. Supp. 3d at 1151, 1160–61.

33. The OSUP revocation regulations are clear: the revocation should provide notice for the reasons for the revocation, an informal interview, and an opportunity to respond to the reasons for the revocation. 8 C.F.R. 241.4(l). Yet there was no notice, no proof of service, no accurate documentation of the arguments made by Petitioner, and no opportunity to respond to the new basis for the revocation.

34. Second, the constitution demands fairness. Deprivation of liberty requires the highest due process protections, and revocation of an individual's liberty must come with commensurate procedural safeguards. *See e.g., Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) ("[I]t is well-settled that "due process requires adequate procedural protections to ensure that the

government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint."). Adequate notice is a hallmark of due process. As stated by the Supreme Court in 1976, "[t]he essence of due process is the requirement that a person in jeopardy of serious loss be given notice of the case against him and opportunity to meet it." *Mathews v. Eldridge*, 424 U.S. 319, 348 (1976) (internal quotations and parentheticals omitted).

35. Indeed, other courts have found that around seven to 10 days' notice of a hearing provides meaningful notice to noncitizens. *See Jose G. M. L. v. Warden of Golde State Annex*, No. 1:26-CV-00047-TLN-EFB, 2026 WL 472987, at *6 (E.D. Cal. Feb. 19, 2026) (requiring seven days' notice of any pre-deprivation hearing); *Shinwari v. Hermosillo*, No. 2:26-CV-00009-RAJ, 2026 WL 262605, at *4 (W.D. Wash. Jan. 30, 2026) (requiring 10 days' written notice of any pre-deprivation hearing); *see also Rodriguez v. Holder*, No. CV 07-3239 TJH RNBX, 2013 WL 5229795, at *3 (C.D. Cal. Aug. 6, 2013) (requiring the provision of written notice seven days prior to any bond hearing provided to *Rodriguez* class members), but *c.f. Fuentes v. Lyons*, 808 F. Supp. 3d 733, 735 (S.D. Tex. 2025) (finding a 6-hour filing window for a bond hearing, "while unfortunate, likely does not raise to the level of constitutionally deficient notice" because noncitizen and counsel were notified of the bond hearing five and three days in advance, respectively).

Due Process Requires a Meaningful Opportunity to Be Heard on the Pending Motion to Reopen Before Removal

36. "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Courts must apply the three-factor *Mathews* balancing test — the private interest, the risk of

erroneous deprivation and the value of additional safeguards, and the government's interest — to determine the process due. *Id.* at 335.

37. Within this framework, Due Process Clause of the Fifth Amendment guarantees noncitizens not only the right to file a motion to reopen, but also a meaningful opportunity to litigate it before removal. *Chhoeun*, 306 F. Supp. 3d at 1162 ("To ensure that erroneous removals do not occur, Petitioners must be afforded sufficient time to file motions to reopen, and must be afforded judicial review of those motions before they are removed from this country."); *Sied v. Nielsen*, 2018 WL 1142202, at *14–27 (N.D. Cal. Mar. 2, 2018); *Devitri v. Cronen*, 289 F. Supp. 3d 287, 293–98 (D. Mass. 2018); *Chaudhry v. Barr*, 2019 WL 2009307, at *3–5 (E.D. Cal. May 7, 2019).

38. Civil immigration detention must be justified by a permissible purpose, and must be reasonably related to that purpose. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The two permissible regulatory goals are "ensuring the appearance of [noncitizens] at future immigration proceedings" and "preventing danger to the community." Id.; see also *Matter of Patel*, 17 I&N Dec. 597, 666 (BIA 1976) ("[A noncitizen] generally is not and should not be detained or required to post bond except on a finding that he is a threat to the national security, or that he is a poor bail risk.") (internal citations omitted).

39. ICE's power to arrest a noncitizen who is at liberty is also constrained by the demands of due process. See *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). "'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.'" *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "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 protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); see also id. at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.").

