UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Frederic Salers Marzouka, Petitioner, v. Jason Streeval, Warden, Stewart Detention Center; Kristen Sullivan, Field Office Director, Atlanta Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; David Venturella, Acting Director, U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary, U.S. Department of Homeland Security; Todd Blanche, Attorney General of the United States, Respondents.	Case No. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. This case challenges the unlawful detention of Frederic Salers Marzouka, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at Stewart Detention Center in Lumpkin, Georgia.

2. Petitioner, a 68-year old native and citizen of Haiti, last entered the United States in 2009. Petitioner is a beloved member of his family, which includes his five U.S.-citizen children, his lawful permanent resident ("LPR") daughter, his six U.S.-citizen grandchildren, his U.S.-citizen siblings and LPR sister, and he is a successful business owner in Miami, Florida.

3. Petitioner was extradited to the United States through a cooperation agreement in which he [redacted]. He was convicted of money laundering, and subsequently placed in removal proceedings. Mr.

Marzouka was ordered removed from the United States; however, he could not be removed to Haiti because an immigration judge granted his request for deferral of removal under the Convention Against Torture. Mr. Marzouka established that he would more likely than not be tortured should he be returned to Haiti. The Department of Homeland Security ("DHS") thereafter released Petitioner pursuant to an Order of Supervision in 2010.

4. To this day, Petitioner's removal to Haiti is not reasonably foreseeable as his protection under the Convention Against Torture remains effective.

5. Yet, despite Petitioner dutifully complying with the terms of his Order of Supervision and associated conditions of release for over fifteen years, on June 29, 2026, ICE re detained Petitioner at what was meant to be a biometrics appointment with U.S. Citizenship and Immigration Services ("USCIS") to renew his employment authorization—Petitioner's attendance at which demonstrates his continued compliance with U.S. immigration laws. Instead, ICE took him into custody without: 1) providing notice or opportunity to be heard; 2) explaining the basis for his re-detention; 3) providing proof that revocation was ordered by an ICE employee with authority to do so; or 4) making the findings required by law—all in violation of agency rules and regulations.

6. ICE's failure to provide Petitioner with a pre-deprivation hearing violated Petitioner's due process and is particularly egregious in light of ICE's failure to demonstrate a change in circumstances justifying the revocation of his release. ICE has not met its burden to show that it can remove Petitioner in the reasonably foreseeable future.

7. Petitioner's continued detention violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), because his removal is not reasonably foreseeable. Upon information and belief, at no point since his release from detention

in 2010, or since his re-detention on June 29, 2026, has ICE taken any steps to effectuate Petitioner's removal to Haiti.

8. On the day of his detention, ICE informed Petitioner that it would seek his removal to a third country. But ICE has taken no concrete steps to effectuate such removal in the six weeks since he was detained, nor has it identified what process, if any, ICE will provide Petitioner to contest removal based on his fear of persecution or torture.

9. All that has occurred is that Petitioner has been ripped away from his family and his business, despite his consistent compliance with the conditions of release and dutifully appearing at all scheduled hearings. And Petitioner's health has suffered without the medication and medical care he requires.

10. Respondents' actions depriving Petitioner of his liberty violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative Procedure Act ("APA"), and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

11. Petitioner brings this action seeking the Court to order Respondents to release Petitioner because his re-detention constituted a violation of his due process rights and to prohibit Respondents from removing Petitioner to a third country without ensuring Petitioner is afforded notice and opportunity to present a fear-based claim.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 2201 (declaratory relief).

13. Petitioner does not ask this Court to review any discretionary custody determination, bond denial, or the validity of his underlying order of removal. Rather, Petitioner challenges the statutory and constitutional authority for his continued post-order detention and ICE's failure to comply with the mandatory procedures governing revocation of his release under an Order of Supervision. These claims fall within the traditional scope of habeas review because they concern the legality of Petitioner's present detention, not the merits of his removal order or any discretionary judgment regarding release.

14. Venue is proper in the Middle District of Georgia pursuant to 28 U.S.C. § 2241 because Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia, which sits within this Court's jurisdiction

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

17. Petitioner FREDERIC SALERS MARZOUKA is a native and citizen of Haiti who has been in the United States since 2009 and was released pursuant to an order of supervision in 2010 after he was granted deferral of removal under the Convention Against Torture. He has been consistent in his compliance with the conditions of his release. He has been in ICE custody since June 29, 2026, and is currently held at the Stewart Detention Center in Lumpkin, Georgia.

18. Respondent JASON STREEVAL, Warden, Stewart Detention Center, is the official responsible for overseeing the facility where Petitioner is detained. This Respondent is a legal custodian of Petitioner and is sued in his official capacity.

19. Respondent KRISTEN SULLIVAN is sued in her official capacity as the ICE Field Office Director for the Atlanta Office of Enforcement and Removal Operations. The Atlanta Field Office oversees the Stewart Detention Center, where Petitioner is currently detained. Respondent Sullivan is a legal custodian of Petitioner.

20. Respondent DAVID VENTURELLA is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Venturella directs and oversees ICE's Enforcement and Removal Operations, the component agency responsible for Petitioner's detention. Respondent Venturella is a legal custodian of Petitioner and has authority to release him.

