

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

ROMAN ANTATOLEVICH
SUROVTSEV,

Petitioner-Plaintiff,

v.

U.S. DEPARTMENT OF
HOMELAND SECURITY;

KRISTI NOEM, in her official
capacity as Secretary of the U.S.
Department of Homeland Security;

PAMELA BONDI, in her official
capacity as Attorney General of the
United States;

TODD M. LYONS, in his official
capacity as Acting Director of
Immigration and Customs
Enforcement;

JOSH JOHNSON, in his official
capacity as ICE Dallas Field Office
Acting Director; and

MARCELLO VILLEGAS, in his
official capacity as Warden of
Detention Center,

Respondents-Defendants.

Case No. 3:25-cv-02246

**PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF**

Roman Antatolevich Surovtsev (“Mr. Surovtsev” or “Petitioner-Plaintiff”), by
and through the undersigned counsel, hereby files this petition for a writ of habeas
corpus, complaint for declaratory and injunctive relief, and accompanying motion for

a preliminary injunction to order his release from indefinite detention in violation of the Immigration and Nationality Act (“INA”) and U.S. Constitution.

INTRODUCTION

1. Mr. Surovtsev is a 41-year-old stateless man born in the Union of Soviet Socialist Republics (“USSR”) in the city of Zhdanov (subsequently renamed Mariupol, in present-day Ukraine). He has lived in the United States since 1988, when he fled the USSR with his mother as a four-year-old.

2. Over 20 years ago, as a 19-year-old, Mr. Surovtsev began serving an 11.5-year sentence for carjacking. After completing his sentence in 2014, he was ordered removed from the United States. He was held in Immigration and Customs Enforcement (“ICE”) custody for six months but was released in May 2015 on an Order of Supervision (“OSUP”) following a determination by Respondents-Defendants that it was not significantly likely he would be removed from the United States in the reasonably foreseeable future, and that his continued detention would therefore be unlawful under the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

3. This decision was reached after the governments of Russia and Ukraine each informed the U.S. government that they would not and could not grant travel documents to Mr. Surovtsev. The Ukrainian government explained in 2015 that Mr. Surovtsev’s “Ukrainian citizenship . . . cannot be confirmed” and “the Consulate General of Ukraine cannot issue the Ukrainian travel document for Mr. Surovtsev.” Exh. A at 1.

4. The Ukrainian government said the only documents that could possibly prove his citizenship were located in Mariupol, with a Deportation Officer concluding, “I’m almost positive that we won’t get a TD [travel document] for him.” *Id.* at 24. Respondents-Defendants also acknowledge that “Former USSR documents such as birth certificates . . . does not confer current Ukrainian citizenship.” *Id.* at 32. The Russian government likewise denied Mr. Surovtsev a travel document, telling Respondents-Defendants in January 2015 that “the [Russian] Consulate has no records of Surovtsev.” *Id.* at 15.

5. Whatever possibility of acquiring a travel document may have existed in 2014-15 has now dissipated. Since 2014-15, the city has been largely destroyed in the Russian invasion. The city is now under Russian occupation, rendering it effectively impossible to acquire the papers the Ukrainian authorities believed are necessary to procure travel documents.

6. Despite this, the government re-detained Mr. Surovtsev on August 1, 2025. It did so under an apparent new policy, whereby Respondents-Defendants systematically re-detain individuals on OSUP without either (a) possessing a significant likelihood that individuals on OSUP will be removed in the reasonably foreseeable future as required by the Supreme Court’s *Zadvydas* ruling, or (b) satisfying regulatory requirements that re-detention be predicated on a determination that changed conditions render their removal more foreseeable than when they were released on OSUP in the first place.

7. This Court can order Mr. Surovtsev's release because Defendants-Respondents lack authority to detain individuals unless they can establish there is a substantial likelihood of removal in the reasonably foreseeable future, *Zadvydas*, 533 U.S. at 701, because Defendants-Respondents revoked Mr. Surovtsev's OSUP without following the appropriate procedures, and because his re-detention under Respondents-Defendants' new policy violates the Administrative Procedure Act and the *Accardi* doctrine. In addition to ordering release, this Court should vacate Respondents-Defendants' unlawful policy.