40. In *Gbotoe*, the court enjoined removal pending final adjudication of a motion to reopen, holding that removal before adjudication would irreparably prejudice the petitioner's ability to litigate his claims and expose him to the very harms his motion alleged. 2017 WL 6039713, at *4–6. The same reasoning applies with greater emphasis here, where an asylum officer has already found Ms. Xie's fear of persecution credible and her severe psychiatric conditions make removal itself a grave medical risk.

41. The four-factor standard of *Nken v. Holder*, 556 U.S. 418, 434 (2009), and *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008), governs provisional relief; in this Circuit, "serious questions going to the merits" and a balance of hardships tipping sharply in the petitioner's favor suffice. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1135 (9th Cir. 2011); *Leiva-Perez v. Holder*, 640 F.3d 962, 968 (9th Cir. 2011). The public's "interest in preventing aliens from being wrongfully removed, particularly to countries where they are likely to face substantial harm," weighs heavily in Petitioner's favor. *Nken*, 556 U.S. at 436.

42. *Merjildo v. Chestnut*, 2026 WL 1707083 (E.D. Cal. June 12, 2026), is inapposite. The petitioner there triggered her own alternate removal order by filing a motion to reopen during a voluntary-departure period, a circumstance squarely governed by *Dada v. Mukasey*, 554 U.S. 1 (2008); she sought a freestanding stay from the district court with no cognizable collateral claim; and the court expressly distinguished cases — *Devitri, Chaudhry, Sied* — involving a risk of persecution and the absence of any opportunity to be heard. Merjildo, 2026 WL 1707083, at *4–

5. Ms. Xie's case is similar to those cases: she faces removal to the country of her feared persecution before any tribunal has heard her pending motion; and she additionally holds what no petitioner in any of those cases held — an existing judgment and injunction of this Court that Respondents are violating.

VI. FACTS

43. Petitioner, Ms. Xie is a native and citizen of China. Before fleeing to the United States, she was [redacted]. The psychological injury from these events has persisted for more than sixteen years. Petitioner entered the United States on or about September 19, 2019, without inspection, and was detained at the detention center in Ocilla, Georgia. On or about October 24, 2019, an asylum officer conducted a credible fear interview and found that she established a credible fear of persecution. On or about November 25, 2019, she was placed in removal proceedings. While detained, Ms. Xie's mental condition deteriorated severely. Appearing pro se, suffering from then-undiagnosed mental illness, and unable to endure continued detention after her bond request was denied on or about December 12, 2019, she withdrew her asylum application and accepted a removal order in exchange for release. On February 4, 2020, a final order of removal was entered.

44. On December 10, 2025, a licensed psychologist diagnosed Ms. Xie with posttraumatic stress disorder, major depressive disorder, generalized anxiety disorder, and panic disorder. Her contemporaneous treatment records document a severe episode of recurrent major depressive disorder, generalized anxiety disorder, insomnia, and non-suicidal self-harm, managed with multiple psychotropic medications under ongoing psychiatric care. She continues to experience suicidal ideation and self-harm.

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45. In 2025, Respondents re-detained Ms. Xie at the California City Correctional Facility in California City, California. She petitioned this Court for a writ of habeas corpus. No. 1:25-cv-01412 KES CDB (HC). On November 7, 2025, this Court granted a preliminary injunction and ordered her immediate release. (Doc. 12.)

46. On February 23, 2026, the magistrate judge issued findings and recommendations to grant the petition in part on Ms. Xie's procedural due process claim. On May 1, 2026, this Court adopted the findings and recommendations in full, granted the petition as to that claim, entered judgment for Petitioner, and enjoined Respondents from re-detaining her unless and until they obtain a travel document and follow all procedures set forth in 8 C.F.R. §§ 241.4(l) and 241.13(i) and any other applicable statutory and regulatory procedures.

47. On July 16, 2026, through undersigned counsel, Ms. Xie filed a motion to reopen her removal proceedings with the immigration court, together with a motion for stay of removal, on grounds including her mental incompetency at the time of her purported waiver, *Matter of M-A-M-*, 25 I&N Dec. 474 (BIA 2011), equitable tolling, and the invalidity of a waiver that was not knowing and intelligent. Those motions remain pending and unadjudicated. Respondents obtained a travel document for Ms. Xie's removal to China, valid for 90 days. On information and belief, Respondents intend to re-detain and remove her before the immigration court rules on her pending motions.

