UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Vincenzo PULLARA,

Petitioner-Plaintiff,

v.

Bill JOYCE, in his official capacity as New York Field Office Director for U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; Caleb VITELLO, in his official capacity as the Acting Director for U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; Kristi Noem, in her official capacity as Secretary of the U.S. DEPARTMENT OF HOMELAND SECURITY; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT,

.

Respondents-Defendants.

Case No. 25-cv-870 (Gujarati, J.)

VERIFIED FIRST AMENDED PETITION FOR WRIT OF HABEAS CORPUS & COMPLAINT[1]

PRELIMINARY STATEMENT[2]

1. Petitioner-Plaintiff Mr. Vincenzo Pullara is a 71-year-old man suffering from severe heart failure and debilitating spinal stenosis, among a myriad of other critical health conditions. He legally immigrated to the United States over a half century ago but has a final order of removal based on a contested conviction from over two decades ago. He was released from immigration detention on an order of supervision

[1] This First Amended Petition for Writ of Habeas Corpus and Complaint is submitted as of right pursuant to Fed. R. Civ. Proc. 15(a)(1)(B). In the alternative, Petitioner seeks leave to amend for good cause based on critical new facts discovered since the initiation of this action and because no motion to dismiss has yet been filed. Notice of intent to file these amended pleadings was provided as required in the Court's individual rules. ECF 17.

[2] Per this Court's individual rules, a redlined version of the original pleadings are affixed as an exhibit hereto.

("OSUP") two years ago because the U.S. Immigration and Customs agency ("ICE") determined he was too sick to detain and deport and because he was neither a flight risk nor danger to the community.

2. In reliance upon ICE's representation that he could live out his final years in New York, Mr. Pullara and his family have devoted themselves to building a complex and interconnected medical and care team. Nevertheless, Mr. Pullara's health has unfortunately continued to deteriorate, and he follows a rigorous regimen of medication and appointments with his medical and care team.
3. In the two years since his release, Mr. Pullara has complied with all conditions of his OSUP.
4. Notwithstanding Mr. Pullara's deteriorating health and compliance, on February 5, 2025, without any notice, consideration of Mr. Pullara's dire medical situation, or any process whatsoever, ICE abruptly reversed its prior determination and informed Mr. Pullara that it would redetain him if he does not leave the country within two weeks.
5. After numerous failed attempts by Mr. Pullara's family and the undersigned to reach the agency to provide updated medical evidence so that it might reconsider its reversal, Mr. Pullara instituted the instant action on February 14, 2025.
6. In the weeks since that time, Mr. Pullara and his family have all diligently worked to attempt to secure necessary medical assessments and stabilization him for relocate to Italy. That ongoing effort has revealed a new serious spinal issue that is still being evaluated but likely will require surgery to allow him to preserve the use of his legs.

7. Simultaneously, his legal team has discovered that Mr. Pullara was wrongfully denied the opportunity to complete his naturalization based upon a previously filed application. He now has a motion pending with the immigration court, supported by the Second Circuit's decision in *Azize v. Bureau of Citizenship & Immigration Services*, 594 F.3d 86 (2d Cir. 2010), to reopen and terminate proceedings to allow him to complete his naturalization *nunc pro tunc*.

8. ICE's arbitrary and unjustified decisions to redetain Mr. Pullara and revoke his OSUP violate the Administrative Procedure Act, the Fifth Amendment of the U.S. Constitution, and the Rehabilitation Act. In order to prevent unnecessary and irreparable harm, Petitioner-Plaintiff seeks declaratory and injunctive relief to prevent Respondent-Defendants from arbitrarily and abruptly redetaining him and revoking his OSUP until he can be medically stabilized and until he can exhaust his pending claim related to U.S. citizenship.

PARTIES

9. Petitioner-Plaintiff Vincenzo Pullara is a resident of Queens, New York.

10. Respondent-Defendant Bill Joyce is named in his official capacity as the Acting Field Office Director of the New York Field Office for ICE within the United States Department of Homeland Security. In this capacity, he is also responsible for the administration of immigration laws and the execution of detention and removal determinations and is the immediate and legal custodian of Petitioner-Plaintiff. Respondent-Defendant Joyce's address is New York ICE Field Office Director, 26 Federal Plaza, 11th Floor, New York, New York 10278.

11. Respondent-Defendant Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to redetain the Petitioner-Plaintiff, revoke his OSUP, or execute his removal order; and as such is a custodian of the Petitioner-Plaintiff. Respondent-Defendant Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. S.E., Washington, DC 20528-0485.
12. Respondent-Defendant Caleb Vitello is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States; routinely transacts business in the Eastern District of New York; is legally responsible for pursuing any effort to redetain the Petitioner-Plaintiff, revoke his OSUP, or execute his removal order; and as such is a custodian of the Petitioner-Plaintiff. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. S.W., Mail Stop 5900, Washington, DC 20536-5900.
13. Respondent-Defendant Department of Homeland Security ("DHS") is the federal agency responsible for Petitioner-Plaintiff's imminent detention and the revocation of Petitioner-Plaintiff's order of supervision. DHS's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

14. Respondent-Defendant Immigration and Customs Enforcement ("ICE") is the federal agency and DHS subcomponent responsible for Petitioner-Plaintiff's imminent detention and the revocation of Petitioner-Plaintiff's order of supervision. ICE's address is Immigration and Customs Enforcement, 500 12th St, S.W., Washington, District of Columbia 20536.

JURISDICTION

15. The Court has subject matter jurisdiction pursuant to: 28 U.S.C. § 1331; 28 U.S.C. § 2241; Article I, § 9, cl. 2 (the Suspension Clause); Article III; the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*; the Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*; the Rehabilitation Act, 29 U.S.C. § 794; and the 5th Amendment of the U.S. Constitution.

16. Mr. Pullara is in custody for the purposes of habeas jurisdiction both because he has a final order of removal, which requires him to comply with the Government's orders "at any time and without a moment's notice," and because the Government's has stated its intention to imminently redetain him. *Hensley v. Mun. Court, San Jose Milpitas Judicial Dist., Santa Clara Cty., California*, 411 U.S. 345, 351 (1973)); *see also Simmonds v. I.N.S.,* 326 F.3d 351, 354 (2d Cir. 2003).