JURISDICTION & VENUE

8. This action arises under the Suspension Clause, U.S. Const., Art. I, § 9, Cl. 2, and the Fifth Amendment to the United States Constitution, the Administrative Procedure Act ("APA"), 5 U.S.C. § 551 *et seq.*, and the INA, 8 U.S.C. § 1101 *et seq.* and its implementing regulations.

9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 5 U.S.C. § 702 (APA), and Art. 1, § 9, Cl. 2 of the United States Constitution (the Suspension Clause). The government has waived its sovereign immunity pursuant to 5 U.S.C. § 702.

10. This Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

11. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391 and 2241 because Petitioner is detained at Bluebonnet Detention Center in Anson, Texas, within the Northern District of Texas.

PARTIES

12. **Petitioner-Plaintiff Roman Surovtsev** is a longtime U.S. resident who has lived in this country since age 4 when he fled the USSR. He is a stateless individual who is a citizen of no country, and the city of his birth was destroyed in 2022 during the Russian siege. He has been detained at Bluebonnet Detention Center in Anson, Texas since August 1, 2025. A devout Baptist and active church member, Mr. Surovtsev runs a successful painting business in the Dallas Metroplex with his U.S. citizen wife and two U.S. citizen children, aged 5 and 3.

13. **Respondent-Defendant U.S. Department of Homeland Security (“DHS”)** is the federal agency responsible for implementing and enforcement the INA and is an agency within the meaning of the APA. 5 U.S.C. § 551(1). DHS oversees its component agencies, including ICE, U.S. Customs and Border Protection, and U.S. Citizenship and Immigration Services.

14. **Respondent-Defendant Kristi Noem** is named in her official capacity as the Secretary of the 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); is legally responsible for pursuing any effort to confine and remove Petitioner; and as such is a custodian of Mr. Surovtsev.

15. **Respondent-Defendant Pamela Bondi** is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g), and as such is a custodian of Mr. Surovtsev.

16. **Respondent-Defendant Todd Lyons** is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. As the senior official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws and is legally responsible for pursuing any effort to remove Mr. Surovtsev and to confine him pending removal. As such, he is a custodian of Mr. Surovtsev.

17. **Respondent-Defendant John Johnson** is named in his official capacity as Acting Director of the ICE Dallas Field Office in Dallas, Texas. In this capacity, he is responsible for the execution of immigration confinement and the institution of removal proceedings within North Texas, in which Mr. Surovtsev is confined. As such, he is a custodian of Mr. Surovtsev.

18. **Respondent-Defendant Marcello Villegas** is named in his official capacity as the Warden of Bluebonnet Detention Center. In this capacity, he oversees the daily administration of the detention center in which Mr. Surovtsev is in custody. As such, he is the immediate custodian of Mr. Surovtsev.

FACTUAL ALLEGATIONS

I. Legal Background

A. The Government's Detention Authority

19. The statutory framework for removing individuals with final removal orders apprehended within the United States is found at 8 U.S.C. § 1231. Section 1231(a)(1) provides that non-citizens who have been issued final removal orders must

be removed within 90 days, whereupon they must be released on supervision, subject to limited exceptions. 8 U.S.C. § 1231(a)(1)(A)-(C).

B. Limitations on Detention Under 8 U.S.C. § 1231

20. The Supreme Court has “read an implicit limitation” into the statute “in light of the Constitution’s demands,” and has held that a non-citizen may be detained only for “a period reasonably necessary to bring about that [non-citizen’s] removal from the United States.” *Zadvydas*, 533 U.S. at 689.

21. According to the Supreme Court, a period reasonably necessary to bring about the non-citizen’s removal from the United States is presumptively six months. *Id.* at 701. But detention is only lawful “*until* it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* (emphasis added). When there is not a significant likelihood of removal in the reasonably foreseeable future, any continued detention is unlawful.

C. Process for Revoking Orders of Supervision

22. Non-citizens released following the 90-day “removal period” are “subject to supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3). The regulation relevant to supervised release on the basis that there is no significant likelihood of removal in the reasonably foreseeable future is found at 8 C.F.R. § 241.13.

23. Release under an order of supervision can be revoked for two reasons: (a) the non-citizen has violated a condition or release, 8 C.F.R. §241.13(h)(4)(i)(1), or (b) ICE determines that “on account of changed circumstances, . . . there is a

significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future.” *Id.* § 241.13(h)(4)(i)(2).