21. Respondent MARKWAYNE MULLIN is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, the component agency responsible for Petitioner's detention. Respondent

Mullin is a legal custodian of Petitioner.

22. Respondent TODD BLANCHE is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the Board of Immigration Appeals. Respondent Blanche is a legal custodian of Petitioner.

LEGAL FRAMEWORK FOR IMMIGRATION DETENTION

Fifth Amendment Right to Due Process

23. "It is well established that the Fifth Amendment entitles aliens 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).

24. This fundamental due-process protection applies to all noncitizens, including those who are removable or inadmissible. *See id.* at 721 (Kennedy, J., dissenting) ("[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious."). It also protects noncitizens who have been ordered removed from the United States and who face continuing detention. *Id.* at 690.

25. Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during "the removal period," which is defined as the 90 day period beginning on "the latest" of "[t]he date the order of removal becomes administratively final"; "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order";

or "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement."

26. Although 8 U.S.C. § 1231(a)(6) permits detention "beyond the removal period" of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that "the statute, read in light of the Constitution's demands, limits [a noncitizen's] post removal-period detention to a period reasonably necessary to bring about that [noncitizen's] removal from the United States." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699.

27. In *Zadvydas*, the Supreme Court held that six months was a "presumptively reasonable period of detention," *id.* at 701, and the Eleventh Circuit recognized that such a period "commences at the beginning of the removal period." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 n.3 (11th Cir. 2002); *see also Themeus v. DOJ*, 643 F. App'x 830, 833 (11th Cir. 2016) ("the six-month period . . . commences at the beginning of the statutory removal period"). After the six-month period lapses and the noncitizen establishes that there is "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut such a showing. *See Krechmar v. Parra*, No. 2:25-CV-01095-SPC-DNF, 2025 WL 3620802, at *3 (M.D. Fla. Dec. 15, 2025).

Due Process Governs Decisions to Revoke an Order of Supervision

28. Under the substantive due process doctrine, a restraint on liberty like revocation of a noncitizen'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 and preventing flight prior to removal. *See Zadvydas*, 533 U.S. at 690-92.

29. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to revoke a noncitizen'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).

30. The Supreme Court "has held that the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). Only in a "special case" where post-deprivation remedies are "the only remedies the State could be expected to provide" can post-deprivation process suffice. *Zinermon*, 494 U.S. at 128. Moreover, the government can avoid providing pre-deprivation process only when "the value of pre-deprivation safeguards . . . is negligible in preventing the kind of deprivation at issue." *Id.*

Legal Framework Governing Revocation of an Order of Supervision

31. A noncitizen 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").

32. A noncitizen may only be detained past the 90-day removal period following a removal order if he is specifically and individually 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 not applicable here). *Id.* § 1231(a)(6).

33. But even where initial detention past the 90-day removal period is authorized, if "removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien's release may and

should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas*, 533 U.S. at 699-700.

34. Agency-promulgated regulations purport to give specific additional reasons, beyond those listed at § 1231(a)(6), permitting the revocation of release and re detention of a noncitizen subject to a final order of removal.

35. Where a noncitizen has been released from custody based on a determination that there was no significant likelihood of removal in the reasonably foreseeable future, pursuant to 8 C.F.R. § 241.13 ICE may revoke that release based *only* on either (1) a "violation of the conditions of release" *or* (2) ICE determines, "on account of changed circumstances, . . . that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(1)–(2). Upon revocation of release under § 241.13, ICE must notify the noncitizen of the reasons for revocation and promptly conduct an initial informal interview affording the noncitizen an opportunity to respond. *Id.* § 241.13(i)(3). The noncitizen may present evidence that there remains no significant likelihood of removal in the reasonably foreseeable future or that he did not violate the conditions of his order of supervision. *Id.* The revocation custody review must include an evaluation of any contested facts relevant to the revocation and a determination whether those facts warrant revocation and continued detention. *Id.*

36. Separately, 8 C.F.R. § 241.4 also governs continued detention and release of noncitizens subject to final orders of removal and provides its own requirements governing revocation of release. Under § 241.4(l), an order of supervision may be revoked and a noncitizen may be re-detained past the removal period where, in a specific case, the authorized official determines that: "(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). Upon revocation of an order of supervision, ICE must give a noncitizen notice of the specific reasons for revocation and a prompt time to respond. 8 C.F.R. § 241.4(*l*)(1).

37. The agency's 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 in the case of the particular noncitizen, "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*, 781 F. Supp. 3d at 161 (finding a delegation order that "refers only to a limited set of powers under [8 C.F.R.] part 241 that do not include the power to revoke release" insufficient to grant authority to revoke an order of supervision).

The APA Sets Minimum Standards for Final Agency Action

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

39 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).

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

41. A revocation marks the consummation of ICE's decisionmaking process regarding a noncitizen's custody.

42. The revocation is also an action by which rights or obligations have been determined or from which legal consequences flowed because it results in ICE detaining a noncitizen in violation of his rights under the Constitution, statute, and regulation.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

43. 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."); *Port of Jacksonville Mar. Ad Hoc Comm., Inc. v. Hayes*, 485 F. Supp. 741, 743 (M.D. Fla. 1980), *aff'd*, 620 F.2d 567 (5th Cir. 1980) ("An agency's failure to follow its own regulations can be grounds for invalidating its action.") (citing *Accardi*, 347 U.S. 260).