17. An actual and justiciable controversy exists between the parties under 28 U.S.C. § 2201, and this Court has authority to grant declaratory and injunctive relief. *Id.* §§ 2201, 2202. The Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Rehabilitation Act, 29 U.S.C. § 794.

VENUE

18. Venue is proper in the Eastern District of New York because Petitioner-Plaintiff resides in this district and Respondent-Defendant's decision to redetain Mr. Pullara would likely be executed in this district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. Petitioner-Plaintiff had no adequate administrative remedies to exhaust at the time this action was commenced. Respondents-Defendants provided no process whatsoever for Mr. Pullara to challenge the illegal actions challenged herein.

20. The administrative remedies that Mr. Pullara now pursues—requests for an administrative stay from ICE and a motion to reopen and motion for administrative stay from the Immigration Court—were inadequate because, even if successful, they provide no legal protection from detention nor do they provide any protection at all during the pendency of the agencies' deliberations. *See* 8 C.F.R. §§ 241.6, 1003.23(b)(1)(v).

21. Moreover, even if there were adequate administrative redress that Petitioner-Plaintiff could seek, Petitioner-Plaintiff need not exhaust his administrative remedies. The detention statute pursuant to which Mr. Pullara would be detained, 8 U.S.C. § 1231(a), has no exhaustion requirement. Exhaustion is required only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In all other instances, "sound judicial discretion governs." *Id.*

22. This Court should not require Petitioner-Plaintiff to exhaust his administrative remedies. First, the Supreme Court has recognized that courts should not require exhaustion where there is an "unreasonable . . . timeframe" for administrative

action, *id.* at 147, such as the one in the instant matter. Exhaustion is thus not appropriate where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *Id.* Petitioner-Plaintiff has a constitutionally protected liberty interest in his freedom from government custody, *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), and his imminent unlawful detention and the corresponding medical consequences this would create constitute irreparable harm. *See Hardy v. Fischer*, 701 F. Supp. 2d 614, 619 (S.D.N.Y. 2010) (threat of unlawful detention and reimprisonment would constitute quintessential irreparable harm).

23. Second, exhaustion is not required where the Petitioner-Plaintiff challenges the constitutionality of the agency procedure itself, "such that the question of the adequacy of the administrative remedy is for all practical purposes identical with the merits of the plaintiff's lawsuit." *McCarthy*, 503 U.S. at 148 (internal brackets omitted). In this case, Petitioner-Plaintiff is challenging the constitutionality of any administrative procedures by which Respondent-Defendants decided to redetain him and take the other unlawful actions challenged herein, including the order of supervision revocation process. Thus, exhaustion of administrative remedies is not required.

STATEMENT OF FACTS

24. Vincenzo Pullara is a 71-year-old man who has lived in New York State for over half a century, since he was 14 years old, when he legally entered this country as a lawful permanent resident.

25. Mr. Pullara has a removal order based on a conviction from over a quarter century ago but was deemed too sick to detain and deport by ICE two years ago and released from immigration detention on an order of supervision.

26. Since that time, his health has only deteriorated, and he is presently suffering from a myriad of debilitating chronic health problems including heart failure, such that any small disturbances can be life threatening. In addition, he has recently been diagnosed with spinal stenosis, a severe degenerative disc disease, on multiple segments of his spine. This is the same spinal cord condition with which Mr. Pullara was diagnosed in April 2024, when his neurologist instructed him to report to the emergency room right away because he was at immediate risk of paralysis. Mr. Pullara's neurologist and neurosurgeon are still actively evaluating and monitoring this recent diagnosis but he has been informed he is at risk of losing his ability to stand or walk and will likely soon need a second spinal surgery.

27. On February 5, 2025, without notice, without consideration of his severe medical condition, and without any process whatsoever, ICE decided to revoke his order of supervision and redetain Mr. Pullara if he does not leave the country on his own within two weeks and fail to respond to any communications or inquiries seeking clarification on its sudden turnabout, thereby necessitating the filing of this action.

Naturalization Application & Removal Proceedings

28. In preparation for the filings that initiated this case, the undersigned undertook a thorough investigation of Mr. Pullara's entire immigration file and discovered the following facts:

29. In 1984, Mr. Pullara had hired an attorney who helped him prepare an application for naturalization which was submitted on February 4, 1984. By that time, Mr. Pullara had been in the United States for roughly half of his life, and he felt American in every respect. He wanted to complete the final step and become a U.S. citizen.

30. After submitting the application, Mr. Pullara attended the required interview, passed all of the required tests, and was deemed *prima facie* eligible for naturalization by the immigration authorities.

31. At his interview, he was questioned about a 1972 arrest. Mr. Pullara explained that the arrests never ripened into a prosecution. It therefore posed no barrier to naturalization. The immigration agent told Mr. Pullara to send any records he had and that the agent would look into how that arrest resolved. Mr. Pullara was never told that he was required to request any documents about that case and given that he did not have any documents at home, he had nothing to send to the agent adjudicating his application. Relying on the agent's assurance that he would look into the matter, Mr. Pullara took no further action.

32. That was the last Mr. Pullara heard about his naturalization application. Despite years of following up with his attorney and being told he needed to be patient and wait; he did not receive any further updates on the status of his naturalization application.

33. It was recently discovered that the agent apparently never sought the document and that the INS thereafter concluded—erroneously—that Mr. Pullara had failed to prosecute the application because he had not himself provided a necessary

document. Notice of this determination never reached Mr. Pullara—it was returned to sender to the immigration agency. His attorney, however, apparently did receive such notice and never took any action or communicated the determination to Mr. Pullara.

34. Mr. Pullara raised the issue again later with two different legal representatives who represented him in his removal proceedings. These legal representatives, however, erroneously informed Mr. Pullara that his naturalization application was irrelevant to his removal proceedings. They were wrong. In fact, Mr. Pullara could have moved at that time to terminate the removal proceedings and complete his naturalization *nunc pro tunc*.

35. But for the ineffective assistance of his original naturalization counsel, he would likely have been a U.S. citizen long before he ever was convicted of a crime that could have rendered him deportable, or ineligible to naturalize. And but for the subsequent ineffective assistance of his two legal representatives in removal proceedings, he could have terminated his removal proceedings and pursued nu*nc pro tunc* naturalization long before ICE ever took him into custody.