24. When ICE revokes an order of supervision, it must notify the non-citizen “of the reasons for revocation” and “promptly . . . afford the [non-citizen] an opportunity to respond to the reasons for revocation stated in the notification.” *Id.* § 241.13(h)(4)(i)(3).

II. Increased Revocations of Supervision Orders and Re-Detention

25. On or about February 18, 2025, DHS issued a directive instructing officers to “review for re-detention” all cases of individuals previously released from immigration detention on the basis that there was not a significant likelihood that they would be removed from the United States in the reasonably foreseeable future. Exh. B.

26. This review is ostensibly predicated on developments in the willingness of various “previously recalcitrant countries” to accept deportees and in “the potential for third country removals.” *Id.* The directive notes that re-detention “may proceed without further investigation” “if removal appears significantly likely in the reasonably foreseeable future” and states that individuals “should be provided written notification of the reason for his or her detention” and “provide[d] an opportunity . . . to tell the interviewer anything that the [non-citizen] wishes in support of why he or she should be released.” *Id.* However, DHS’s actual policy or practice has been to revoke orders of supervision and re-detain non-citizens with final removal orders *regardless* of this likelihood in any individual case, without written

notification, and without any opportunity to explain why they wish to remain on OSUP.

27. Since on or about February 18, 2025, on information and belief, DHS has dramatically increased the number of individuals being re-detained following the revocation of their orders of supervision.

28. Upon information and belief, these revocations have not been based on individualized determinations that changed circumstances have rendered it significantly likely that the individual will be removed from the United States in the reasonably foreseeable future, nor has ICE provided notice and an opportunity to be heard for individuals facing revocation and re-detention.

29. Rather, the government's policy or practice has been to summarily revoke orders of supervision and re-detain non-citizens *before* any effort to determine whether removal is practicable, let alone likely, violating the requirements of 8 C.F.R. § 241.13(l).

30. Filings from district courts across the country make clear that local ICE officials are revoking OSUPs and re-detaining non-citizens without an actual plan to effectuate their removal.

31. The District Court for the Eastern District of Texas recently granted a petition for a writ of habeas corpus submitted by a petitioner whose OSUP was revoked and who was simultaneously re-detained. The possibility of the petitioner's removal was, at the time of re-detention, purely theoretical. Discussing the government's burden to demonstrate the likelihood of removal, the court noted that

the government “made only conclusory statements that [it was] taking steps to remove [the petitioner].” Order Overruling Objections and Adopting Report and Recommendation at 7, *Escalante v. Noem et al.*, Case No. 9:25-cv-00182 (E.D. Tex. Aug. 2, 2025) (ECF No. 43).

32. The District Court for the District of Massachusetts also recently granted a habeas petition for a similarly situated petitioner. There, ICE claimed that changed circumstances made the petitioner’s removal likely but failed to provide any support for that determination, relying entirely on its intention to effectuate removal. The court found that the government could not “make the showing that circumstances have changed such that there is a significantly likelihood that [the petitioner] will be removed . . . in the reasonably foreseeable future.” Memorandum of Decision and Order at 11, *Nguyen v. Hyde et al.*, Case No. 1:25-cv-11470 (D. Mass. June 20, 2025) (ECF No. 25).

33. The District Court for the District of Massachusetts granted another habeas petition last month on the basis that ICE’s notice to the petitioner that changed circumstances rendered his removal significantly likely was “conclusory” and procedurally deficient. Order at 5, *Perez-Escobar v. Moniz, et al.*, Case No. 1:25-cv-11781 (D. Mass. July 24, 2025) (ECF No. 23). While the petitioner in this case was released from custody originally pursuant to 8 C.F.R. § 241.4, his case illustrates Defendants-Respondents’ policy or practice of re-detaining non-citizens without having actually established that changed circumstances justify the re-detention.

34. In June, the District Court for the Southern District of New York granted a habeas petition after ICE re-detained the previously released petitioner without “articulat[ing] any change in circumstances . . . that now [made] him a flight risk.” Memorandum Decision and Order at 6, *Valdez v. Joyce, et al.*, Case No. 1:25-cv-04627 (S.D.N.Y. June 18, 2025) (ECF No. 15). As in *Perez-Escobar*, while the petitioner here was previously released pursuant to a different regulation, his case illustrates Defendants-Respondents’ policy or practice of disregarding the re-detention regulatory procedures.

