UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
Columbus Division

RUI XIANG LIN, *Petitioner*, v. KRISTI NOEM, *Secretary of Homeland Security*, TODD LYONS, *Acting Director, U.S. Immigration and Customs Enforcement*, GEORGE STERLING, Director, Atlanta ICE Field Office PAMELA BONDI, *Attorney General, U.S. Department of Justice* JASON STREEVAL, *Warden Stewart Detention Center*, *Respondents*.	Civ. Action No. ___________________

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Rui Xiang Lin ([redacted]) is a noncitizen who has been subject to an administratively final order of removal since April 18, 2002. Petitioner was previously detained for around 180 days before being released on an order of supervision ("OSUP") precisely because Respondents were unable to remove Petitioner. Since then, Respondents been unable to remove Petitioner to China, and have received no assurances from China that Petitioner will ever be accepted for removal. Further, should Respondents wish to remove Petitioner to any

other country, they would first need to provide him with notice and opportunity to apply for protection as to that country as well. Unless they do either of these things, they cannot remove Petitioner from the United States.

2. But on July 30, 2025, over twenty years since Petitioner was ordered removed, Respondents arrested Petitioner without warning and without observance of procedures required by regulation. Respondents have decided to rearrest Petitioner and throw him into a jail-like detention center, without any change in Petitioner's circumstances, and with no articulable reason to believe that China or any other country is now willing to accept him for removal.

3. Now, Petitioner has spent 200 days in ICE custody since his rearrest on July 30, 2025, and total of more than 380 days in post-final order of removal detention. Yet Respondents are no closer to removing him than they were when he removal order became final on April 28, 2002. After abruptly re-detaining Petitioner—without a prior individualized determination that circumstances have changed such that his removal was reasonably foreseeable—Respondents have held him for months without any concrete, time-bound path to removal. Today, nothing has changed with regards to Respondents' *ability* to remove Petitioner in the reasonably foreseeable future; the only thing that has changed is their greater *desire* to do so. But this does not satisfy the government's burden under *Zadvydas*.

4. Petitioner's detention amounts to detention for detention's sake—prolonged civil incarceration untethered to any realistic, time-bound prospect of effectuating removal—leaving the Court to guess "whether deportation might occur in ten days, ten months, or ten years." *Singh v. Whittaker*, 362 F. Supp. 3d 93, 101–02 (W.D.N.Y. 2019). The Court should therefore order his immediate release under appropriate conditions of supervision

JURISDICTION AND VENUE

5. This action arises under the Immigration and Nationality Act of 1952 ("INA"), as amended, 8 U.S.C. § 1101 *et seq*., and the Due Process Clause of the Fifth Amendment to the United States Constitution. This Court has jurisdiction pursuant to Art. I, § 9, cl. 2 of the United States Constitution; 28 U.S.C. § 2241 (general grant of habeas authority to the district courts); 28 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. §§2201, 2202 (Declaratory Judgment Act); and 28 U.S.C. § 1651 (All Writs Act).

6. Venue is proper under 28 U.S.C. § 1391(e) because Petitioner is detained at the Stewart Detention Center in Lumpkin, Georgia, within the Middle District of Georgia. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494–95 (1973).

PARTIES

7. Petitioner Rui Xiang Lin is a citizen and native of China and has lived in the United States since the late 1990s. He has a final order of removal to China, issued on May 14, 1999, and is currently detained by Respondents at the Stewart Detention Center in Lumpkin, Georgia.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS"). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

9. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

10. Respondent George Sterling is the Director of the Atlanta ICE Field Office. He is responsible for overseeing ICE operations pertaining to noncitizens within his territorial

jurisdiction, such as Mr. Velasquez, including detentions, enforcement, and removal operations. He is Petitioner's immediate legal custodian for purposes of a federal habeas petition.

11. Respondent Pamela Bondi is the Attorney General of the United States. She is the head of the U.S. Department of Justice, which oversees the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Court judges, who decide removal cases and applications for bond as her designees.