36. In reasonable reliance on his counsels' misadvice, he believed that his opportunity to naturalize had been lost and that it was not relevant to his removal case, and he took no further action on it until he was recently informed by undersigned counsel of these facts and the controlling law.

Transfer to ICE Detention and Release on OSUP

37. In May 2023, Mr. Pullara was released on parole after serving 26 years in New York State prison for a murder that he has steadfastly maintained he did not

commit.[3] Upon his release on parole, Mr. Pullara was immediately transferred to ICE custody and moved to the Batavia Detention Center in Buffalo, New York.

38. As soon as Mr. Pullara arrived at Batavia, he was immediately placed in the infirmary. Mr. Pullara's health had been deteriorating for years and by the time he reached Buffalo, he was a severely and chronically ill man. He couldn't walk unassisted, and his heart was incredibly weak. For the next four days, Mr. Pullara did not leave the infirmary. During this time, ICE medical staff regularly checked his blood oxygen level, which continued to dip.

39. On May 9, 2023, ICE informed Mr. Pullara that he was "too sick to get on a plane" and that he would be released on an OSUP and into the custody of his two adult sons, Salvatore (Sal) and Vincent Jr. (Enzo).

Deteriorating Health and Medical Treatment During Two Years of Full Compliance with OSUP

40. The first order of business for Mr. Pullara upon his release was to establish a medical team to care for his many complex conditions. Almost as soon as he got out, Mr. Pullara was admitted to the emergency room for blood in his urine. His family scrambled to enroll him in medical insurance and to make doctor's appointments for him. Soon after, Mr. Pullara saw a cardiologist who told him that if he did not immediately have surgery to implant a cardiac device, he doubted that Mr. Pullara would make it back to his office for another visit.

41. On July 12, 2023, Mr. Pullara underwent surgery to implant a cardioverter-defibrillator (ICD) on his heart.

[3] Indeed, his "credible claim of *actual* innocence" was recently screened by the Legal Aid Society's Wrongful Conviction Unit and is awaiting placement with a legal clinic.

42. Two months later, on September 15, 2023, Mr. Pullara was admitted to the emergency room with shortness of breath and went into cardiogenic shock, a life-threatening condition with a very high risk of mortality and death (approximately 50%). When he regained consciousness, doctors told Mr. Pullara that his heart had stopped. His children later told him that he had turned blue.

43. A month later, on October 31, 2023, Mr. Pullara underwent another procedure called an atrioventricular node ablation to treat his chronic atrial fibrillation.

44. Six months later, Mr. Pullara was under the knife again on April 19, 2024, for an emergency spinal fusion surgery to treat spinal cord damage in his cervical spine. Failure to operate on Mr. Pullara immediately to treat this condition could have resulted in paralysis.

45. Mr. Pullara has been to the emergency room numerous other times for various reasons and most recently, in January 2025, was admitted for difficulty breathing.

46. Meanwhile, despite having to deal with medical crisis after medical crisis, Mr. Pullara still fully complied with every obligation of his OSUP. On September 26, 2023, about four months after his release on OSUP and about ten days after his hospitalization, Mr. Pullara's son Enzo emailed the DO then managing the case, DO William Kennedy, requesting a compliance letter.

47. A few days later, on October 4, 2023, DO Kennedy replied to Mr. Pullara Jr. and told him that upon review of the file, he would issue the letter as soon as Mr. Pullara turned over his passport as required under the OSUP.

48. Later that same day, Mr. Pullara Jr. responded that Mr. Pullara already had a passport application pending before the Italian Consulate, but that an employee of

the consulate needed to contact DO Kennedy directly for additional information. Apparently, DO Kennedy was able to speak to the consular employee soon thereafter and, satisfied that Mr. Pullara was in compliance with his OSUP obligations, issued the compliance letter the next day, October 5.

49. DO Kennedy next checked in about Mr. Pullara's passport on June 12, 2024, about a month and a half after Mr. Pullara's emergency spinal surgery and around the time that he was still effectively bedbound and recovering. Mr. Pullara Jr. informed DO Kennedy about the surgery, provided evidence of it, and told DO Kennedy that he would get back to him about the passport as soon as possible.

50. DO Kennedy checked in again on October 28, 2024. Several emails were exchanged that same day. First, Mr. Pullara Jr. informed DO Kennedy that his father was in receipt of his passport and would follow instructions on how to turn it over to the agency. In response, DO Kennedy offered two options: Mr. Pullara could either bring the passport to 26 Federal Plaza, or turn it over to his ISAP specialist. Mr. Pullara Jr. informed DO Kennedy that it would be easiest for his father to give the passport to the ISAP specialist given that they already have regularly scheduled in-person check-ins. DO Kennedy approved of the plan and told Mr. Pullara Jr. that he would inform the ISAP specialist about taking custody of the passport from Mr. Pullara.

51. Mr. Pullara's next in-person check-in with his ISAP specialist was sometime in November 2024. Mr. Pullara brought his passport to that appointment and tried to give it to his ISAP specialist, Francisco, but he refused to take it because he said it was not his responsibility and said that Mr. Pullara should hang on it. The next in-

person check-in was in January when Mr. Pullara tried to give over his passport again and was again told by his ISAP specialist that it was not necessary and that he should hold on to it. Given the DO Kennedy's message that he would inform the ISAP agent about the passport turnover and that after that, the ISAP specialists refused to take Mr. Pullara's passport twice, told him it was not necessary to turn it over, and that instead he should hang on to it, Mr. Pullara assumed that perhaps something had changed and that in any case, he saw his ISAP specialist in-person frequently enough that he would be able to easily give him the passport whenever it was needed.

52. The issue was not raised again until the institution of these proceedings where ICE implied that Mr. Pullara had willfully withheld his passport. He had not. Rather, Mr. Pullara had been attempting to turn it over. The undersigned coordinated the passport turnover with ICE on February 27, 2024 and scheduled an appointment for the passport to be turned over on March 4, 2025. The passport was successfully delivered to ICE on that date.

53. Over the last twenty-three months since his release on OSUP, Mr. Pullara's health has not improved. Instead, he is hanging onto a fragile balance made possible only by the vigilance of his medical team, including a primary care physician, a cardiologist, a neurologist, and a neurosurgeon, among others—who are constantly monitoring and adjusting his treatment.