35. Petitioner-Plaintiff states he is aware of as many as 20 non-citizens detained in the same facility who were recently re-detained after previously being released on OSUP, some decades ago. While only Defendants-Respondents are aware of the details of each of these individual’s cases, upon information and belief, these detainees were, like Mr. Surovtsev, re-detained without a meaningful determination of changed circumstances that render their removal significantly likely in the reasonably foreseeable future.

36. Upon information and belief, the rising number of OSUP revocations and re-detentions without a determination of changed circumstances is not the result of isolated decisions by individual DHS officials, but of a policy or practice designed to maximize the number of OSUP revocations and re-detentions, regardless of the individualized process prescribed by 8 C.F.R. § 241.13(l).

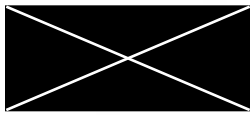
37. The exact number of individuals to whom DHS’ policy or practice has been applied is known only to Respondents-Defendants and, given that not all such

individuals will have access to counsel, likely far exceeds the number that can be identified through public court filings alone.

III. Mr. Surovtsev's Case

A. Background

38. Mr. Surovtsev was born in Zhdanov, Donetsk Oblast, USSR, on 

 In December 1988, when Mr. Surovtsev was four, he fled the USSR with his mother and siblings. Ten years earlier, Mr. Surovtsev's mother had applied to enter the United States as a refugee due to her deeply held religious beliefs. The application was granted, and she travelled to the U.S. with her three children. The family was obligated to forfeit their citizenship in the USSR at the time they departed that country.

39. Mr. Surovtsev and his family entered the U.S. lawfully, living first in San Francisco, California, where they slept in a church for six months before settling in Sacramento, California.

40. Mr. Surovtsev became a lawful permanent resident on or about January 2, 1992, when he was eight years old. He had a difficult childhood growing up in his adopted home country. His mother cleaned homes during the day and law offices at night. Beginning at age 7 or 8, Mr. Surovtsev would help his mother with her cleaning work. As a child, Mr. Surovtsev began stealing small toys to compensate for his perceptions about the family's poverty.

41. In 2002, when Mr. Surovtsev was 18 years old, he committed a home burglary and was later convicted. In 2003, when he was 19 years old, he assisted his

friends in committing armed carjacking of a motorcycle. He was sentenced to 13 years but was released early (after 11.5 years) on good behavior in 2014. While incarcerated, he participated in Fire Camp for about four years, a program that he valued for helping him contribute to society.

42. Upon completing his sentence, he was transferred to ICE custody. He was placed into removal proceedings, was not represented by counsel, and was ordered removed on November 4, 2014. He believes he was instructed by an immigration judge that it was futile to put forward any claim for relief.

43. Mr. Surovtsev was in ICE custody for six months. At the end of this time, Respondents-Defendants prepared a number of Post Order Custody Review Worksheets ("Worksheet"), one of which (dated May 11, 2015) is available at Exh. A, 11-20. This Worksheet confirms that the government was unable to remove Mr. Surovtsev to any country during his six-month detention in 2014-2015. Mr. Surovtsev completed a travel document application to Ukraine and Russia in December 2014. *Id.* at 15. The Worksheet explains the timeline:

- "On December 8, 2014, a travel document application was sent to the Ukraine consulate in San Francisco, California."
- "On December 8, 2014, an I-241—Request for Assistance of Alien, was sent to the Russian Consulate in San Francisco, California."
- "On December 29, 2014, an inquiry on the status of the travel document requested was submitted to both the Consulate of Ukraine and the Consulate of Russia."
- "On January 21, 2015, an inquiry on the status of the travel document request was submitted to both the Consulate of Ukraine and the Consulate of Russia."

- “On January 29, 2015, an e-mail was received from the Russian Consulate stating that the Consulate has no records of SUROVTSEV.”
- “On February 3, 2015, a telephone call was received from [Redacted], Ukrainian Vice-Consul, stating that SUROVTSEV is from a region in Ukraine that is currently at war and that receiving any information from them will take a long time. She stated that she has not received any information from this region after several inquiries.”

Id.

44. The Worksheet continues by noting that the Headquarters Travel Document Unit (“HQTDU”) was also unable to procure any document. For instance, on March 30, 2015, the Ukrainian government told Respondents-Defendants, “Ukraine is very adamant about not sending people into Donetsk region” where Mariupol is located, and that on April 27, 2015, the “Embassy Liaison for Eastern Europe” informed Respondents-Defendants that “being the he [sic] is from the Donetsk region, there is not a probability that a travel not be issued [sic].”¹ *Id.* at 18.