12. Respondent Jason Streeval is the warden of the Stewart Detention Center in Lumpkin, GA. He is the immediate custodian who is currently holding Petitioner in physical custody. He is sued in his official capacity.

13. All government Respondents are sued in their official capacities

FACTS

14. Petitioner Rui Xiang Lin was born on [redacted] He is a native and citizen of China. He entered the United States at or near New York, New York on or about December 3, 1989 and subsequently filed for asylum, at which point he was encountered by immigration authorities and placed in removal proceedings. *See* Ex. 1.[1]

15. Petitioner was issued a Notice to Appear ("NTA") on October 31, 1997. *Id.* Following his initial processing, he was released and remained in the United States while his asylum case was pending before the Immigration Court.

16. On May 14, 1999, the Petitioner was ordered removed from the U.S. to China by an Immigration Judge in New York City, finding him ineligible for the relief sought. *See* Ex 2.[2] Petitioner appealed that decision to the Board of Immigration Appeals, which was dismissed on

---

[1] Ex. 1. NTA, dated October 31, 1997
[2] Ex. 2. Immigration Judge Order

April 18, 2002, rendering his removal order administratively final. *See* Ex. 3.[3]

17. In 2009, Petitioner was arrested and charged with driving under the influence and reckless driving, for which he was only convicted of reckless driving. *See* Ex. 4.[4] Following his arrest, Petitioner was transferred into ICE custody, where he was detained for approximately 180 days at the Etowah County Detention Center. However, due to the continued inability of DHS to secure travel documents from China, he was released under an Order of Supervision on March, 12 2011. *See* Ex. 5.[5]

18. Petitioner's Order of Supervision placed strict conditions on his supervised release and required periodic check-ins with ICE. For over a decade, he faithfully abided by the conditions of his supervised release. Since the issuance of his removal order, Petitioner has not committed any serious criminal offenses aside from the reckless driving conviction. He has lived a law-abiding life, supporting his spouse and his two children, including his U.S. citizen son.

19. Even though Petitioner has been reporting consistently and was even placed under ISAP ankle monitoring from March to July 2025, on July 27, 2025, he was abruptly detained at his home by ICE agents while he was in full compliance with his supervision requirements.

20. Shortly before his detention, on June 2, 2025, Petitioner's U.S. citizen son filed a Form I-130, Petition for Alien Relative, on his behalf.[6]

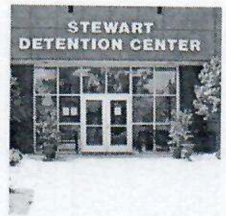
21. Petitioner is currently detained at the Stewart Detention Center in Lumpkin, Georgia, within the territorial jurisdiction of this Court. *See ICE Detainee Locator* (*Available at:* *https://locator.ice.gov/odls/#/details*, Last visited February 20, 2026).

[3] Ex. 3. BIA Decision
[4] Ex. 4, Court Disposition
[5] Ex. 5. Order of Supervision and Release Order 2010
[6] Ex. 6. I-130 Form Receipt Notice

locator.ice.gov/odls/#/details

< BACK TO RESULTS

Facility Page



Detention Information For:

RUI JUN LIN
Country of Birth: China, Peoples Republic of
A-Number: [redacted]

Current Detention Facility:

STEWART DETENTION CENTER
146 CCA ROAD
NA
LUMPKIN, GA 31815
Visitor Information: (229) 838-5000

MORE INFORMATION >

22. Petitioner remains in immigration custody, and ICE has so far not been able to secure a travel document or remove him to China, a situation that has persisted for over twenty years since his original removal order. Furthermore, ICE has not provided a date by which it believes it can deport Petitioner, or any other indication that it believes removal is significantly likely to occur within the reasonably foreseeable future. Over 206 days have passed since his current re-detention, and the Petitioner continues to remain in custody.