54. His immediate family provides Mr. Pullara nearly around-the-clock assistance, including help managing his legal and medical appointments, transporting him to

his appointment, driving him to the pharmacy, managing his insurance and other critical paperwork, and helping him with errands and groceries.

55. Mr. Pullara cannot walk or stand without the assistance of a cane. He has trouble walking because he cannot feel his feet beneath him. He spends most days at home, where friends and family constantly check on him and bring him food. He rarely leaves home unless he has a medical or legal appointment, to which either his brothers or his son drive him.

Abrupt Notice of ICE's Intent to Revoke OSUP and Redetain

56. On the morning of Wednesday, February 5, Mr. Pullara's older son Sal received a call from a number that he did not recognize. When he answered, the person told him that his father was going to be deported and that he should contact his new Deportation Officer ("DO") Tawana Love for more information. *Id.* Sal was shocked and incredibly confused—in the two years since Mr. Pullara's release, his case had been assigned to DO Kennedy. When Sal called DO Love to learn more, all she said was that Mr. Pullara had until February 18 to leave the country or he would be redetained by ICE.

57. Sal immediately told his brother, Enzo, who also called DO Love. When asked why ICE had reversed its prior decision, DO Love stated only that it was because Mr. Pullara was a "felon" and "has a deportation order." She further stated that she had no knowledge Mr. Pullara's medical issues and there was nothing in the file about that.

58. Mr. Pullara and his family were completely caught off guard. Nothing had changed since ICE decided in 2023 that he was too sick to get on a plane and if anything—things had gotten worse.

59. The next day, Mr. Pullara's son Enzo wrote an email to DO Love hoping to clear up any potential confusion that would have caused the agency to reverse course and offered to send her updated medical documentation that would show just how much worse his father's health had gotten since his initial release. The undersigned did not learn until February 24, in the first appearance before this Court, that in fact Enzo had mistakenly emailed the wrong email address by mistyping the middle initial in the email.

60. Accordingly, DO Love did not receive the email that Associate Professor of Law and Co-Director of the Cardozo Immigration Clinic Lindsay Nash sent her on February 12 with her Form G-28 (Notice of Appearance before the Department of Homeland Security). Prof. Nash did, however, follow up minutes later with a phone call and left a voicemail asking her to call back as soon as possible.

61. The next day, having received no response, Prof. Nash called DO Love again. *Id.* at ¶ 5. This time someone (presumably DO Love) picked up and when Prof. Nash identified herself and that she was calling on Mr. Pullara's behalf, "the line went dead" such that Prof. Nash was unable to tell whether DO Love hung up the phone or the call simply dropped. When Prof. Nash called right after, the call went directly to voicemail. Prof. Nash left another voicemail, but DO Love did not call back. The agency has not disputed the fact that Prof. Nash left those voicemails, but instead said that because Prof. Nash had not submitted a Form G-28, Notice of

Appearance, DO Love was not authorized to speak to her. At no point before the court appearance on February 24, 2025, was Prof. Nash informed that the agency was not in receipt of her Form G-28.

Ongoing Diligent Efforts to Medically Evaluate Mr. Pullara's Ability to Safely Transfer Care to Italy

62. Since receiving the news about Mr. Pullara's potential re-detention and removal via an out of the blue phone call, Mr. Pullara's family has been scrambling to find out more information from ICE, speak to Mr. Pullara's current physicians about this potential sudden upheaval, seek legal assistance, and gather information about how Mr. Pullara might attempt to quickly receive the same closely monitored medical care in Italy.

63. In the days leading up the filing of the instant action, Mr. Pullara—lacking any transparency or information from ICE—tried to see as many of his doctors as possible and learn about what health ramifications might result from his sudden removal and if there was any way for him to prepare. Since February 5, 2025, he has had eleven in-person office visits with his physicians and two telehealth appointments. In addition, since February 5, 2025, he has had numerous appointments for important tests including five MRIs (three on his spine, one on his femur, and one on his brain), an ultrasound of his spleen, two cardiac device remote checks, a CT scan of his spine and an x-ray of his spine.

64. Many of these tests—including four of the MRIs, the CT scan, and the x-ray, were ordered as part of an ongoing neurological evaluation. On February 21, 2025, during a visit with his neurologist, Dr, Rina Caprarella, she noticed a significant and concerning decline in his neurological function and ordered him to

immediately undergo three MRIs on his entire spine as well as electrodiagnostic nerve testing. As described in further detail below, the MRIs were taken the following Monday as the undersigned appeared on Mr. Pullara's behalf before this Court.

65. On March 7, 2025, in a follow-up with Dr. Caprarella, she informed Mr. Pullara that she had requested preclearance for the electrodiagnostic nerve testing from his cardiologist, Dr. Snow, but was unable to get definitive preclearance. This was particularly concerning to Dr. Caprarella because she has worked closely with Dr. Snow on many cases but had never received a similar response from him with respect to a request for preclearance, so she wanted to have a discussion with him to fully understand his concerns and to evaluate the potential risks and benefits of the testing. In the meantime, she ordered an additional MRI of Mr. Pullara's femur and expanded bloodwork as a potential workaround for the electrodiagnostic testing should they ultimately conclude that it is not in Mr. Pullara's best interest to perform the test. Mr. Pullara's next follow-up appointment with Dr. Caprarella is on March 26, 2025.

66. Later that week. Mr. Pullara met with his neurosurgeon, on March 12, 2025, and again on March 14, 2025. After the first appointment, Dr. Latefi ordered additional imaging through a CT scan and an x-ray. On March 14, Dr. Latefi said that based on preliminary results, it is likely that Mr. Pullara will require surgery to address the spinal stenosis in the new part of his spine. First, however, he wanted Mr. Pullara to undergo a serious of epidurals to see if they help relieve any of the pain Mr. Pullara is experiencing in his lower back. Though Dr. Latefi did not say so

explicitly, Mr. Pullara and his son, Mr. Pullara Jr. who also attended the appointment, both got the impression that first attempting the less invasive epidural treatment was required before insurance would cover surgery. Mr. Pullara's next appointment with Dr. Latefi is on June 13, 2025, which is around when Dr. Latefi anticipated that Mr. Pullara would complete the course of epidurals. In the meantime, Dr. Latefi instructed Mr. Pullara to continue to see Dr. Caprarella for ongoing testing and evaluation.