45. On May 11, 2015, an ICE Officer concluded “No SLRFF, Zadvydas release,” referring to the *Zadvydas* acronym requiring release where there is no “Significant Likelihood of Removal in the Reasonably Foreseeable Future.” *Id.* at 20. The Worksheet outlines the officer’s “review and recommendations” as follows: “ERO has been advised by both the Ukrainian Consulate that the Ukrainian Region from where SUROVTSEV is from is currently at war and that any information from this region is not likely to occur. Likewise, the Consulate of Russia has stated that the

¹ The author of this report plainly intended this sentence to read, “being that he is from the Donetsk region there is not a probability that a travel document will be issued.”

Consulate does not have any information on SUROVTSEV” whose “removal from the United States is not foreseeable in the near future.” *Id.* at 18.

46. Correspondence relating to the search for travel documents shows officers believe they are “almost positive that we won’t get a TD [“travel document”] for him. We have no good docs on him or his family.” *Id.* at 24.

47. Mr. Surovtsev was released from ICE custody on May 14, 2015, on OSUP. Upon release from ICE custody, Respondents-Defendants provided Mr. Surovtsev with an Employment Authorization Document (“EAD”), which is granted to individuals with final removal orders “only if the alien cannot be removed due to the refusal of all countries designated by the alien or under section 241 of the [Immigration and Nationality] Act [(“INA”)] to receive the alien, or because the removal of the alien is otherwise impracticable or contrary to the public interest.” 8 C.F.R. § 274a.12(c)(18).

48. For six months upon release, Mr. Surovtsev wore an ankle monitor. At first, he was required to check-in with ICE every other week. The visits then became quarterly and then annual. Often when he met with officers, he was told that ICE had made a new attempt to contact the embassy of either Ukraine, Russia or both, but that either or both governments had refused to grant him travel documents. Ultimately, he was allowed to check-in via a kiosk at an ICE office, without an individual interview. He has not violated the terms of OSUP at any point since his initial release.

B. The Revocation of Mr. Surovtsev's Order of Supervision

49. On August 1, 2025, Mr. Surovtsev attended his ICE check-in accompanied by immigration counsel in Dallas, Texas. Before the check-in, Mr. Surovtsev was given no advanced notice that he would be detained. During the check-in, an officer refused to accept Form I-246, Stay of Removal from Mr. Surovtsev's immigration counsel, telling Mr. Surovtsev and his attorney, "If you hand that to me, I'm going to deny it" and "he's going to stay with us." A request that ICE allow Mr. Surovtsev to wear an ankle monitor was declined. Mr. Surovtsev was asked no questions about the conditions in Ukraine or Russia, was not given an opportunity to remind the officer that the two countries are at war and was not given a chance to explain whether conditions had worsened since he was released on OSUP before the war began.

C. Conditions in Eastern Ukraine Have Worsened Since 2014-15

50. Mariupol has been devastated by fighting that raged in the city and its environs in 2022, when the Russian military laid siege to the city. According to a 2024 report from Human Rights Watch, "thousands of civilians died during Russia's siege and in the months that followed."² The battle "has been among the most destructive of the war in Ukraine thus far. It left behind an unrecognizable wasteland of destroyed apartment buildings, charred streets, shells of cars and buses, and looted shops, with unknown numbers buried beneath the rubble. For months there was no functioning electricity, water, gas or basic services such as hospitals and schools. By

² Human Rights Watch, *Our City Was Gone: Russia's Devastation of Mariupol, Ukraine*, at 2 (2024), https://www.hrw.org/sites/default/files/media_2024/02/ukraine0224web_0.pdf.

mid-2022, only an estimated fifth of the original population remain living under Russian occupation.”³

51. A 2023 U.S. State Department Country Conditions Report for “Russia-occupied Areas” of Ukraine warns that “significant human rights issues” exist “in the occupied areas,” including: “[A]rbitrary or unlawful killings; enforced disappearances; torture and cruel, inhuman, or degrading treatment or punishment by Russia’s forces or Russia-led proxies;” “harsh and life-threatening prison conditions and transfer of prisoners to Russia; unjust detention;” “serious abuses in a conflict, including attacks on civilian infrastructure and cities, resulting in widespread civilian death, enforced disappearances or abductions, forcible transfers of civilian populations, torture, physical abuses;” “severe restrictions of religious freedom; restrictions on freedom of movement; inability of citizens to freely change their government peacefully through free and fair elections;” crimes involving violence or threats of violence targeting members of national/racial/ethnic minority groups or Indigenous persons, including Crimean Tatars and ethnic Ukrainians”⁴

³ *Id.* at 4.