44. *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. at 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *United States 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).

Limitations on Third Country Removal

45. By statute, the government is prohibited from removing a noncitizen to any third country where they may be persecuted or tortured, a form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A). Statutory withholding of removal shields a noncitizen from removal to a particular country if he demonstrates that more likely than not, his "life or freedom would be threatened in that country because of [his] race, religion, nationality, membership in a particular social group, or political opinion." 8 U.S.C. § 1231(b)(3)(A).

46. Like statutory withholding, CAT withholding shields a noncitizen from being removed to a country if the noncitizen demonstrates that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2).

FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND

Petitioner's Background

47. Mr. Marzouka last entered the United States on September 16, 2009, when he was extradited to the United States from Brazil as [redacted] Mr. Marzouka [redacted]

48. Mr. Marzouka pled guilty in the U.S. District Court for the Southern District of Florida to conspiracy to launder drug proceeds in violation of 18 U.S.C. § 1956(h) on January 26, 2010. The conviction related to conduct that concluded in 2004.

49. He was sentenced to a term of imprisonment of 60 months—three years of which he received credit for time served in Brazil.

50. Since that time, Mr. Marzouka has devoted himself to bettering his life.

51. He has lived continuously in the United States for more than fifteen years.

52. Mr. Marzouka has numerous family members in the United States, including five U.S.-citizen children, one LPR daughter, six U.S. citizen grandchildren, two U.S. citizen siblings, one LPR sister, and U.S.-citizen nephews, among others, nearly all of whom live in Miami, Florida and consider him integral to their lives. His children and siblings are prepared to assist him and support his compliance with any conditions of supervision.

53. He is also in a committed relationship of nearly ten years.

54. At 68 years of age, Mr. Marzouka suffers from coronary artery disease, high blood pressure, chronic anxiety, pre-diabetes, and severe sleep apnea. Mr. Marzouka's doctors advise that he is medically required to maintain daily prescription medications "to prevent life threatening complications which include heart attacks and strokes."

55. Upon information and belief, Mr. Marzouka has not been provided consistent access to his prescribed daily medications while in detention and has experienced difficulty sleeping because he lacks access to the CPAP machine he uses to manage his sleep apnea.

56. Mr. Marzouka was financially self-sufficient and operated his own beauty salon, which regularly employed over a dozen people. Upon release, Mr. Marzouka intends to resume operating his business and return to full-time employment.

Petitioner's Immigration History

57. Mr. Marzouka was ordered removed on October 7, 2010. However, an immigration judge granted him protection from removal under the Convention Against Torture because Mr. Marzouka met his burden of establishing that he would be subjected to torture if returned to Haiti.

58. On October 15, 2010, ICE issued Mr. Marzouka a Form I-220B, Order of

Supervision, and released Mr. Marzouka from custody. The order of supervision stated: "Because the Bureau has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large," and delineated the conditions of Mr. Marzouka's release.

59. In the accompanying release notification, ICE informed Mr. Marzouka that: "Once a travel document is obtained you will be required to surrender to the INS for removal. You will, at that time, be given the opportunity to prepare for an orderly departure."

60. As part of the conditions of his release, Mr. Marzouka was directed to appear at routine check-ins with ICE. Mr. Marzouka has diligently attended all scheduled check-ins since his release in 2010.

61. Mr. Marzouka has also been granted employment authorization by USCIS during the fifteen years since he was released.

62. For approximately fifteen years before his present detention, Mr. Marzouka lived in the community under DHS supervision. During that lengthy period, DHS supervised Mr. Marzouka in the community without incident.

63. Mr. Marzouka has thus already demonstrated over approximately fifteen years that he can live successfully in the community while complying with immigration supervision. If additional safeguards are deemed appropriate, he is willing to comply with reasonable conditions of release, including periodic reporting, electronic monitoring, travel restrictions, or other lawful conditions imposed by DHS.

64. Mr. Marzouka's present detention is not based on any alleged breach of supervision. Rather, DHS has indicated that it is exploring the possibility of removing him to a

third country. The information presently available does not establish that such removal is imminent or that any third country has agreed to accept him.

65. Accordingly, Mr. Marzouka's history presents a longstanding and concrete record of compliance rather than a speculative prediction about how he might behave if released: for approximately fifteen years, he remained in the community under DHS supervision, complied with the Government's requirements, appeared when required, maintained strong family ties, and operated an established business employing numerous individuals.

Petitioner's Detention

66. On June 29, 2026, Mr. Marzouka appeared for a USCIS biometrics appointment for fingerprinting to renew his employment authorization.

67. On that date, he was turned over to ICE and was taken into custody.

68. ICE did so despite Petitioner's continued compliance with the order of supervision and ICE's failure to identify any new facts to suggest that Mr. Marzouka poses any risk of danger or flight, or that his removal can now be effectuated. Indeed, ICE provided no case-specific explanation for detaining Mr. Marzouka despite the order of supervision in place and Mr. Marzouka's dutiful compliance with the order's terms.

69. ICE provided Mr. Marzouka with no opportunity to show that he is not a danger or a flight risk before re-detaining him.