67. Mr. Pullara had his first appointment with Dr. Pekkerman, the doctor who will be administering the epidurals, on Monday, March 17, 2025. He concluded that Mr. Pullara is a good candidate for the procedure and is awaiting preclearance from Dr. Snow to proceed.

68. This newly discovered spinal issue is just another serious medical condition on top of the many others with which Mr. Pullara has already been diagnosed, including severe systolic heart failure, ischemic heart disease, advanced coronary artery disease, a history of coronary artery bypass grafting and more recently required percutaneous coronary intervention via interventional cardiology, and chronic atrial fibrillation. In short, Mr. Pullara is in heart failure and is entirely pace-maker such that any disruption in the functioning of his device could quickly lead to a life-threatening emergency.

69. Meanwhile, Mr. Pullara and his family have been trying to secure continuity of care in Italy, which has been difficult because exactly what type of care Mr. Pullara would need immediately upon arrival in Italy is still unclear given the ongoing diagnostics on his spinal condition. Regardless, Mr. Pullara Jr. has been in

touch with several doctors and clinics on his father's behalf and is prepared to share additional information about Mr. Pullara's medical needs with them when it becomes available.

70. What is clear, though, that regardless of the ultimate diagnostic outcome of this new spinal condition, Mr. Pullara's other diagnosed conditions would already put his life and health at great risk should he be held in immigration detention. Indeed, Mr. Pullara had already been diagnosed with many of these conditions—including severe systolic heart failure, ischemic heart disease, advanced coronary artery disease, and chronic atrial fibrillation by the time he was transferred to ICE custody and therefore presumably formed, at least in part, the basis for ICE's prior conclusion that he was too sick to detain or deport. In addition, Mr. Pullara's mobility has worsened—he can barely walk down the block and gets out of breath putting on his socks—such that he needs constant attention and support from his family members, which certainly would not be available to him in immigration detention.

71. Rather, recent studies show that "poor conditions and inhumane treatment" and "structural barriers" significantly limit access to care in immigration detention. *See, e.g.*, Altaf Saadi, *et al.*, *Duration in Immigration Detention and Health Harms*, JOURNAL OF THE AMERICAN MEDICAL ASSOC., Jan. 24, 2025, at 2032, https://jamanetwork.com/journals/jamanetworkopen/fullarticle/2829506 (hereinafter "Immigration Detention and Health Harms Study"); Chanelle Diaz, *et al.*, *Harmful by Design—a Qualitative Study of the Health Impacts of Immigration Detention*, 38 JOURNAL OF GENERAL INTERNAL MEDICINE 2030 (2023),

https://doi.org/10.1007/s11606-022-07914-6 (hereinafter "Health Impacts of Immigration Detention Study"). Study participants describe being treated "with a callous disregard" in immigration detention making them "feel less than human." *Id.* Most alarmingly, the study also identified significant barrier to access to urgent care, noting that it can require "multiple sick call requests" and can require "waiting weeks" to see a doctor and that "barriers to receiving care for more urgent medical needs" were "insurmountable." *Id.* at 2033. For a man as sick as Mr. Pullara and who has a history of needing urgent, emergency care, those "weeks" could be a death sentence.

Procedural History of the Instant Proceedings and Filing of Pending Administrative Applications and Motions

72. As briefly described above, Petitioner-Plaintiff initiated the instant proceedings on February 14, 2025, by moving for a temporary restraining order ("TRO") via order to show cause ("OSC"). Following review of Petitioner-Plaintiffs's filings and a brief discussion between the parties, United States District Court of the Eastern District of New York Judge Hector Gonzalez, who was temporarily assigned to the case, issued a TRO enjoining Respondent-Defendants from detaining or revoking Mr. Pullara's OSUP until February 24, 2025.

73. The parties next appeared—and for the first time before this court—on February 24, 2025. Days before the hearing, the parties had submitted a joint letter requesting an adjournment of the hearing scheduled for February 24, 2025, and proposing a briefing schedule for a contemplated preliminary injunction motion, which this Court denied.

74. During the hearing, Petitioner-Plaintiff renewed his request to extend the TRO. The Court denied Petitioner-Plaintiff's extend the TRO for lack of irreparable injury given that Respondent-Defendants had already agreed to forestall detention or revocation of the OSUP until March 20, 2025.

75. Thereafter, the parties did agree that Mr. Pullara would submit a Form I-246, Application for Stay, to ICE no later than March 19, 2025, and that Respondents-Defendants would not detain him or revoke his OSUP during the pendency of that request. Respondents-Defendants declined, however, to extend those protections for an extra week in the event of a denial to allow Plaintiff-Petition to seek appropriate redress from this Court.

76. On March 11, 2025, Respondent-Defendants moved for a premotion conference ("PMC") with the intent of seeking to dismiss the instant matter to which Plaintiff-Petitioner timely responded to yesterday, March 18, 2025.

77. In the March 14, 2025 status letter, the undersigned updated the Court on further developments on the process to diagnose Mr. Pullara's spinal condition and alerted the Court to forthcoming administrative filings, including the Form I-246 that Plaintiff-Petitioner previously agreed to submit by March 19, as well as forthcoming filings in immigration court to address Mr. Pullara's recently-identified legal claim related to U.S. citizenship. Finally, Plaintiff- Petitioner informed the Court of forthcoming filings in this case, including an amended Petition-Complaint to address Mr. Pullara's newly discovered U.S. citizenship-related claim, and a motion to seek interim protection from detention for a brief period following ICE's resolution of the Form I-246 administrative stay request

given that Respondents-Defendants have not extended any protection from detention or revocation of his OSUP past March 20, 2025.

78. As previewed in the status letter, Plaintiff-Petition filed yesterday before the Ulster Immigration Court two motions: one to reopen Mr. Pullara's removal proceedings to pursue immigration relief via nunc pro tunc naturalization and another to stay Mr. Pullara's removal during the pendency of the U.S. citizenship-related claim to allow him the full opportunity to vindicate this "precious" right. *Fedorenko v. United States*, 449 U.S. 490, 505 (1981) (noting that "the right to acquire American citizenship is a precious one"); *see also Azize v. Bureau of Citizenship & Immigration Servs.*, 594 F.3d 86 (2d Cir. 2010) (finding that with "such an important matter as citizenship potentially at stake," the petitioner should have an opportunity to make out this critical claim). Even if Mr. Pullara's stay motion before the immigration court is granted, it would provide incomplete relief because the immigration court only has jurisdiction to stay removal; the stay would not impact ICE's ability to potentially detain Mr. Pullara.