23. As of now, ICE has not made any efforts to remove Petitioner to any country other than China. He possesses no claim to citizenship or residence in any other country, and there is no evidence that a third country is willing to accept him. Moreover, Petitioner suffers from significant medical hardships, including metal implants in his hip from a prior accident, which make his continued indefinite detention increasingly hazardous to his health.

24. Nevertheless, because Petitioner has a final order of removal to China issued over twenty years ago, and because Respondents have not identified any circumstances under which there is a significant likelihood of removal to China in the reasonably foreseeable future, the only

conceivable basis for Respondents' continued assertion that removal remains pending is the possibility of removal to a third country pursuant to 8 U.S.C. § 1231(b)(2). Accordingly, third-country removal is not raised speculatively, but rather because it is the sole remaining statutory mechanism by which Respondents could attempt to effectuate Petitioner's removal in light of China's longstanding refusal to accept him. Yet, to date, Respondents have made no indication that it has identified any third country willing to accept Petitioner, nor has it suggested that removal to China has become reasonably foreseeable.

25. Petitioner has exhausted all administrative remedies available to him.

LEGAL BACKGROUND

I. Detention on a Final Order of Removal

26. 8 U.S.C. § 1231(a) permits Respondents to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. § 1231(a)(1)(A). In this case, pursuant to 8 U.S.C. § 1231(a)(1)(B)(i), the removal period began when Petitioner's removal order became administratively final on April 18, 2002, following the dismissal of his appeal by the Board of Immigration Appeals. The Section 1231(a)(1)(A) "removal period" therefore expired on or about July 17, 2002..

27. After the expiration of the removal period, 8 U.S.C. § 1231(a)(3) provides that ICE may release unremovable noncitizens on an order of supervision (the immigration equivalent of supervised release, with strict reporting and other requirements). Pursuant to 8 U.S.C. § 1231(a)(6), even noncitizens with aggravated felony convictions may be "released" if "subject to the terms of supervision" set forth in 8 U.S.C. § 1231(a)(3).

28. Constitutional limits on detention beyond the removal period are well established. Government detention violates due process unless it is reasonably related to a legitimate government purpose. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). "[W]here detention's goal is no longer practically attainable, detention no longer 'bear[s][a] reasonable relation to the purpose for which the individual [was] committed.'" *Id.* at 690 (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). Additionally, cursory or pro forma findings of dangerousness do not suffice to justify prolonged or indefinite detention. *Zadvydas*, 533 U.S. at 691 ("But we have upheld preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.")

29. The purpose of detention during and beyond the removal period is to "secure[] the alien's removal." *Zadvydas*, 533 U.S. at 682. In *Zadvydas*, the Supreme Court "read § 1231 to authorize continued detention of an alien following the 90-day removal period for only such time as is reasonably necessary to secure the alien's removal." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 699).

30. As the Supreme Court explained, where there is no possibility of removal, immigration detention presents substantive due process concerns because "the need to detain the noncitizen to ensure the noncitizen's availability for future removal proceedings is "weak or nonexistent." *Zadvydas*, 533 U.S. at 690-92. Detention is lawful only when "necessary to bring about that alien's removal." *See id.* at 689.

31. To balance these competing interests, the *Zadvydas* Court established a rebuttable presumption regarding what constitutes a "reasonable period of detention" for noncitizens after a removal order. *Id.* at 700-01. The Court determined that six months detention could be deemed a "presumptively reasonable period of detention," after which the burden shifts to the government

to justify continued detention if the noncitizen provides a "good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701.

32. Where a petitioner has provided "good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing. *Zadvydas*, 533 U.S. at 701. Due deference is owed to the government's assessment of the likelihood of removal and the time it will take to execute removal. *Id.* at 700. However, just as pro forma findings of dangerousness do not suffice to justify indefinite detention, pro forma statements that removal is likely should not satisfy the government's burden.