70. On information and belief, the ICE officer who ordered Mr. Marzouka re-detained lacked authority to do so pursuant to 8 C.F.R. § 241.4(*l*)(2), and provided Petitioner with no notice or opportunity to contest his re-detention.

71. There is no indication that ICE complied with the regulatory requirements governing revocation of Petitioner's release under either 8 C.F.R. § 241.13(i) or § 241.4(*l*). Upon

information and belief, ICE did not provide Mr. Marzouka with a Notice of Revocation of Release—the document ICE is required to prepare to justify revocation of an Order of Supervision—nor did it afford him an informal interview at which he could contest those reasons and present evidence supporting his continued release.

72. In light of his grant of deferral under the Convention Against Torture, Mr. Marzouka cannot be removed to Haiti. Upon information and belief, ICE intends to remove Mr. Marzouka to a third country.

73. However, upon information and belief, ICE did not identify any changed circumstances establishing that Petitioner's removal had become significantly likely in the reasonably foreseeable future. Although ICE informed Petitioner that it intended to pursue removal to a third country, upon information and belief, ICE did not identify any third country that had agreed to accept him, any travel documents that had been obtained, or any other concrete development demonstrating that removal was materially more likely to occur than it had been during the approximately fifteen years Petitioner lived in the community under ICE supervision.

74. Following his re-detention, Petitioner sought review of his custody by filing a Motion for Custody Redetermination with the Immigration Court. On July 28, 2026, the Immigration Judge denied that motion for want of jurisdiction because Petitioner is detained pursuant to 8 U.S.C. § 1231 following entry of a final order of removal and advised Petitioner to return in 180 days. As a result, the Immigration Court does not provide a forum for reviewing the legality of his continued post-order detention.

CAUSES OF ACTION

COUNT ONE

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

75. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 74.

76. 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"); *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) ("Agencies must respect their own procedural rules and regulations . . . [and] the courts retain the authority to check . . . for procedural compliance . . . .").

77. The regulatory-mandated process for revoking an individual's prior release on an order of supervision requires ICE: 1) prior to re-detaining, to determine that there have been changed circumstances justifying re-detention; 2) to issue written notice formally terminating the release pursuant to an order of supervision and detailing the reasons for the revocation of the individual's order of supervision; 3) that such a notice is issued by the Executive Associate Director, or by an individual with authority to do so; 4) upon revoking the individual's release, ICE promptly provides him or her with an informal interview to allow a response to the reasons set forth in the revocation decision; and 5) provides the individual an opportunity to contest the basis for his or her re-detention. 8 C.F.R. § 241.4(*l*)(1)-(2); *see also* § 241.13(i).

78. In re-detaining Mr. Marzouka, ICE violated these mandatory procedures because: 1) ICE did not establish that there has been a change in circumstances justifying his re-detention, particularly as there is no evidence that removal is more likely now than it was in 2010; 2) based

on information and belief, no written notice was issued formally terminating Mr. Marzouka's order of supervision, nor was Mr. Marzouka provided the basis for the revocation; 3) based on information and belief, there is no indication that the Executive Associate Director, or any other individual with authority ordered the revocation of Mr. Marzouka's release; 4) Mr. Marzouka was provided no opportunity to respond to the reasons for the revocation (indeed, no reasons at all were given), let alone the "prompt" opportunity the regulations mandate; and 5) Mr. Marzouka was provided no opportunity to respond to the revocation of his release.

79. Mr. Marzouka's subsequent effort to obtain custody review before the Immigration Court did not cure ICE's failure to provide the procedures required upon revocation. The regulations require ICE itself, promptly after returning Mr. Marzouka to custody, to notify him of the reasons for revocation and provide an informal interview permitting him to respond to those reasons. *See* 8 C.F.R. § 241.13(i)(3). A subsequent motion asking an Immigration Judge to review custody particularly where the Immigration Judge did not provide the revocation review contemplated by the regulation—was not a substitute for that mandatory process.

80. In short, ICE's conduct in re-detaining Mr. Marzouka constituted a wholesale disregard for the regulatorily-mandated process for the revocation of his release pursuant to an order of supervision under either 8 C.F.R. § 241.13(i) or § 241.4(*l*). This alone justifies Petitioner's release. *See, e.g.*, *Phan v. Noem*, No. 3:25-CV-02422-RBM-MSB, 2025 WL 2898977, at *5 (S.D. Cal. Oct. 10, 2025) ("ICE's failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 violated Petitioner's due process rights. . . . Respondents are ORDERED to immediately release Petitioner from custody, subject to his preexisting Order of Supervision."); *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *7 (S.D. Tex. Sept. 26, 2025) ("Multiple courts have held that the government's failure to follow its own immigration regulations may warrant the release of

