UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

Alina CRISAN Petitioner v. Samuel OLSON, Kristi NOEM, *et al.* Respondents.	Case No. **Agency No.** [redacted] November 10, 2025 **PETITION FOR WRIT OF HABEAS CORPUS AND REQUEST FOR RELEASE PENDING ADJUDICATION** **ORAL ARGUMENT REQUESTED**

INTRODUCTION

1. Petitioner, Alina Crisan, is neither a flight risk nor a danger to the community. She has lived in this country since 2007, and has never been arrested or charged with a crime. Her entire family live in this country, including her U.S. citizen parents, her three U.S. citizen children, her husband, and her siblings. She volunteers her time extensively.

2. Nevertheless, she has been taken into custody and is currently held by the Respondents in detention in the Chicago area, likely at the ICE office at 101 W. Ida B. Wells Drive or the Broadview Processing Center in Broadview, Illinois. Because Respondents violated the Immigration and Nationality Act ("INA") and associated regulations when taking her into custody, her detention is unlawful and unconstitutional. Petitioner therefore brings this petition for a writ of habeas corpus, requesting release.

3. Based on prior experience and the nature of the Broadview Processing Center, undersigned counsel believes Respondents will remove her from the jurisdiction shortly—perhaps within hours; accordingly, a separate TRO requesting appropriate temporary relief has been filed with the court.

PARTIES

4. Petitioner Alina Crisan, is a Romanian citizen who has lived in the United States since 2007. Although she was originally ordered deported in 2011, Respondents DHS and ICE have allowed her to remain here on an Order of Supervision ("OSUP"). She attended a routine check-in on November 10, 2025, at which time, Respondents allowed her to file an I-246 stay of deportation and allowed to return home on an ankle monitor. On December 16, 2025, Respondents spontaneously detained her without providing any decision on the I-246 stay of deportation, without providing notice or an opportunity to be heard, and on the decision of an individual without authority to terminate an OSUP, without legally-required factual findings for terminating an OSUP, and in violation of agency rules and regulations governing the termination of an OSUP.

5. Respondent John Doe is the Immigration and Customs Enforcement ("ICE") Officer with overall command of the Broadview Processing Center. His or her name is currently unknown because ICE does not publish this information. Once the AUSA provides the actual name of the overall commander of the Broadview Processing Center, Petitioner will amend the petition as appropriate and necessary. As the

overall commander of the Broadview Processing Center, Respondent Doe is Petitioner's physical custodian, and is sued in his/her official capacity only.

6. Respondent Samuel Olson is sued in his official capacity as the Acting Chicago Field Office Director for Immigration and Customs Enforcement (ICE), an office of DHS. Respondent Olson is charged by law with the implementation and enforcement of the immigration laws, and has authority to order Petitioner's release. He is an immediate physical custodian of Petitioner.

7. Respondent Shawn Byers is the Deputy Field Office Director for ICE Chicago. He is charged by law with the implementation and enforcement of the immigration laws, and has authority to order Petitioner's release. Respondent Byers is sued in his official capacity only.

8. Respondent Sandra Salazar is the Field Office Director for ICE Enforcement and Removal Operations ("ICE-ERO") in the Chicago area. She is charged by law with the implementation and enforcement of the immigration laws, and has authority to order Petitioner's release. Respondent Salazar is sued in her official capacity only.

9. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. She is the executive officer who has been given authority to manage and control Immigration and Customs Enforcement. As such, she is Petitioner's ultimate legal custodian, and has authority to order Petitioner's release.

10. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of Immigration and Customs Enforcement ("ICE"). He has legal authority to order Petitioner's release from detention.

JURISDICTION AND VENUE

Sources of Jurisdiction and Venue:

11. This court has jurisdiction pursuant to 28 U.S.C. §2241 (habeas corpus jurisdiction); 28 U.S.C. §1331 (federal question jurisdiction); and 28 U.S.C. §1361 (jurisdiction over actions in the nature of mandamus). The aid of the court is further invoked under 28 U.S.C. § 2201 and 2202, authorizing a declaratory judgment, as well as the All Writs Act, 28 U.S.C. §1651. The underlying legal questions arise under the INA, the APA, and the due process clause of the United States Constitution.