48. Respondents have not notified Ms. Xie of any reasons for revocation of her release; have not notified her of any determination, on account of changed circumstances, that her removal is significantly likely in the reasonably foreseeable future; have not afforded or scheduled any informal interview; and have given her no opportunity to respond or submit evidence, as 8 C.F.R. §§ 241.4(l) and 241.13(i) and this Court's injunction require.

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VII. CLAIMS FOR RELIEF

COUNT I

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Procedural Due Process: Unlawful Revocation of Court-Ordered Release

49. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

50. Petitioner possesses a protected liberty interest in her release, a liberty this Court itself restored and safeguarded by judgment and injunction. Due process forbids Respondents from stripping her of that liberty without notice of the actual reasons and a meaningful opportunity to respond. Morrissey, 408 U.S. at 481–89; Mathews, 424 U.S. at 333–35.

51. Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." Fifth Amendment of the U.S. Constitution.

52. A G-56 stating "case review" while Respondents hold a travel document and intend re-detention and removal is pretextual notice that conceals rather than discloses the grounds for the deprivation, creating the same high risk of erroneous deprivation condemned in Chhoeun, 306 F. Supp. 3d at 1160–61. Re-detaining and removing Ms. Xie on such notice violates the Fifth Amendment.

COUNT II

Violation of the INA and Implementing Regulations, 8 C.F.R. §§ 241.4(l), 241.13(i) (*Accardi* Doctrine)

53. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

54. Respondents' own regulations condition revocation of release upon notification of

reasons, a changed-circumstances determination that removal is significantly likely in the reasonably foreseeable future, a prompt informal interview, and an opportunity to respond and submit evidence. Respondents have complied with none of these requirements. Agency action in violation of the agency's own regulations is unlawful and void. *Accardi*, 347 U.S. at 265–68; *Morton*, 415 U.S. at 235.

55. Under the *Accardi* doctrine, Petitioner has a right to set aside agency action that violated agency procedures, rules, or instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 ("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

56. Respondents violated agency regulations governing who and upon what findings it may properly revoke an order of supervision when it revoked Petitioner's order. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Petitioner "is entitled to release on that basis alone." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); see also, e.g., Zhu v. Genalo, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267 (D. Or. Aug. 21, 2025) (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

57. Courts have determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered. *See, e.g., Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2444087, at *25-26 (D. Md. Aug. 25, 2025); *M.S.L. v. Bostock*, No. 6:25-cv-1204-AA, 2025 WL 2430267, at *10 (D. Or. Aug. 21, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 163 (W.D.N.Y. 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387 (D. Mass. 2017).

58. Respondents also violated 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.

59. Under *Accardi*, Respondents' revocation of the order of supervision and decision to ignore instructions in the release notification should be set aside for violating agency procedures, rules, or instructions

COUNT III

Arbitrary and Capricious Agency Action (APA, 5 U.S.C. § 706)

60. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

61. Respondents' issuance of a pretextual "case review" call-in letter, their failure to make and communicate the changed-circumstances determination required by 8 C.F.R. § 241.13(i)(2), and their disregard of the notice, interview, and response procedures of 8 C.F.R. §§ 241.4(l) and 241.13(i) constitute agency action that is arbitrary, capricious, an abuse of discretion, not in accordance with law, and in excess of statutory and regulatory authority. 5 U.S.C. § 706(2)(A), (C).

62. Respondents also failed to present evidence of the travel document they purportedly obtained for Petitioner and failed to provide her an opportunity to respond to the evidence.