a detained noncitizen."); *Diaz v. Wofford*, No. 1:25-CV-01079-JLT-EPG, 2025 WL 2581575, at *9 (E.D. Cal. Sept. 5, 2025) ("Here, on the present record it does not appear that petitioner was afforded appropriate notice and an opportunity to be heard in compliance with the regulation or by any other means."); *K.E.O. v Woosley*, No. 4:25-CV-74-RGJ, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025) ("Immigration statutes are complex. The broad discretion vested in the government to enforce immigration laws, including on occasion the revocation of a Petitioner's Order of Supervision, must nonetheless be exercised in full compliance with applicable statutes and regulations."); *Delkash v. Noem*, No. 5:25-CV-01675-HDV-AGR, 2025 WL 2683988, at *6 (C.D. Cal. Aug. 28, 2025) ("These procedures are not optional or discretionary; they must be followed, and failure to do so renders the detention unlawful. For that reason, the Court finds that Delkash is likely to succeed on his claim that the government did not properly revoke his release pursuant to 8 C.F.R. §§ 241.4 and 241.13."); *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *12 (D. Or. Aug. 21, 2025) ("In sum, ICE failed to follow its own regulations in detaining Petitioner by (1) failing to provide a timely Notice of Revocation of Petitioner's Order of Supervision; (2) failing to provide a Notice of Revocation signed by an official authorized to revoke Petitioner's release; and (3) failing to provide Petitioner with a 'prompt' informal interview so that she could contest the reasons for her revocation. In doing so, ICE violated Petitioner's constitutional due process rights. Petitioner's habeas petition will be GRANTED and Petitioner will be ordered RELEASED.").

81. Respondents' revocation of Petitioner's order of supervision without notice or an opportunity to be heard violated the statute and the applicable regulations—8 C.F.R. §§ 241.4(*l*) and 241.13(i)—because they failed to provide Petitioner with a particularized notice of the reason for the revocation of his release or an opportunity to respond to the allegations contained therein.

See, e.g., *Phongsavanh v. Williams*, No. 4:25 CV 00426 SMR SBJ, 2025 WL 3124032, at *3 (S.D. Iowa Nov. 7, 2025) ("Upon revocation of supervision, the noncitizen must "be notified of the reasons for revocation" and promptly provided "an initial informal interview.") (quoting 8 C.F.R. § 241.13(i)(3)).

82. Petitioner's re-detention did not occur pursuant to the revocation of his order of supervision by the ICE Executive Associate Director, or by any individual with authority to do so. There is no indication that the officer who re-detained Petitioner and revoked the order made the requisite findings, required under 8 C.F.R. § 241.4(*l*)(2), that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director. Nor, upon information and belief, had the officer been delegated authority to revoke an order of supervision.

83. "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*, 781 F. Supp. 3d at 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89 (D. Mass. 2017)); *Grigorian*, 2025 WL 2604573 *10; *Momennia*, 2025 WL 3011896 *8; *see also, e.g.*, *Zhu v. Genalo*, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L.*, 2025 WL 2430267 (releasing habeas petitioner where revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

84. Moreover, before re-detaining Petitioner, Respondents did not make findings that a change in circumstances justified Petitioner's re-detention, as required by regulation. *See, e.g.*, *Ernesto Alfonso Perez v. Matthew Mordant, et al.*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *5 (M.D. Fla. Dec. 3, 2025) (finding ICE violated the APA because "ICE has not shown it considered any relevant facts when revoking Alfonso Perez's parole and detaining him");

Yacoub v. Noem, et al., 4:25-cv-05713, at *3 (S.D. Tex. Dec. 23, 2025) ("When, as here, the government has detained a noncitizen who it previously released from custody despite a final removal order, the "regulations place the burden on ICE to establish that 'changed circumstances' justified the revocation of release.") (citation omitted).

85. In fact, Respondents could not plausibly make findings that Petitioner's conduct indicated release would no longer be appropriate, or that Petitioner violated any condition of release, because there are no facts to support such findings. Nor could Respondents make findings that the purposes of release had been served or that it was appropriate to enforce a removal order. ICE's purported intention to explore removal to an unidentified third country, without more, does not establish that removal has become materially more likely than it was throughout the approximately fifteen years during which ICE supervised Petitioner in the community.

86. Under *Accardi* and the Due Process Clause of the U.S. Constitution, Respondents' re-detention of Petitioner and revocation of the order of supervision should be set aside for violating agency procedures, rules, or instructions. *Grigorian*, 2025 WL 2604573 *9 ("The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands.") (citing *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021)).

COUNT TWO

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

87. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 74.

88. When Respondents re-detained Petitioner, they provided no information, evidence, or indication that a change in circumstances warrants his re-detention or the revocation of the order of supervision.

89. The government's only permissible interests in holding an individual in immigration detention are (1) to prevent danger to the community or (2) to ensure a noncitizen's removal can be effectuated. *See Zadvydas*, 533 U.S. at 690.

90. Petitioner's removal period—and thus the six-month presumptively reasonable period recognized in *Zadvydas*—began long before his present detention. Petitioner was ordered removed in October 2010 and was released by ICE pursuant to an Order of Supervision shortly thereafter. Accordingly, the six month presumptively reasonable period expired approximately fifteen years before ICE re-detained Petitioner in June 2026.

91. Petitioner's re-detention did not restart the removal period or afford Respondents a new six-month period during which his detention is presumptively reasonable. As set forth above, the six-month period runs from the commencement of the statutory removal period, not from a subsequent decision by ICE to re-detain a noncitizen whom it previously released. The *Zadvydas* burden-shifting framework therefore applies to Petitioner's present detention.