12. Venue lies in the Eastern Division of the Northern District of Illinois under 28 U.S.C. §1391(e)(1) because Respondents Doe and Olson both reside in this district and because Petitioner is held in detention in this district. *See* 28 U.S.C. §1361(e) (venue lies in any district where a defendant resides); *Reuben H. Donnelly Corp.v. Federal Trade Comm.*, 580 F.2d 264, 266 n.3 (7th Cir. 1978) ("The residence of a federal officer has always been determined by the place where he performs his official duties."). Venue in the Eastern Division of the Northern District of Illinois is additionally proper under 28 U.S.C. §1391(e) because a substantial part of the acts or omissions giving rise to Petitioner's claims occurred here.

Congress has not stripped this court of habeas jurisdiction over Petitioner's challenges to detention.

13. Although Congress has stripped district courts of habeas jurisdiction in various immigration provisions, those provisions are inapplicable here. Although Congress has the power to deprive district courts of habeas jurisdiction, that power is strictly construed. *See, e.g., Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483-84 (1999) (finding it "implausible" that listing three discrete actions is Congress' way of referring to all claims arising from removal proceedings); *see also Jennings v. Rodriguez*, 583 U.S. 281, 293-94 (2018) (observing that, historically, when confronted with "capacious" phrases, the Court has rejected "uncritical literalism"). Because the vast majority of jurisdiction-stripping provisions do not mention challenges to detention decisions, they do not deprive this Court of habeas jurisdiction over Petitioner's challenges to his detention. *See, e.g.*, 8 U.S.C. § 1252(a)(2)(A) (depriving district courts of habeas jurisdiction to review expedited orders of removal); 8 U.S.C. § 1252(a)(2)(B) (depriving district courts of habeas jurisdiction over certain forms of deportation relief).

14. In the case at bar, 28 U.S.C. §1252(g) is particularly noteworthy. That provision strips district courts of habeas jurisdiction over challenges to a "decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders[.]" 8 U.S.C. §1252(g). Given a broad reading, this provision could conceivably deprive this court of habeas jurisdiction in this case. *See id.* However, the Supreme Court has already rejected this reading. *See AAADC*, 525 U.S. at 483-84. Instead, the provision is interpreted narrowly, to refer to only those three decisions.

Id. In doing so, the provision leaves intact this court's jurisdiction to review claims arising from Respondents' decision to rescind Petitioner's OSUP. *See id.*

15. Similarly, 8 U.S.C. §1252(b)(9) does not apply because again, the Supreme Court has rejected an "expansive interpretation" of the provision. *Jennings*, 583 U.S. at 840. That provision acts as a "zipper clause" that requires all issues of law and fact relating to a removal order be judicially reviewed when reviewing the removal order itself. 8 U.S.C. §1252(b)(9). By its terms, it does not limit judicial review of detention separate from the removal order. *See id.* (no mention of detention). Moreover, Petitioner's challenge is to the revocation of her OSUP, and an OSUP cannot issue until after judicial review of the removal order has been completed. *See* 8 U.S.C. §1231(a)(3) (requiring supervision after completion of the 90-day removal period); 8 U.S.C. §1231(a)(1)(B) (requiring that the removal period only begin after the removal order has been judicially reviewed). So interpreting §1252(b)(9) to apply to Petitioner's challenges to the revocation of her OSUP would essentially require that she bring unripe challenges, contrary to both precedent and basic common sense.

16. The only other provision that conceivably applies to Petitioner's challenges is 8 U.S.C. § 1226(e), purporting to strip district courts of jurisdiction over "discretionary" detention decisions. However, that provision does not apply to challenges brought within a petition for habeas corpus. As the Supreme Court has explained, because immigration law has historically used "judicial review" and "habeas corpus" to mean different things, a jurisdiction-stripping provision in the

INA must explicitly reference "habeas corpus" or "28 U.S.C. § 2241" to deprive district courts of habeas jurisdiction *at all*. *INS v. St. Cyr*, 533 U.S. 289, 311-13 (2001).