33. The government may only rebut a detainee's showing that there is no significant likelihood of removal in the reasonably foreseeable future with "evidence of progress . . . in negotiating a petitioner's repatriation." *Gebrelibanos v. Wolf*, No. 20-cv-1575-WQH-RBB, 2020 U.S. Dist. LEXIS 185302, at *9 (S.D. Cal., Oct. 6, 2020) (citing *Kim v. Ashcroft*, 02cv1524-J(LAB) (S.D. Cal., June 2, 2003), ECF No. 25 at 8 (citing *Khan v. Fasano*, 194 F. Supp. 2d 1134, 1136 (S.D. Cal. 2001); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002)); *see also Carreno v. Gillis*, No. 5:20-cv- 44-KS-MTP, 2020 U.S. Dist. LEXIS 248926, at *5 (S.D. Miss., Dec. 16, 2020) (granting petitioner's habeas claim because the government failed to show that removal would be imminent after obtaining a travel document and failing to remove petitioner within the document's validity period) (emphasis added).

34. Factors courts consider in analyzing the likelihood of removal include "the existence of repatriation agreements with the target country, the target country's prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien." *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y., Jan. 2,

2019) (citing *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)); *see also Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003).

35. Other courts have denied habeas petitions primarily where the U.S. government has already procured petitioner's travel documents and only travel arrangements are outstanding, which is not the case here. *See Berhe*, 2019 WL 3734110 at *4 (denying Petitioner's habeas petition because "Eritrea has issued a travel document and Petitioner has presented no evidence to suggest there are other barriers to his removal"); *Tekleweini-Weldemichael v. Book*, No. 1:20-CV- 660-P, 2020 WL 5988894, at *5 (W.D. La., Sept. 9, 2020), *report and recommendation adopted*, No. 1:20-CV-660-P, 2020 WL 5985923 (W.D. La., Oct. 8, 2020) (denying without prejudice Petitioner's habeas petition because he possessed a travel document valid through December 19, 2020, and noting that he is not precluded from filing a new petition upon the expiration or cancellation of his travel document).

36. In this case, ICE has not shown any meaningful progress in their efforts to obtain a travel document from China. There is insufficient evidence for the government to meet its burden that there is a significant likelihood of removal in the reasonably foreseeable future. *See Gebrelibanos*, 2020 WL 5929487, at *3; *Tekleweini-Weldemichael*, 2020 WL 5988894 (finding significant likelihood of removal in reasonably foreseeable future *only because* government had already obtained a valid travel document).

37. Petitioner's presumptively reasonable post-removal period pursuant to 8 U.S.C. § 1231(a)(6) has now passed. With neither a travel document nor an indication from China that one is soon to be forthcoming, detention is unreasonable, as removal is not imminent.

II. Orders of Supervision

38. As discussed above, the government must detain an individual once the order of

removal becomes final for 90 days, referred to as the "removal period." 8 U.S.C. § 1231(a)(3). After 90 days, an individual may be released from detention on an order of supervision. *Id.* *See also* 8 C.F.R. §§ 241.4(j); 241.5.

39. Criteria for release include: "travel documents for the alien are not available or in the opinion of the Service, immediate removal, while proper, is not otherwise practicable or not in the public interest;" nonviolence, in detention or on release; likelihood to comply with conditions of release; and not a significant flight risk if released. *See* 8 C.F.R. § 241.4(e).

40. Conditions of supervised release include: reporting to an immigration officer; making "efforts to obtain a travel document and assist the [government] in obtaining a travel document"; reporting for physical and mental examinations; obtaining advance approval of travel; and providing ICE with written notice of any address changes. *See* 8 C.F.R. § 241.5(a).

41. Following release on an order of supervision, the noncitizen is only eligible for work authorization if the immigration officer specifically determines that "(1) [t]he alien cannot be removed in a timely manner; or (2) [t]he removal of the alien is impracticable or contrary to public interest." 8 C.F.R. § 241.5(c); *see also* 8 C.F.R. § 274a.12(c)(18) ("An alien against whom a final order of deportation or removal exists and who is released on an order of supervision under the authority contained in [8 U.S.C. § 1231(a)(3)] may be granted employment authorization in the discretion of the district director only if the alien cannot be removed due to the refusal of all countries designated by the alien or under [8 U.S.C. § 1231] to receive the alien, or because the removal of the alien is otherwise impracticable or contrary to the public interest.").