92. That interpretation follows the structure of § 1231. The statute defines one removal period with one triggering framework under § 1231(a)(1)(B), then prescribes what custody authority exists during and after that period. Nothing in the text suggests that Respondents may reset the legal timeline by changing custody status years later. *Accord Ulysse v. DHS*, 291 F. Supp. 2d 1318, 1325 (M.D. Fla. 2003) (holding the Government cannot delay the removal-period clock

by waiting to take a noncitizen into custody, because doing so conflicts with the statute's text and Congress's 90-day removal mandate).[1]

93. Petitioner has met his initial burden by establishing "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future." *See Krechmar v. Parra*, No. 2:25-CV-01095-SPC-DNF, 2025 WL 3620802, at *3 (M.D. Fla. Dec. 15, 2025) (citing *Zadvydas*, 533 U.S. at 701). Petitioner's history reflects over fifteen years without effectuated removal, and no concrete development showing that removal is now materially more likely than before.

94. The government can make no showing that ICE has detained Petitioner due to a change in the foreseeability of his removal to Haiti, as his circumstances have not changed since his release from ICE custody over fifteen years ago.

95. Because of his grant of deferral of removal under CAT, Respondents cannot remove him to Haiti and have presented no evidence that they are seeking to reopen his removal proceedings in order to seek revocation of that CAT order. Petitioner's removal to Haiti is thus not reasonably foreseeable. *See, e.g.*, *Krechmar*, 2025 WL 3620802, at *3 (DHS did not demonstrate removal was reasonably foreseeable as "[t]here is no evidence before the Court to suggest removal is more likely now than it was in 2017 [when noncitizen released on order of supervision]"); *Tran v. Bondi*, No. C25-01897-JLR, 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025) ("ICE is not

[1] That reading also reflects *Zadvydas*'s constitutional function. The six-month framework prevents indefinite detention by requiring a meaningful foreseeable-removal showing once sufficient time has elapsed from the start of the removal period. If the clock restarted each time DHS re-detained someone, the Government could evade that safeguard through release and re-detention cycles, or by waiting years and asserting a fresh six-month window. That would collapse the limiting principle and recreate the indefinite-detention risk *Zadvydas* was meant to prevent. *See, e.g., Gonzalez v. Noem,* No. 2:25-CV-01176-SPC-NPM, 2026 WL 44818, at *3 (M.D. Fla. Jan. 7, 2026) (rejecting as inconsistent with *Zadyvdas* the contention that the 6-month period restarts after noncitizen is re-detained anew).

permitted to hold [petitioner] indefinitely while it waits for travel documents from Vietnam."); *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (rejecting the government's argument that ICE's intent to apply for travel documents for Vietnam constituted changed circumstances because they failed to provide "any details about why a travel document could not be obtained in the past, nor have they attempted to show why obtaining a travel document is more likely this time around"); *Abuelhawa v. Noem*, No. 4:25-CV-04128, 2025 WL 2937692, at *9-10 (S.D. Tex. Oct. 16, 2025) (granting relief because the government failed to show it had secured or was likely to secure necessary travel documents); *Kong v. United States*, 62 F.4th 608, 620 (1st Cir. 2023) ("once a noncitizen has been granted supervised release, that release can only be revoked upon a showing that because of changed circumstances there is now a "significant likelihood that the [noncitizen] will be removed in the reasonably foreseeable future.") (quoting 8 C.F.R. § 241.13(i)(2)).

96. This reality alone demonstrates that there is no significant likelihood that Petitioner's removal is reasonably foreseeable, and therefore it is Respondents' burden to demonstrate his continued detention is justified. Respondents have not met this burden, and his continued detention is unlawful. *Zadvydas*, 533 U.S. at 701; *Krechmar*, 2025 WL 3620802, at *3 (finding ICE's release of noncitizen from custody pursuant to order of supervision demonstrated that ICE determined that removal was not reasonably foreseeable); *Khammanivong v. Edlow*, No. 2:25-CV-01069-SPC-DNF, 2025 WL 3534102, at *2 (M.D. Fla. Dec. 10, 2025) (same).

97. ICE has signaled to Petitioner that it will attempt to facilitate removal to a third country; however, ICE has not indicated what steps, if any, had been taken to effectuate such removal prior to his re-detention.

98. It is not constitutionally permissible for ICE to detain Petitioner, and only *then* begin the process of attempting to identify a third country which will accept him. *See, e.g., Momennia v. Bondi, et al.*, No. CIV-25-1067-J, 2025 WL 3011896, at *10 (W.D. Okla. Oct. 15, 2025) ("mere intent to find a third country is too speculative to permit indefinite detention"); *Sun v. Noem*, 2025 WL 2800037, at *2-3 (S.D. Cal. Sept. 30, 2025) ("Respondents say they are 'putting together a travel document [TD] request to send to [the] Cambodian embassy,' and that '[o]nce ICE receives the TD, it will begin efforts to secure a flight itinerary for Petitioner.' The Court finds these kind of vague assertions—akin to promising the check is in the mail—insufficient to meet ICE's own requirement to show 'changed circumstances' or 'a significant likelihood that the alien may be removed in the reasonably foreseeable future.'") (record citations omitted). Thus, mere intent to search for a third country, without concrete evidence that one will accept Petitioner, does not establish the requisite significant likelihood of reasonably foreseeable removal.