17. Furthermore, even if § 1226(e) *did* apply to petitions for habeas corpus in general, it would not apply to Petitioner's specific claims. § 1226(e) only purports to deprive district courts of jurisdiction to review the agency's "discretionary judgment." Administrative agencies do not have discretion to violate the constitution, binding statutes, or their own regulations; accordingly, decisions that so are not "discretionary judgments" by definition. They are unlawful judgments. It follows that, as a matter of statutory construction, § 1226(e) cannot be said to apply to claims challenging unconstitutional or unlawful detention.

REQUIREMENTS OF 28 U.S.C. §2241 AND §2243

18. "It must never be forgotten that the writ of habeas corpus is the precious safeguard of personal liberty and there is no higher duty than to maintain it unimpaired." *Bowen v. Johnson*, 306 U.S. 19, 26 (1939). Speed is one of its core characteristics. *Fay v. Noia*, 372 U.S. 391, 400 (1963) (observing that the writ of habeas corpus is important because it provides "a swift and imperative remedy in all cases of illegal restraint or confinement").

19. Accordingly, "the application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application. The ordinary rules of civil procedure are not intended to apply thereto, at least in the initial, emergency attention given as

prescribed by statute to the application for the writ." *Ruby v. United States*, 341 F.2d 585, 587 (9th Cir. 1965).

20. 28 U.S.C. §2243 therefore imposes a *highly* abbreviated timeline for adjudicating petitions for a writ of habeas corpus. In particular, the court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. Additionally, "[w]hen the writ or order is returned a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed." *Id.* Unless the application, return, and traverse present only issues of law, the detainee's petitioner is required to produce the detainee at the hearing, so that he or she "may, under oath, deny any of the facts set forth in the return or allege any other material facts." *Id.* The court is then required to "hear and determine the facts, and dispose of the matter as law and justice require." *Id.*

LEGAL BACKGROUND

Constitutional Considerations:

22. All noncitizens are protected by the Constitution's Due Process Clause, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). And "[f]reedom from

imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690 (2001).

23. The due process clause embraces two types of protection: substantive and procedural. Under substantive due process, restraints on liberty—such as a non-citizen's OSUP—is only permissible if it serves a "legitimate nonpunitive objective[,]" which in the removal context is restricted to preventing danger to the community and preventing flight. *See id.* at 690-92 (discussing constitutional limitations on civil detention); *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). In contrast, "procedural due process imposes constraints on governmental decisions which deprive individuals of liberty or property interests within the meaning of the Due Process Clause[,]" and in particular protects the "fundamental requirement" of an "opportunity to be heard at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 332-33 (1976).

Statutory and Regulatory Considerations: Revoking an OSUP:

24. When a noncitizen has been ordered removed, the government is required to follow a straightforward statutory procedure. The agency is required to remove the noncitizen within the statutorily-defined 90-day removal period. 8 U.S.C. §1231(a)(1). During that time, the noncitizen may not be released. 8 U.S.C. §1231(a)(2). If the agency cannot effectuate removal in that period, the noncitizen "shall be subject to supervision." 8 U.S.C. §1231(a)(3). Thus, the government is statutorily required to either remove someone to their home country or release them on supervision.

25. There is one statutory exception to this rule. A noncitizen may be detained outside of the removal period only if found to be "a risk to the community or unlikely to comply with the order of removal" or if the order of removal was on specified grounds. 8 U.S.C. §1231(a)(6). And even a noncitizen who is a danger to the community or who may not comply with a removal order can no longer be detained if "removal is not reasonably foreseeable[.]" *Zadvydas*, 533 U.S. at 699-700. Because detention following rescission of an OSUP is definitionally a form of detention outside of the removal period, it follows that such detention is statutorily authorized only if the noncitizen is found to be a risk to the community or unlikely to comply with an order of removal. *See* 8 U.S.C. §1231(a)(6).

26. Regulations purport to give additional reasons, beyond those listed at § 1231(a)(6), that an order of supervision may be revoked and a non-citizen may be re-detained past the removal period. *E.g.*, 8 C.F.R. §241.4(l)(2). However, "[r]egulations cannot circumvent the plain text of the statute" so those regulations cannot be construed to authorize detention of someone who is not a danger to the community or a flight risk. *You v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018). "Detention to facilitate removal — even imminent removal — is not permitted beyond the removal period for an alien like Petitioner except upon such findings." *Id.*

27. Additionally, regulations permit only certain officials to revoke an order of supervision: the ICE Executive Associate Director, a field office director, or an official "delegated the function or authority . . . for a particular geographic district, region, or area." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R.