79. And today, March 19, 2025, in accordance with the agreement with Respondents-Defendants, Mr. Pullara submitted Form I-246, Application for a Stay of Deportation or Removal with accompanying evidence of his serious medical conditions and recently filed immigration court motions to the New York ICE Enforcement and Operations Field Office. Similarly, even if granted, this would only provide incomplete relief because this would also only protect Mr. Pullara from removal and not necessarily detention.

CLAIMS FOR RELIEF

80. ICE's abrupt decision to revoke the order of supervision and redetain a 71-year-old critically ill man in a matter of days, without any consideration whatsoever of the risk to his life that will be caused by such detention and the interruption of his access to medical care violates the Due Process Clause of the Fifth Amendment of the Constitution, the Immigration and Nationality Act, the Administrative Procedures Act, the Rehabilitation Act, and federal regulations. The factual allegations listed above are incorporated into each of the causes of actions listed below.

FIRST CAUSE OF ACTION:

MR. PULLARA'S IMMINENT REDETENTION VIOLATES THE ADMINISTRATIVE PROCEDURE ACT

81. Petitioner-Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

82. The Administrative Procedure Act is principally aimed at ensuring that federal agencies engage in "reasoned decisionmaking" with the bounded of the by law. *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council, Inc.*, 462 U.S. 87, 104 (1983). Specifically, under the Administrative Procedure Act ("APA"), a court shall "hold unlawful and set aside agency action" that is "arbitrary, capricious . . . or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

83. Agency action is arbitrary and capricious under the APA if the agency has not "reasonably considered the relevant issues and reasonably explained its decision." *Fed. Commc'ns Comm'n v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021), or "if the agency has . . . entirely failed to consider an important aspect of the

problem." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

84. Mr. Pullara was released from ICE detention on May 9, 2023, based upon the legally required determination that he was not a flight risk or danger to the community, 8 C.F.R. § 241.4(e), and that his serious chronic medical conditions made it "impracticable or contrary to the public interest" to remove him, 8 C.F.R. § 241.5(c)(2). In the nearly two years since his release, Mr. Pullara's medical condition has, unfortunately, only deteriorated. Meanwhile, he has complied with all conditions of his OSUP, as well as all conditions of his New York Parole and Federal Probation supervision. Nevertheless, on February 5, 2025, Mr. Pullara was informed by ICE that he would be redetained if he was still in the country on February 19, 2025. No reason was provided for the abrupt reversal. ICE admitted they were unaware of Mr. Pullara's dire medical situation but have rebuffed efforts by Mr. Pullara's counsel and family to provide relevant information. He has been given no opportunity to present relevant facts to the agency and, therefore, none have been considered. ICE has further failed to comply with its own redetention procedures. ICE's decision to redetain Mr. Pullara has therefore been made arbitrarily and capriciously.

85. In addition, in the absence of any changed circumstances or violation of his order of protection, ICE's decision to redetain Mr. Pullara violates the controlling statute and regulations. The detention of an individual with a final order of removal beyond the initial 90-day removal period is only permissible if the individual poses "a risk to the community or [is] unlikely to comply with the order of removal." 8

U.S.C. § 1231(a)(6). Once ICE has made the determination to release a post-order individual from detention, he can only be redetained under certain enumerated circumstances. *See* 8 C.F.R. § 241.4(l)(2); *see also* 8 C.F.R. §§ 241.4(e), (f);. As explained by ICE itself, such redetention is only permissible upon: (1) a "violation of the conditions of the order of supervision," or (2) "[c]hanged [c]ircumstances." DETENTION AND DEPORTATION OFFICER'S FIELD MANUAL (DDOFM), Chp. 17.12(b), (c).

86. Mr. Pullara violated he has been fully compliant with his OSUP and there are no changed circumstances that would justify revisiting ICE's 2023 decision that he was too sick to deport—indeed his medical condition has only deterioriated further in the past two years. Finally, there is no basis to reverse ICE's prior determination that, if required, he is likely to comply with removal order. He will. Accordingly, under the controlling statute and regulations, ICE may not redetain Mr. Pullara.

87. The circumstances surrounding ICE's decision to revoke his OSUP and redetain him, as well as other evidence of such decisions in the public record, suggest that ICE's decision was the result of a new blanket policy or protocol that unlawfully restricts appropriate individualized consideration required by the regulatory and statutory scheme. *See* 8 U.S.C. § 1231(a)(6); 8 C.F.R. §§ 241.4(e), (f), (l).

SECOND CAUSE OF ACTION:

MR. PULLARA'S ABRUPT REVOCATION OF HIS ORDER OF SUPERVISION VIOLATES THE ADMINISTRATIVE PROCEDURE ACT

88. Petitioner-Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

89. ICE's decision to revoke Mr. Pullara's OSUP violated the APA for the same reasons set forth above in Paragraphs 81-87.

THIRD CAUSE OF ACTION:

MR. PULLARA'S IMMINENT REDETENTION WITHOUT ANY PRE-DEPRIVATION PROCESS VIOLATES HIS RIGHT TO PROCEDURAL DUE PROCESS

90. Petitioner-Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

91. Individuals released from custody have a constitutionally protected interest in their continued liberty. *See Young v. Harper*, 520 U.S. 143, 146-47 (1997) (finding liberty interest for petitioner on pre-parole conditional supervision program when parole was denied and he was ordered back into custody); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973) (holding that a liberty interest attaches for individuals released on probation).

92. Because redetention implicates the same sort of liberty interests, due process requires a procedurally adequate process to test the basis for detention, including notice of the reasons for redetention and an opportunity to be heard. *See Villiers v. Decker*, 31 F.4th 825, 833 (2d Cir. 2022) ("[A]n individual whose release is sought to be revoked [by ICE] is entitled to due process such as notice of the alleged grounds for revocation, a hearing, and the right to testify at such a hearing").