99. When, as here, removal is not reasonably foreseeable, detention cannot be reasonably related to the purpose of effectuating removal. Because Respondents had no legitimate, non-punitive objective in re-detaining Petitioner, that detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT THREE

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

100. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 74.

101. The Constitution does not permit ICE to revoke Petitioner's lawful release and re-incarcerate him without notice of the specific factual basis for the revocation of his order of supervision and a *pre deprivation* hearing where he can contest that revocation.

102. Further, Respondents must afford Petitioner meaningful notice and opportunity to present a fear-based claim *prior to* removal to a third country; however, Petitioner is at risk of removal without such process. This lack of process means that Petitioner's continued re-detention and efforts to remove Petitioner to a third country violate his due process rights.

103. *Mathews v. Eldridge*, 424 U.S. 319 (1976), 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. *Id.* at 333.

104. 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*, 533 U.S. at 690. By living freely for over fifteen years after his release, Petitioner developed a substantial liberty interest in avoiding re-detention. *Young v. Harper*, 520 U.S. 143, 146-47 (1997), *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482-83 (1972). He has U.S.-citizen children, grandchildren, and siblings, among others, and has established his own small business. Petitioner's continued, unlawful detention has caused substantial hardship for him and his family, particularly considering his advanced age and medical conditions.

105. Petitioner retains a weighty liberty interest even though he was under conditional release prior to his re-arrest *See, e.g., Rosado v. Figueroa*, No. cv 25-02157-PHX-DLR, 2025 WL 2337099, at *12 (D. Ariz. Aug. 11, 2025) ("Although ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody, they have a protected liberty interest in remaining out of custody.").

106. Further, Petitioner maintains a substantial private interest in not being removed to a third country where he may be at risk of persecution and torture. *See, e.g., Jama v. ICE*, 543 U.S. 335, 348 (2005) (Congress has established a right to various remedies, including withholding of removal under § 1231(b)(3)(A), to "ensur[e] their humane treatment."); *Sagastizado v. Noem, et al.*, 5:25-CV-00104, 2025 WL 2957002 *23 (S.D. Tex. Oct. 2, 2025) ("Sagastizado's private interest at stake is his right to have his removal withheld from a country where he is more likely than not to be persecuted. Given the significance of this interest and the mandatory nature of withholding of removal for noncitizens who qualify, Sagastizado's private interest weighs heavily in favor of a robust due process requirement."). Particularly where Mr. Marzouka has already demonstrated that he is at risk of torture if returned to Haiti.

107. The lack of any notice or meaningful opportunity to contest the revocation of his order of supervision demonstrates that the second factor is in Petitioner's favor. Respondents' unlawful detention and revocation of his release resulted in the erroneous deprivation of Petitioner's substantial interest in being free from custody.

108. ICE's conduct is particularly troubling where Mr. Marzouka, due to a court order, cannot be removed to Haiti and ICE has not established that removal to a third country is reasonably foreseeable.

109. 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.

110. For these reasons, re-detaining Petitioner without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution. *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573 *10 (S.D. Fla. Sept. 9, 2025) (holding that release is "compel[led]" because "[t]he failure to provide Petitioner with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own regulations and the Fifth Amendment Due Process Clause"); *Momennia*, 2025 WL 3011896 *8 ("Based on ICE's violations of its own regulations, the undersigned concludes that Mr. Momennia's detention is unlawful and that his release is appropriate under 28 U.S.C. § 2241(c)(3)."); *see also Yee S. v. Bondi*, 2025 WL 2879479, at *6 (D. Minn. Oct. 9, 2025) (ordering release because Petitioner has shown that ICE's re-detention of him . . . violated the law because ICE did not comply with its own regulations under section 241.13(i)(2)"); *Roble v. Bondi*, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (holding that "[i]t goes without saying that ICE, like all government agencies, must follow its own regulations" and ordering release based on violation of 8 C.F.R. § 241.13(i)).

COUNT FOUR

Violation of Administrative Procedure Act

111. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 74.

112. 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).

113. 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. Comme'ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

114. Respondents' re-detention of Petitioner and revocation of the order of supervision is contrary to the agency's constitutional power under the Fifth Amendment's Due Process Clause.

115. Any such revocation violates the Immigration and Nationality Act and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances.

116. 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 FIVE

Due Process Violations in Effectuating Third Country Removal

117. Petitioner re-alleges and incorporates herein by reference, as if set forth fully herein, allegations 1 to 74.

118. The Government's current policy and procedures for effectuating third country removals is violative of Petitioner's due process rights, and any imminent third country removal fails to comport with the statutory obligations set forth by Congress in the INA and is unlawful.

119. Congress provided that all countries to which DHS seeks to deport a noncitizen are subject to the withholding statute. *See* 8 U.S.C. § 1231(b)(3) (referencing 8 U.S.C. §§ 1231(b)(1) and (b)(2)). Respondents therefore must, upon removal to any country, "ensure [Petitioner's] humane treatment." *Jama*, 543 U.S. at 348.