§§ 1.2, 241.4(l)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intend to revoke an order of supervision, they must first make findings that "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate [Director]." 8 C.F.R. § 241.4(l)(2). And for a delegated official to have authority to revoke an order of supervision, the delegation order must explicitly say so. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (finding a delegation order that "refers only to a limited set of powers under part 241 that do not include the power to revoke release" insufficient to grant authority to revoke an order of supervision).

28. Regulations additionally state that "[u]pon revocation, the [noncitizen] will be notified of the reasons for revocation of his or her release or parole" and given an opportunity to respond. 8 C.F.R. §241.1(l)(1).

Statutory Considerations: Final Agency Action Under the APA:

29. The Administrative Procedure Act authorizes judicial review of final agency action. 5 U.S.C. §704. Final agency actions are those (1) that "mark the consummation of the agency's decisionmaking process" and (2) "by which rights or obligations have been determined, or from which legal consequences will flow." *Bennett v. Spear*, 520 U.S. 154, 178 (1997) (citation modified). Revoking an OSUP is a final agency action subject to district court review because it marks the consummation of the agency's decision making process regarding a noncitizen's custody and because it is an action by which rights and obligations have been

determined and from which legal consequences will follow. *See id.* Indeed, it may fairly be described as an action from which the *ultimate* legal consequences will flow, in that Petitioner was free from physical confinement prior to her OSUP being rescinded, and now languishes in detention—all in violation of the Constitution, the INA, and binding regulations.

Decisional Considerations: The *Accardi* Doctrine:

30. Administrative agencies are bound to follow the law. *FCC v. NextWave Personal Communications, Inc.*, 537 U.S. 293, 300 (2003) ("The Administrative Procedure Act requires federal courts to set aside federal agency action that is 'not in accordance with law,' 5 U. S. C. § 706(2)(A)—which means, of course, *any* law, and not merely those laws that the agency itself is charged with administering.").

31. That includes the agency's own regulations. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required."). And it also includes agency rules lacking "the status of formal regulations." *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. *See Morton v. Ruiz*, 415 U.S. 235 (affirming reversal of agency denial of public assistance made in violation of internal agency manual); *U.S. v. Heffner*, 420

F.2d 809, 812 (4th Cir. 1969) (under *Accardi*, reversing decision to admit evidence obtained by IRS agents for violating instructions on investigating tax fraud).

32. Accordingly, where a release notification issued alongside an order of supervision instructs that a non-citizen with a final order of removal will be given an opportunity to prepare for an "orderly departure," ICE's failure to follow that instruction is an *Accardi* violation. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169; *Ragbir v. Sessions*, 2018 WL 623557 (S.D.N.Y. Jan. 29, 2018), *vacated and remanded on other grounds sub nom. Ragbir v. Barr*, 2019 WL 6826008 (2d Cir. July 30, 2019); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017) (ordering release of petitioners to give an opportunity to prepare for orderly departure).

33. Release pursuant to an OSUP grants a noncitizen significant liberty and property interests in the OSUP's continuation. Those interests are subject to significant statutory and regulatory protections as to whether, why, and how the OSUP may be rescinded. The fact that an OSUP can only be rescinded by a high-level official underscores both the gravity of the interests at stake and the need for both an individualized assessment and official accountability.

STATEMENT OF FACTS

34. Ms. Crisan is a 45 year-old Romanian citizen. She originally entered the United States with her parents in 2000, and her parents obtained relief from removal in 2001. Although her father applied for her to be given derivative status as his

daughter, that application was denied because she had aged out while USCIS considered and adjudicated the application. She has never been convicted of a crime.

35. Ms. Crisan then returned to Romania in 2005, and stayed there until 2007, when she attempted to re-enter the United States unlawfully. CBP caught her, and she was subsequently released on bond. After being placed in removal proceedings, she applied for relief from removal but was nevertheless ordered removed to Romania on January 14, 2011. Since that time, she has filed several motions with both the Immigration Court and the Board of Immigration Appeals ("BIA") in order to obtain lawful status, but to date, none have been successful. Most recently, the BIA in 2022 denied her an opportunity to reopen her case to allow her to apply for relief she was not eligible for at her original removal proceeding.