93. Individuals also have right to due process in pursuit of a colorable claim related to citizenship, *Fedorenko v. United States*, 449 U.S. 490, 505 (1981) (noting that "the right to acquire American citizenship is a precious one"); *Azize v. Bureau of Citizenship & Immigration Servs.*, 594 F.3d 86, 91 (2d Cir. 2010) (holding that with "such an important matter as citizenship potentially at stake," the petitioner

should have an opportunity for district court fact finding on his *nunc pro tunc* naturalization claim).

94. Mr. Pullara received no such notice or process. ICE announced its plans to redetain him without no meaningful explanation, ignored his family's and counsel's attempts to understand its decision or process, and refused to provide him an opportunity to present relevant evidence that counsels against redetention. As such, ICE has denied Mr. Pullara the procedures that his liberty interest and the Fifth Amendment's Due Process Clause require.

95. ICE's abrupt decision to redetain Mr. Pullara is particularly egregious in light of its prior conclusion that he was too sick to be deported and the absence of any relevant change in circumstances. The Due Process Clause permits civil immigration detention only where such detention is reasonably related to the government's interests. Here, ICE's rationale for detention must be grounded in the detainee's flight risk or their dangerousness. Mr. Pullara who has diligently complied with every reporting obligation and whose serious medical conditions mean that he can barely walk down a block by himself—poses neither risk.

96. Because ICE has no lawful basis for redetaining Mr. Pullara and because ICE has denied him any opportunity to show that redetention is not justified, ICE's decision to redetain him violates Mr. Pullara's right to due process.

97. To the extent ICE could cure these decisions through the post-hoc administrative stay process, those processes are likewise deficient insofar as they fail to provide a pre-deprivation hearing, notice of the reasons of the government intended deprivations, an opportunity for Mr. Pullara to examine and respond to the

evidence against him; an explanation of the basis for any adverse determination; and, an opportunity for review by the judiciary or, at minimum, some neutral arbiter.

98. Moreover, detention and revocation of OSUP with impermissibly infringe on Mr. Pullara's right to pursue his colorable claim related to U.S. citizenship without sufficient procedural protections.

FOURTH CAUSE OF ACTION:

MR. PULLARA'S ABRUPT REVOCATION OF HIS ORDER OF SUPERVISION WITHOUT ANY PRE-DEPRIVATION PROCESS VIOLATES HIS RIGHT TO PROCEDURAL DUE PROCESS

99. Petitioner-Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

100. To comport with due process, the revocation of an order of supervision must comply with "basic due process protection[s]," including notice and an opportunity to respond to the reason for the revocation. *Rombot v. Souza*, 296 F. Supp. 3d 383, 389 (D. Mass. 2017); *see Ragbir v. Sessions,* No. 18-CV-236 (KBF), 2018 WL 623557, at *3-6 (S.D.N.Y. Jan. 29, 2018) (where ICE seeks to deport an individual who is neither a flight risk or danger based on a final order of removal, ICE is required to provide that individual with an orderly departure), *vacated and remanded sub nom. Ragbir v. Barr*, No. 18-1595, 2019 WL 6826008 (2d Cir. July 30, 2019) (vacating based on mootness); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

101. ICE's decision to revoke Mr. Pullara's OSUP violated his right to due process for the same reasons set forth above in Paragraphs 90-98.

FIFTH CAUSE OF ACTION:

MR. PULLARA'S IMMINENT REDETENTION WITHOUT ANY PRE-DEPRIVATION PROCESS VIOLATES HIS RIGHT TO SUBSTANTIVE DUE PROCESS

102. Petitioner-Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

103. It is beyond dispute that constitutional substantive due process protections extend to noncitizens. *See Reno v. Flores*, 507 U.S. 292, 306 (1993). The purposeless redetention of Mr. Pullara and the life-threatening disruption to his essential medical care violates substantive due process for two independent reasons.

104. First, detention is arbitrary and impermissible where the ongoing deprivation of liberty does not serve the alleged government interest underlying detention. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The purpose of post-order immigration detention is "effectuating an [noncitizen's] removal." *Id.* at 697. However, before making the decision to release Mr. Pullara on the OSUP in May 2023, ICE was required to find that he poses no flight risk or danger to the community, 8 C.F.R. § 241.4(e), and that he is likely to "comply with the order of removal," 8 U.S.C. § 1231(a)(6). Since his release, he has been in full compliance with three different supervising entities: ICE, NYS Parole, and Federal Probation. Accordingly, there is no governmental interest whatsoever that would be served by his return to immigration detention. Purposelessly depriving an Mr. Pullara of his fundamental right to physical liberty for no reason plainly violates substantive due process.

105. Second, "deliberately indifferent conduct" directed towards civil detainees, such as federal immigration detainees, is "egregious enough to state a substantive due

process claim." *Cty. of Sacramento v. Lewis*, 523 U.S. 833, 849–50 (1998). Under these principles, courts in this circuit have repeatedly held that when immigration detention subjects individuals to unreasonable health risks, orders of release on habeas are appropriate. *See, e.g.*, *Coronel v. Decker*, 449 F. Supp. 3d 274 (S.D.N.Y. 2020) (J., Nathan) (granting habeas petitions and ordering the release of immigration detainees because ICE failed to protect vulnerable detainees protect who faced serious health risk to during the COVID-19 pandemic and thus showed "deliberate indifference to their medical needs and thus violate the Fifth Amendment's substantive due process guarantee"); *Avendano Hernandez v. Decker*, 450 F. Supp. 3d 443 (S.D.N.Y. 2020) (same); *Basank v. Decker*, 449 F. Supp. 3d 205 (S.D.N.Y. 2020) (same); *Barbecho v. Decker*, No. 20-CV-2821 (AJN), 2020 WL 1876328 (S.D.N.Y. Apr. 15, 2020) (same).