⁴ U.S. Dep’t of State, Bureau of Democracy, H.R. and Labor, *Ukraine: Ukraine—Russia-occupied Areas* (2023), <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/ukraine/russia-occupied-areas/>.

CAUSES OF ACTION

Count I: Fifth Amendment Substantive Due Process *28 U.S.C. § 2241; U.S. Const. amend. V*

52. Petitioner realleges and incorporates by reference each and every allegation contained above.

53. The Due Process Clause of the Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V.

54. The “Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 690. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.*

55. Detention for non-criminal purposes is only allowed “in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotations and citations omitted). With respect to immigration detention, the Supreme Court has recognized two special justifications: preventing flight risk and preventing danger to the community. *See id.* “[B]y definition, the first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility at best.” *Id.*

56. The Supreme Court has held that the INA “limits a[non-citizen’s] post-removal period detention to a period reasonably necessary to bring about that [non-citizen’s] removal from the United States. It does not permit indefinite detention.” *Id.*

at 689; *see id.* at 699 (“Whether a set of circumstances amounts to detention within, or beyond, a period reasonably necessary to secure removal is determinative of whether the detention is, or is not, pursuant to statutory authority.”).

57. “[I]f removal is not reasonably foreseeable, the [habeas] court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699. This rule applies to both once-lawful permanent residents and inadmissible non-citizens. *See Clark v. Martinez*, 543 U.S. 371, 378 (2005).

58. Respondents-Defendants have proven unsuccessful at removing Mr. Surovtsev for over a decade. Their stated reasons for failing to establish a significant likelihood of removal in the reasonably foreseeable future—the war in Eastern Ukraine—have not dissipated, they have metastasized. The skirmishes that led Ukrainian officials to inform Respondents-Defendants in 2014-15 that they could not access the buildings housing information about Mr. Surovtsev’s citizenship and family history developed into full-scale combat between militaries. Today the city has been largely ruined.

59. Even if by some miracle any existing documents necessary to establish any purported citizenship were not destroyed in the 2022 siege, the likelihood of the Ukrainian government acquiring physical custody of the buildings housing such documents in the reasonably foreseeable future is not just insubstantial, it is impossible. Nor is it clear how Respondents-Defendants could plausibly claim the authority to remove Mr. Surovtsev to Russia, a country to which Mr. Surovtsev has never been. If Respondents-Defendants believed there was no significant likelihood

of removal in the reasonably foreseeable future a decade ago, there is not anything close to a plausible likelihood today.

60. Because Respondents-Defendants have custody over Mr. Surovtsev in violation of his Fifth Amendment rights, the Court should issue a writ of habeas corpus directing Respondents-Defendants to release him to safeguard his constitutional liberties.

Count II: Violation of the INA and Implementing Regulations
28 U.S.C. § 2241; 5 U.S.C. § 706(2); 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4(l)

61. Petitioner realleges and incorporates by reference each and every allegation contained above.

62. The APA permits judicial review of agency actions. 5 U.S.C. § 702. It further empowers courts to “hold unlawful and set aside agency action[s]” that are “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; contrary to constitutional right, power, privilege, or immunity; in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] without observance of procedure required by law[.]” 5 U.S.C. § 706(2)(A)-(C).

63. The APA also empowers a reviewing court to “hold unlawful and set aside agency actions, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 702(2)(D).

64. Administrative agencies must abide by their own regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954).

65. Respondents-Defendants revoked Mr. Surovtsev’s order of supervision without determining that changed circumstances render his removal significantly

likely in the reasonably foreseeable future and failed to provide him with notification for the reasons for the revocation or an opportunity to respond, as required by 8 C.F.R. § 241.4(l).

66. Having failed to provide Mr. Surovtsev with the process mandated by its own regulations, the government revoked his supervision order in violation of his due process rights, rendering the revocation invalid.

67. Furthermore, as a stateless person, Mr. Surovtsev is not a citizen of any country. For over a decade, the government has been unable to remove Mr. Surovtsev.