36. On January 29, 2019, ICE granted Ms. Crisan an OSUP stating "you are permitted to be at large under the following conditions" which included that she appear upon request "for identification and for deportation or removal[.]" Pursuant to that order, she has appeared at regularly scheduled check-in dates in 2019, 2020, 2023, 2024, and 2025.

37. Ms. Crisan has consistently and uniformly complied with her OSUP. Most recently, she was ordered to appear at an ICE check-in on November 10, 2025; she complied with that order and was allowed to file a Motion to Stay Removal. Neither Ms. Crisan nor her attorneys have been alerted to any decision on that motion, and so far as anybody is aware, it remains pending as of this filing.

38. During the COVID-19 pandemic, ICE Chicago instituted a policy that allowed noncitizens on an OSUP to check in electronically by sending an email. ICE has not formally rescinded the policy and, until this year, Ms. Crisan continued to check in with ICE Chicago by email each year as instructed and allowed.

39. ICE recently informed Ms. Crisan and her attorney that she should check in in person in order to extend the supervision. Accordingly, on November 10, 2025, Ms. Crisan appeared at a check-in with her attorney, Mr. Scott D. Pollock, at a check-in pursuant to her OSUP at the ICE office at 101 W. Ida B. Wells Drive, 4th Floor, in Chicago. At that time, Respondents allowed Ms. Crisan to file a Motion to Stay Removal and released her on an ankle monitor.

40. On December 16, 2025, Respondents detained Ms. Crisan at her home and took her into custody. She is currently held at the Broadview Processing Center in Broadview, Illinois. Ms. Crisan did not receive a decision on her I-246 Motion to Stay Removal.

41. Ms. Crisan also did not receive any notice that her OSUP was being rescinded, an explanation of why it was being rescinded, an opportunity to explain why it should not be rescinded. Indeed, as to the rescission of her OSUP Ms. Crisan did not receive any process *at all.*

42. Since her last check-in, Ms. Crisan has not been arrested or otherwise indicated she is any greater danger to the community than at her prior check-ins.

43. Since her last check-in, Ms. Crisan has not otherwise given Respondents any reason to believe she is less likely to comply with her removal order than she was at her prior check-ins.

44. Since her last check-in, Ms. Crisan has not otherwise given Respondents any new reason to revoke her OSUP or take her into custody.

45. Nevertheless, at her check-in date on November 10, 2025, Respondents suddenly revoked Ms. Crisan's OSUP and arrested her without warning, without notice, and without providing her a meaningful opportunity to be heard.

46. Upon information and belief, the official responsible for revoking Ms. Crisan's OSUP did not first refer the case to the ICE Executive Associate Director, as required by governing regulations.

47. Upon information and belief, the official responsible for revoking Ms. Crisan's OSUP did not make findings that circumstances did not reasonably permit referral to the Executive Associate Director, and had not been delegated authority to revoke an order of supervision.

48. Upon information and belief, neither the official responsible for revoking Ms. Crisan's OSUP nor the ICE Executive Associate Director made findings that revocation was in the public interest, or that Ms. Crisan is a danger to the community, or that she is unlikely to comply with her order of removal.

49. Upon information and belief, Respondents have now instituted a blanket policy of revoking all OSUPs and detaining everyone who appears at a check-in, effectively punishing noncitizens for complying with the law.

50. Upon information and belief, Respondents have additionally instituted a quota system, where by ICE is encouraged or required to arrest a minimum number of noncitizens daily.

51. Ms. Crisan is currently in custody in Chicago, either at 101 W. Ida B. Wells Drive or at the Broadview Processing Center.

52. The conditions of confinement at the Broadview Processing Center are inhumane and unconstitutional. *See generally Complaint, Gonzalez v. Noem*, No. 25-cv-13323 (N.D. Ill, Complaint filed October 30, 2025); *Order Granting Temporary Restraining Order, Gonzalez v. Noem*, No. 25-cv-13323 (N.D. Ill, Complaint filed October 30, 2025)[1].

53. Although Respondents were recently ordered to ameliorate the conditions of confinement at Broadview, as of filing there has been no indication they have done so—or even tried.