106. The danger to Mr. Pullara's health posed by ICE decision to redetain him and the abrupt termination of his OSUP without sufficient time to establish a continuity of care plan in Italy cannot be overstated. His medical team has recently discovered a new serious spinal issue that is still being evaluated but likely will require surgery to allow him to preserve the use of his legs. Moreover, as a medical expert who conducted a holistic review of his Mr. Pullara's medical records explained, Mr. Pullara has "very severe heart conditions" including "severe systolic heart failure", "ischemic heart disease", "advanced coronary artery disease", "a history of coronary artery bypass grafting and more recently required percutaneous coronary intervention via interventional cardiology", and "chronic atrial fibrillation." Ex. C, Dr. Taylor Aff. ¶¶ 10-12. According to Dr. Taylor, Mr. Pullara is currently in

"heart failure" such that any "small disturbances can be life threatening." *Id.* ¶ 11. In addition, Mr. Pullara has "spinal cord compression of his cervical spinal cord" and recently underwent spinal surgery and has "chronic kidney disease, hypothyroidism and type 2 diabetes." *Id.* ¶¶ 13-14. "Any disruption in [Mr. Pullara's] cardiac device would rapidly result in a life-threatening cardiac emergency." *Id.* ¶ 15(a). Being subjected to the inadequate healthcare provided in ICE detention, *see* Immigration Detention and Health Harms Study; Health Impacts of Immigration Detention Study, and "[s]udden removal from his physicians and the disruption of his care continuity could lead to . . . serious health deterioration or even life-threatening complications." Ex. C, Dr. Taylor Aff. ¶ 15(e).

107. The deliberate indifference ICE has shown to Mr. Pullara by subjecting him to life-threatening disruption in critical medical care, which will be caused by immigration detention, without any consideration of his dire medical condition, shocks the conscience and violates substantive due process.

SIXTH CAUSE OF ACTION:

MR. PULLARA'S ABRUPT REVOCATION OF HIS ORDER OF SUPERVISION WITHOUT ANY PRE-DEPRIVATION PROCESS VIOLATES HIS RIGHT TO SUBSTANTIVE DUE PROCESS

108. Petitioner-Plaintiff incorporates the preceding paragraphs as if fully set forth herein.

109. ICE's decision to abrupt decision to revoke Mr. Pullara's OSUP violates the substantive due process based on the same legal principles set forth above in Paragraphs 102-107.

110. Courts have recognized that "due process, require[s] that we not pluck [a long time resident] out of his life without a moment's notice, remove him from his family and community without a moment's notice." *Ragbir v. Sessions*, No. 18-CV-236 (KBF), 2018 WL 623557, at *2 (S.D.N.Y. Jan. 29, 2018), *vacated and remanded sub nom. Ragbir v. Barr*, No. 18-1595, 2019 WL 6826008 (2d Cir. July 30, 2019). "[A]fter a life lived among us" due process requires that we avoid "unnecessar[y] cruel[ty]" and allow an individual subject to an order of removal the time to "organize his affairs" before being forced to depart. *Id.*

SEVENTH CAUSE OF ACTION:

MR. PULLARA'S ABRUPT REVOCATION OF HIS ORDER OF SUPERVISION AND IMMINENT DETENTION VIOLATE THE REHABILITATION ACT

111. Petitioner-Plaintiff repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

112. Under § 504 of the Rehabilitation Act, federal public entities must act affirmatively to accommodate qualified individuals with disabilities, in order to ensure that they have meaningful access to the programs, services, and benefits to which they are legally entitled. 8 U.S.C. § 794(a). To establish a violation of § 504, a plaintiff-petitioner must first establish that they are a "qualified individual with a disability", meaning that they suffer from a physical or mental impairment and that the impairment "substantially limited" a major life activity. Second, they must demonstrate that the defendants-respondents are subject to the Rehabilitation Act. Third, they must show that they were denied the opportunity to participate or benefit from respondents' services, programs, or activities, or were otherwise discriminated against by respondents, by reason of their disability.

113. This Court should therefore find that the Respondents-Defendants' decision to redetain Mr. Pullara and revoke his OSUP therefore violates Section 504 of the Rehabilitation Act, 8 U.S.C. § 794, and 6 C.F.R. § 15.30 (a) and (b)(1). Accordingly, this Court should require Respondents-Defendants to make a reasonable accommodation by ordering them to refrain from redetaining Mr. Pullara and from revoking his OSUP, at least until he can complete his medical assessment and stabilization for relocation to Italy.

PRAYER FOR RELIEF

WHEREFORE, Petitioner-Plaintiff respectfully requests that this Court:

1) Assume jurisdiction over this matter;
2) Provide interim relief enjoining Respondents-Defendants from detaining Petitioner-Plaintiff or revoking his OSUP during the pendency of these proceeding or, in the alternative, grant bail pursuant to *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001);
3) Set aside ICE's unlawful decision to redetain and revoke OSUP for such time as is necessary to assess and stabilize Mr. Pullara medically for travel and relocation to Italy and to fully adjudicate his colorable claim of citizenship in collateral proceedings. 5 U.S.C. § 706;
4) Enjoin Respondents-Defendants from detaining Petitioner-Plaintiff or revoking his OSUP in violation of his procedural due process rights, without providing constitutionally required procedures including a pre-deprivation hearing, with notice of the basis of the agency's intent to revoke his OSUP and redetain him, an opportunity to examine and

respond to evidence against him, and, if after such process the agency remains determined to revoke and detain, an explanation of that decision and an opportunity to seek review of a neutral decisionmaker.

5) Enjoin Respondents-Defendants from detaining Petitioner-Plaintiff for a sufficient period to allow him to assess and stabilize Mr. Pullara medically for travel and relocation to Italy in violation of his substantive due process rights.

6) Declare that Respondent-Defendants' revocation of Petitioner-Plaintiff's order of supervised release and imminent detention are unlawful;

7) Award Petitioner-Plaintiff his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, 29 U.S.C. § 794a, or other statute; and

8) Grant such further relief as the Court deems just and proper.

Dated: March 19, 2025
New York, N.Y.

Respectfully Submitted,

/s Elizabeth Wu

ELIZABETH WU (EW0416)
PETER MARKOWITZ (PM9052)
LINDSAY NASH (LN1717)
Kathryn O. Greenberg
Immigration Justice Clinic
Cardozo School of Law
55 Fifth Avenue, 11th Floor
New York, NY 10003
Tel: (646) 592-6538
lindsay.nash@yu.edu

Counsel for Petitioner-Plaintiff

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

I submit this verification on behalf of Petitioner-Plaintiff because I am one of his attorneys. My legal team and I have discussed with Petitioner-Plaintiff and other witnesses the facts and events described in the instant verified petition and complaint. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached verified petition for writ of habeas corpus and complaint are true and correct to the best of my knowledge.

Dated: March 19, 2025
New York, NY

/s Elizabeth Wu
ELIZABETH WU (EW0416)

Counsel for Petitioner-Plaintiff