120. Should Respondents seek to remove Petitioner to a third country, Petitioner must be afforded the opportunity to present a fear-based claim prior to removal to any such country where he fears persecution or torture.[2] The failure to do so constitutes a violation of a fundamental due process protection under the Due Process Clause of the Fifth Amendment and the laws implementing the United States' obligations under international law. *See Aden v. Nielsen*, 409 F. Supp. 3d 998, 1004 (W.D. Wash. 2019) ("DHS may designate a removal country outside of removal proceedings but . . . it must provide due process and comply with 8 U.S.C. § 1231(b) when doing so"); *Andriasian v. INS*, 180 F.3d 1033, 1041 (9th Cir. 1999) ("Failing to notify individuals who are subject to deportation that they have the right to apply . . . for withholding of

[2] The procedures required before DHS may effectuate removal to a third country are presently the subject of ongoing litigation in *D.V.D. v. DHS*, No. 1:25 cv 10676 BEM (D. Mass.). On February 25, 2026, the district court entered final judgment declaring, *inter alia*, that individuals subject to final orders of removal have a right to meaningful notice before removal to a third country and a meaningful opportunity to raise a country-specific claim against such removal, and setting aside DHS's current third-country removal policy as unlawful. *D.V.D. v. DHS*, No. 1.25-cv-10676-BEM, Dkt. 242 (D. Mass. Feb. 25, 2026). Although the First Circuit subsequently stayed that judgment pending appeal, *D.V.D. v. DHS*, No. 26-1212 (1st Cir. Mar. 16, 2026), the legality of DHS's current third-country removal procedures remains the subject of ongoing appellate litigation. Notably, Petitioner does not rely on the stayed judgment in *D.V.D.* as independently establishing his entitlement to relief. Rather, Petitioner asserts his own rights under the Fifth Amendment, the INA, and the regulations implementing the United States's obligations under the Convention Against Torture.

deportation to the country to which they will be deported violates both INS regulations and the constitutional right to due process.").

121. As the Supreme Court has explained, such language "generally indicates a command that admits of no discretion on the part of the person instructed to carry out the directive," *Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 661 (2007) (quoting *Ass'n of Civilian Technicians v. Fed. Labor Relations Auth.*, 22 F.3d 1150, 1153 (D.C. Cir. 1994)); *see also* Black's Law Dictionary (11th ed. 2019) ("Shall" means "[h]as a duty to; more broadly, is required to . . . . This is the mandatory sense that drafters typically intend and that courts typically uphold."); *United States v. Monsanto*, 491 U.S. 600, 607 (1989) (finding that "shall" language in a statute was unambiguously mandatory).

122. Thus, prior to any third country removal, ICE must provide Petitioner with meaningful notice and an opportunity to respond and apply for fear-based relief as to that country, in compliance with the INA, due process, and the binding international treaty: The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The "notice must be afforded within a reasonable time and in such a manner as will allow [the noncitizen] to actually seek . . . relief in the proper venue before removal occurs." *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025). Any attempt to remove Petitioner to an as-yet unidentified third country without meaningful notice sufficient to permit him to raise a country-specific fear claim would expose him to an irreparable deprivation of those protections before any court could review his claim.

123. Current ICE policy, however, does not adhere to the government's federal, statutory, and treaty obligations. ICE seeks to remove individuals with no more than six hours' notice upon informing the noncitizen of the third country to which he or she is to be removed, and

ICE directs its officers to "not affirmatively" inquire if the noncitizen has a fear of persecution or torture in said third country.

124. The policy therefore creates a concrete risk that, absent relief from this Court, Petitioner will be removed to an unidentified third country—a country where he has no ties, rights or protections, and risks persecution and torture before he has a meaningful opportunity to assert a country-specific fear claim or seek judicial review.

125. For these reasons, Petitioner's removal to any third country without adequate notice and an opportunity to present a fear-based claim would violate his due process rights. The only remedy for this violation is for this Court to order that he not be summarily removed to any third country unless and until he is provided constitutionally adequate procedures.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Declare that Respondents' revocation of Petitioner's release violated the Due Process Clause of the Fifth Amendment, the Immigration and Nationality Act, and the APA;

(c) Grant the writ of habeas corpus and order that Respondents release Petitioner from immigration detention;

(d) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Middle District of Georgia without first providing the Court 72 hours' notice;

(e) Enjoin Respondents from removing Petitioner to a third country without providing Petitioner meaningful advance notice of the proposed country of removal and a

meaningful opportunity to assert any fear-based claim concerning removal to that country and to seek judicial review before removal is effectuated;

(f) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(g) Grant any additional relief that this Court deems just and proper.

Dated: August 11, 2026

Respectfully submitted,

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Attorney for Petitioner

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

I, Yanal H. Yousef, certify, sign, and verify under penalty of perjury that I am counsel for Petitioner Frederic Marzouka and am authorized to sign and verify this Petition on Petitioner's behalf pursuant to 28 U.S.C. § 2242, that I have discussed the events and facts described in this Petition with Petitioner and/or Petitioner's family members, and based on those discussions, as well as my review of the relevant records and proceedings, the factual statements contained in this Petition are true and correct to the best of my knowledge, information, and belief.

Dated this 11th day of August, 2026.

/s/ Yanal H. Yousef
YANAL H. YOUSEF