54. To the extent Respondents may have begun to ameliorate those conditions, Respondent submits that not enough time has passed for them to have done so fully, and that the conditions remain unconstitutional.

IRREPARABLE INJURY AND REQUEST FOR RELEASE PENDING ADJUDICATION

55. Petitioner's unlawful detention is an irreparable injury that is extended each minute she remains in unconstitutional confinement. Moreover, her injury is

[1] Having been filed with the court, these documents are now a matter of public record and so are properly subject to judicial notice. *See In re: Lisse*, 905 f.3d 495, 496 (7th Cir. 2018) (Easterbrook, J., in chambers).

exacerbated by the conditions of confinement at the Broadview Processing Center, including limited to no access to food, water, hygiene supplies, or even beds.

56. Given the nature of her injury and the conditions of her confinement, Petitioner asks the court to release her pending adjudication of the instant habeas petition, as outlined in the TRO filed simultaneously to the instant petition.

CLAIMS

FIRST CLAIM FOR RELIEF:
VIOLATION OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION – SUBSTANTIVE DUE PROCESS

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

58. Everyone residing in the United States is protected by the Due Process Clause of the Fifth Amendment to the U.S. Constitution. Under that clause, detention is unconstitutional if it is unrelated to a legitimate nonpunitive purpose.

59. The two regulatory purposes of immigration detention are preventing danger to the community and preventing flight.

60. When ICE issued Ms. Crisan's OSUP, it determined that she is neither a danger to the community nor a flight risk. That determination was correct.

61. As no meaningful changes have occurred since then, it remains the correct determination.

62. It follows that Petitioner's current detention does not bear a reasonable relationship to any legitimate, nonpunitive purpose.

63. Because Ms. Crisan's current detention does not bear a reasonable relationship to a legitimate, nonpunitive purpose, it violates her right to substantive due process under the Fifth Amendment to the United States Constitution.

64. Additionally, the conditions of confinement at the Broadview Processing Center are such that detaining her there is tantamount to punishment without conviction, in further violation of her right to substantive due process.

SECOND CLAIM FOR RELIEF:
VIOLATION OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION – PROCEDURAL DUE PROCESS

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

66. Courts determine procedural due process claims by balancing three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

67. The first factor, the private interest at issue, favors Petitioner. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas*, 533 U.S. at 690. Because it is a core interest protected by the Fifth Amendment, it demands strong protections backed up by stringent requirements.

68. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but *certain*. Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

69. The second factor also points in Petitioner's favor because Respondents' quota policy means that even if Petitioner was given an opportunity to respond to the agency's decision to rescind her OSUP, that response would be reviewed by an agent with an interest in the outcome. As such, even if she was given an opportunity to respond, it would not be a meaningful one.

70. The third factor, the government's interest, also favors Petitioner. For starters, the government has no legitimate interest in ignoring the law. *See Niz-Chavez v. Garland*, 593 U.S. 155, 169 (2021) ("As this Court has long made plain, pleas of administrative inconvenience and self-serving regulations never "justify departing from the statute's clear text.") (cleaned up). Moreover, when the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited

financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

71. For these reasons, revoking Petitioner's order of supervision without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

THIRD CLAIM FOR RELIEF:
VIOLATION OF THE APA, 5 U.S.C. §706(2)(A), (B) – CONTRARY TO LAW AND CONSTITUTIONAL RIGHT

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

73. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . not in accordance with law" or "contrary to constitutional right, power, privilege, or immunity." 5 U.S.C. § 706(2)(A), (B). This "means, of course, *any* law, and not merely those laws that the agency itself is charged with administering." *NextWave Pers. Communications*, 537 U.S. at 300 (emphasis in original).

74. As described above, Respondents revoked Petitioner's OSUP in a manner contrary to the Constitution, the INA, and binding regulations enacted pursuant to notice-and-comment requirements.

75. In particular, Ms. Crisan's OSUP was not revoked by the ICE Executive Associate Director, and was not revoked by an official with properly delegated authority to do so.

76. Additionally, the official who revoked Ms. Crisan's OSUP also did not first make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director.

77. The official who revoked Ms. Crisan's OSUP also did not make findings that she is dangerous or unlikely to comply with a removal order.