68. These circumstances have not changed, the documents required by the Ukrainian government to grant travel documents are in the custody of Russia (if not destroyed), and Mr. Surovtsev's removal is therefore not possible.

69. Because Mr. Surovtsev's removal is not significantly likely in the reasonably foreseeable future, the revocation of his supervision order and re-detention violate the government's own regulations.

Count III: Administrative Procedure Act
5 U.S.C. § 706(2); 8 U.S.C. § 1231(a)(3); 8 C.F.R. § 241.4(l)

70. Petitioner-Plaintiff realleges and incorporates by reference each and every allegation contained above.

71. Defendants-Respondents have a policy or practice of revoking orders of supervision for and re-detaining non-citizens without individualized determinations that changed circumstances render them significantly likely to be removed from the United States in the reasonably foreseeable future or providing notice of such

changed circumstances and an opportunity to be heard in violation of the INA and its implementing regulations.

72. Defendants-Respondents' policy or practice is arbitrary and capricious. It deprives individuals with impracticable final removal orders of their liberty without any individualized determination that changed circumstances render their re-detention authorized by the INA. It further denies them notification of the reasons for their re-detention and an opportunity to be heard on the matter, as required by the INA and its implementing regulations

73. Defendants-Respondents' policy or practice is also not in accordance with law, short of statutory and constitutional rights, and violates the INA and its implementing regulations, all of which mandate that Defendants-Respondents only re-detain non-citizens after making an individualized determination that changed circumstances render their removal from the United States significantly likely in the reasonably foreseeable future. The policy or practice also is not in accordance with the requirement that, once such a determination is made, the non-citizen be given notice of the reasons for their re-detention and an opportunity to be heard.

74. Accordingly, the Court should hold unlawful and set aside Defendants-Respondents' policy or practice of revoking the orders of supervision of and re-detaining non-citizens with final removal orders without individualized determinations that changed circumstances render their removal from the United States significantly likely in the reasonably foreseeable future.

Count IV: Declaratory Judgement
28 U.S.C. § 2201

75. Petitioner realleges and incorporates by reference each and every allegation contained above.

76. Under 28 U.S.C. § 2201(a), a court “may declare the rights and other legal relations of any interest party seeking such declaration.”

77. Petitioner seeks a declaration that the INA, its implementing regulations, and the Due Process Clause of the Fifth Amendment require Defendants to make individualized determinations that changed circumstances render him and similarly situated persons significantly likely to be removed from the United States in the reasonably foreseeable future prior to revoking their supervision orders and re-detaining them and to notify them of the reasons for their re-detention and provide an opportunity to be heard on the matter.

78. Defendants-Respondents have a policy or practice of ignoring these statutory, regulatory, and constitutional mandates.

79. Accordingly, Petitioner-Plaintiff requests that the Court declare his rights and legal relations under the INA, its implementing regulations, and the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- (1) Assume jurisdiction over this action;
- (2) Issue a Writ of Habeas Corpus requiring Respondents-Defendants to release Petitioner-Plaintiff forthwith;

- (3) Declare that Defendants-Respondents have violated Petitioner-Plaintiff's statutory, regulatory, and constitutional rights by revoking his supervision order and re-detaining him without an individualized determination of changed circumstances that render his removal from the United States significantly likely in the reasonably foreseeable future or providing notice of the reasons for re-detention or an opportunity to be heard;
- (4) Vacate Defendants-Respondents' policy of revoking supervision orders of and re-detaining non-citizens without individualized determinations of changed circumstances that render their removal from the United States significantly likely in the reasonably foreseeable future;
- (5) Award Petitioner-Plaintiff costs and reasonable attorneys' fees in this action pursuant to the Equal Access to Justice Act, as amended, 28 U.S.C. § 2412, and on any other basis justified by law; and
- (6) Grant any other and further relief that this Court may deem fit and proper.

Dated: August 20, 2025

/s/ Felix Galvez
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Respectfully Submitted,

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**Pro Hac Vice forthcoming*

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

I am submitting this verification on behalf of Petitioner-Plaintiff because I am one of Petitioner-Plaintiff's attorneys. I have discussed with the Petitioner-Plaintiff the events described in this Petition. Based on those discussions, I hereby verify that the factual statements in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 20th day of August 2025.

/s/ Eric Lee

Eric Lee

Attorney for Petitioner-Plaintiff Roman
Antatolevich Surovtsev