63. Petitioner is entitled to injunctive relief to avoid any further injury.

COUNT IV

Violation of Judge Sheriff's May 1, 2026 Judgment and Injunction

64. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

65. This Court's May 1, 2026 order enjoins Respondents from re-detaining Petitioner "unless and until" they both obtain a travel document and follow all procedures set forth in 8 C.F.R. §§ 241.4(l) and 241.13(i). Respondents have satisfied at most the first condition. Any re-detention or removal without prior compliance with the regulatory procedures violates the injunction, and any resulting custody is unlawful. Petitioner is entitled to enforcement of this Court's judgment and to an order restraining Respondents from acting in violation of it.

COUNT V

The Government's Re-Detention Petitioner Without Statutory Authority and in Violation of her Substantive Due Process Rights.

66. "In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." *U.S. v. Salerno*, 481 U.S. 739, 755 (1987). Government detention violates substantive due process unless it is ordered in a criminal proceeding with adequate procedural protections, or in non-punitive circumstances "where a special justification. . . outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690. In this case, the Government treats liberty as the exception and detention as the norm because Petitioner has a final order of removal and it now has a valid travel document. It assumes that is all it needs to re-detain. The Constitution and the INA do not support such a broad reading of the Government's authority. No "special justification" authorizes the Government's aggressive re-detention of Petitioner, particularly given her compliance with her OSUP. Both the law and prior ICE practice make clear that where a person is not a flight risk or a danger, detention is unnecessary to carry out removal and, if detention is used, it must be used in a brief and limited fashion only to execute the removal order.

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67. "To re-detain a noncitizen under Section 241.13, ICE is obligated to provide specific facts supporting '(1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future.'" *Huynh*, 2026 WL 183467, at *2 (quoting *Kong v. United States*, 62 F.4th 608, 619-20 (1st Cir. 2023) (citing 8 C.F.R. § 241.13(i)(2)). "[T]his individualized determination must be conducted prior to re-detention." Id. at *3. "[T]he changed circumstances that make [a noncitizen's] removal likely in the foreseeable future must have existed at or before the [order of supervision] revocation; post-hoc justifications are inadequate." *Munagi v. McDonald*, 2025 WL 3688023 (D. Mass. Dec. 19, 2025).

68. Here, the Government has not made and cannot make that required showing. Even though the facts demonstrate that she is not a flight risk, it did not send her a letter advising her of the travel document and scheduling a departure date for her to appear.

69. This is particularly salient in the context of re-detention because the Government has every opportunity to secure a travel document, arrange for removal, provide individualized advance notice, and allow for the individual to appear on their own, without the use of detention or before it resorts to detention. If the person fails to comply with a request to appear, then re-detention may be authorized under 8 C.F.R. § 241.13(i)(1).

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests the Court to:

a. Assume jurisdiction over this matter;

b. a. Order that Respondents not re-detain Petitioner pending resolution of Petitioner's habeas petition;

c. b. Order that Respondents immediately release Petitioner from custody if they have already re-detained her;

d. Order that Petitioner shall not be transferred outside of the Northern District of California and the United States while this habeas petition is pending;

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

f. Declare that the DHS Form G-56 "case review" call-in letter does not satisfy the notice and procedural requirements of 8 C.F.R. §§ 241.4(l) and 241.13(i) or of this Court's May 1, 2026 injunction;

g. Enforce the May 1, 2026 judgment and injunction in No. 1:25-cv-01412, and enjoin Respondents from re-detaining Petitioner unless and until they have fully complied with all procedures set forth in 8 C.F.R. §§ 241.4(l) and 241.13(i), including written notification of the actual reasons for any proposed revocation of release, a changed-circumstances determination under § 241.13(i)(2), a prompt informal interview, and a meaningful opportunity to respond and submit evidence;

h. Stay Petitioner's removal from the United States, and enjoin Respondents from executing her removal, unless and until the immigration court adjudicates her pending motion to reopen and motion for stay of removal, and for a reasonable period thereafter sufficient to permit any administrative appeal and judicial review;

i. Order that Respondents shall return all of Petitioner's property and documents to her at the time of release;

j. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, to the extent permitted by law; and

k. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

Date: July 22, 2026

/s/ Connie Chan
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