78. Even assuming *arguendo* that regulations purporting to offer additional justifications for revocation of an order of supervision are not ultra vires, respondents *still* did not comply with them. Respondents could not make findings that Petitioner's conduct indicated release would no longer be appropriate or that Petitioner violated any condition of release, because she has not. Nor could Respondents make findings that the purposes of release had been served or that it was appropriate to enforce a removal order, because it had yet to make final arrangements for Petitioner's removal.

79. Respondents did not provide prior notice of their intent to revoke Petitioner's OSUP and did not give her a meaningful opportunity to respond. In doing so, Respondents violated multiple laws, including the constitution. It follows that, under the APA, the court is required to set that action aside.

FOURTH CLAIM FOR RELIEF:
VIOLATION OF THE APA, 5 U.S.C. §706(2)(A) – ARBITRARY AND CAPRICIOUS AGENCY ACTION

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

81. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A). Additionally, agency action is considered arbitrary and capricious if it is contrary to the evidence before the agency. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

82. Respondents' revocation of Petitioner's order of supervision was arbitrary and capricious because it violated statute, regulation, and the Constitution, as described above.

83. Respondents' action was also arbitrary and capricious because it was contrary to all the evidence before them. In particular, Respondents have evidence that she has been fully compliant with her OSUP, which is strong evidence that she will eventually comply with her removal order, rather than fleeing. The evidence also demonstrates that Ms. Crisan has no criminal convictions, and so is not a danger to the community. None of the evidence before the agency indicates that Petitioner's OSUP should be rescinded, so their action in doing so is arbitrary and capricious.

84. The revocation is also arbitrary and capricious because Respondents "failed to consider important aspects of the problem" before acting. *Dep't of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 25 (2020). *First*, Respondents failed to consider the serious constitutional concerns raised by revoking Petitioner's order of supervision without notice and opportunity to respond. *Second*, Respondents

failed to consider the increased administrative burden to the agency caused by revoking the order of supervision of Petitioner, who is neither a flight risk nor a danger to the community, including increased financial and administrative costs incurred by the agency due to unnecessary detention. *Third*, Respondents failed to consider reasonable alternatives to revoking Petitioner's order of supervision that were before the agency, like simply continuing release under the order of supervision and scheduling a future time and date to appear for removal. This alternative would vindicate the government's interests in effectuating a removal order and save it the expense of detention not needed to guarantee Petitioner's appearance. *Fourth*, Respondents failed to consider Petitioner's substantial reliance interest, created by its instruction on Petitioner's release notification, the agenc would give an opportunity to arrange for an orderly departure once it obtained travel documents.

85. It follows that Respondents' decision to revoke Petitioner's OSUP was arbitrary and capricious, and must be set aside under the APA.

FIFTH CLAIM FOR RELIEF:
VIOLATION OF THE APA, 5 U.S.C. §702(2)(C) – IN EXCESS OF STATUTORY AUTHORITY

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

87. Under the APA, a court shall "hold unlawful and set aside agency action . . . found to be . . . in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(C). Additionally, "[a]n agency . . . literally has no power to act—including under its regulations—unless and until Congress

authorizes it to do so by statute." *FEC v. Cruz*, 596 U.S. 289, 301 (2022) (internal quotation marks and citation omitted).

88. The INA only authorizes detention beyond the removal period if a noncitizen is found to be a danger to the community, if a noncitizen is found to be unlikely to comply with a removal order, if a noncitizen's removal order is based on certain, statutorily-specified, grounds. And even then, a noncitizen still may not be detained if removal is not reasonably imminent. *Zadvydas*, 533 U.S. at 699-700.

89. Regulations that purport to give Respondents authority to revoke an order of supervision on grounds other than those listed § 1231(a)(6) are ultra vires and in excess of statutory authority because "[r]egulations cannot circumvent the plain text of the statute." *You*, 321 F.Supp.3d at 463. It follows that, to the extent that Petitioner's detention is purportedly authorized, it is only authorized by regulations that are themselves a legal nullity because they are in excess of statutory authority.

SIXTH CLAIM FOR RELIEF:
ULTRA VIRES ACTION

90. Plaintiffs reallege all paragraphs above as if fully set forth here.

91. There is no statute, constitutional provision, or other source of law that authorizes Respondents to detain Petitioner.

92. Petitioner has a non-statutory right of action to declare unlawful, set aside, and enjoin Respondents' ultra vires actions.

SEVENTH CLAIM FOR RELIEF:
VIOLATION OF THE *ACCARDI* DOCTRINE

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

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

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

96. Respondents also violated agency instructions in Petitioner's release notification to give an opportunity to prepare for an orderly departure when they revoked Petitioner's order without advance notice.

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

EXHAUSTION OF ADMINISTRATIVE REMEDIES

98. The INA does not require parties to exhaust their administrative remedies except when challenging a final order of removal. 8 U.S.C. §1252(d)(1); *Gonzalez v. O'Connell*, 355 F.3d 1010, 1016 (7th Cir. 2004). Petitioner does not challenge her final order of removal; even if the court grants her all requested relief, her final order of removal will remain intact for Respondents to eventually execute in a lawful and constitutional manner.

99. Because exhaustion is not statutorily required "sound judicial discretion governs." *Id.* (quoting *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). Courts exercise that discretion by balancing the individual and institutional interests involved, contextualized by "the nature of the claim presented and the characteristics of the particular administrative procedure provided." *Id.* Prior case law has established that in at least four instances, exhaustion is not required: (1) When requiring exhaustion would risk prejudice from unreasonable delay or an indefinite timefame; (2) When the agency is not competent to resolve the issues in question; (3) When exhaustion would be futile because of bias or prejudgment; and (4) When constitutional questions are raised. *Id.*

100. In this case, the balance of individual and institutional interests points sharply towards Petitioner. She alleges that Respondents have violated their own rules and regulations in rescinding her OSUP, and Respondents do not and cannot have a legitimate interest in violating the law. Accordingly, the balance weighs entirely in Petitioner's favor.

101. Furthermore, all four of the above exceptions applies in her case. She raises substantial constitutional issues—which the agency is not competent to resolve—so at least two of the four exceptions apply. *See id.* Furthermore, the very fact that the agency has elected to violate its own binding policies and procedures indicates that the agency is biased or has already judged the issue, so that exhaustion is again excused. *See id.* Lastly, requiring exhaustion also risks unreasonable delay because it would give the agency time to whisk Petitioner off to an unknown location without notifying either undersigned counsel or the court.

REQUEST FOR RELIEF

The Petitioner herein respectfully requests the following relief:

(1) That the court assume jurisdiction over this matter;

(2) That the court issue a Writ of Habeas Corpus directing Respondents to bring Alina Crisan to this Court at a time to be specified and explain why s/he should not be released from custody immediately;

(3) That the court enjoin Petitioner's removal or transfer outside the jurisdiction of this court and the United States pending adjudication of the instant petition;

(4) That the court order Petitioner's immediate release;

(5) That the court declare Petitioner's detention to violate the due process clause of the Fifth Amendment of the U.S. Constitution, the INA and implementing regulations, the APA, and the *Accardi* doctrine;

(6) That the court order Respondents to file a response or otherwise show cause within 3 days of the filing of this petition;

(7) That the court order Respondents to restore Petitioner's OSUP;

(8) That the court enjoin Respondents from re-detaining Petitioner absent full compliance with statutory, regulatory, and constitutional due process protections;

(9) That the court award attorney's fees and costs to Petitioner; and

(10) That the court grant any such other relief as it deems to be reasonable, proper, or otherwise equitable under the circumstances.

Dated: 11/10/2025

Respectfully submitted,

s/ *A. Ross Cassingham*
A. Ross Cassingham
Scott D. Pollock
Scott D. Pollock & Associates, P.C.
105 W. Madison Street, Suite 2200
Chicago, IL 60602
P: (312) 444-1940
F: (312) 444-1950
E: rc@lawfirm1.com

VERIFICATION AS REQUIRED BY 28 U.S.C. §2242

I represent Petitioner, Alina Crisan, and submit this verification on her behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 10th day of November, 2025.

s/*A. Ross Cassingham*
A. Ross Cassingham
Scott D. Pollock & Associates, P.C.
105 W. Madison Street, Suite 2200
Chicago, IL 60602
P: (312) 444-1940
F: (312) 444-1950
E: rc@lawfirm1.com