42. Under 8 C.F.R. § 241.4(*l*)(1) An order of supervision may be revoked under two circumstances. First, it may be revoked for violations of conditions of release. Second, it may

be revoked if the Service makes one of the four determinations: "(i) the purposes of release have been served; (ii) the alien violates any condition of release; (iii) it is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) the conduct of the alien, or any other circumstance indicates that release would no longer be appropriate." *See* 8 C.F.R. § 241.4(*l*)(2).

43. If the order of supervision is revoked upon a determination by the Service, only the Executive Associate Commission is authorized to make such a determination. *See* 8 C.F.R. § 241.4(l)(2). However, that authority can be delegated to the district director when "revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." *Id.*

44. The regulation guarantees that "[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release or parole." 8 C.F.R. § 241.4(*l*)(1).

45. Additionally, the regulation provides that "[t]he alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(*l*)(1).

46. Further, if following the informal interview the noncitizen is not released, the HQPDU Director is required to "schedule the review process in the case of an alien whose previous release ... has been or is subject to being revoked." 8 C.F.R. § 241.4(*l*)(3). This custody review affords the noncitizen an opportunity to contest any facts and otherwise respond to the reasons for the revocation. *Id.*

47. For revocation of an order of supervision, the custody review procedures in 8 C.F.R. § 241.13 apply to a noncitizen under a final order of removal when there has been a

determination that there is no significant likelihood of removal to the country to which he or she was ordered removed, or to a third country, in the reasonably foreseeable future. 8 C.F.R. § 241.13(a), (b)(1). Under this section an OSUP can be revoked if the conditions of release are violated, or for removal purposes. 8 C.F.R. § 241.13(i). But to revoke an order of supervision for the purposes of removal, ICE must first demonstrate changed circumstances. 8 C.F.R. § 241.13(i)(2). ("The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.")

48. Where ICE is attempting to re-detain a noncitizen, this individualized determination must be conducted prior to re-detention. 8 C.F.R. § 241.13(i)(2); *see Munagi v. McDonald*, 2025 WL 3688023 (D. Mass. Dec. 19, 2025) ("[T]he changed circumstances that make [a noncitizen's] removal likely in the foreseeable future must have existed at or before the [order of supervision] revocation; post-hoc justifications are inadequate."); *Tran v. Hyde*, 25-CV-12546-ADB, 2025 WL 3724853, at *3 (D. Mass. Dec. 24, 2025) (looking at factors for determining reasonably foreseeable release based upon "relevant information that would have been available at the time that [petitioner] was redetained."); *Sarail A. v. Bondi*, 25-CV-2144 (ECT/JFD), 2025 WL 2533673, at *11 (D. Minn. Sep. 3, 2025) ("In Petitioner's case, there is no evidence that ICE considered any of these [8 C.F.R. § 241.13(f)] factors *before* the Notice [of Reasons for Revocation] was issued.") (emphasis in original). In deciding whether the requisite changed circumstances exist, ICE relies on the factors enumerated in 8 C.F.R. § 241.13(f). *Kong v. United States,* 62 F.4th 608, 620 (1st Cir. 2023). Courts considering a challenge to re-detention must review ICE's determination "in light of" those same factors. *Id.* After noncitizens have challenged whether their detention is reasonably foreseeable, courts

place the burden on ICE to prove that removal is significantly likely in the reasonably foreseeable future. *See Tran v. Hyde*, 2025 WL 3724853, at *2 (citing cases).

49. If ICE can demonstrate that because of a change of circumstances, there is a significant likelihood that the alien may be removed in the reasonably foreseeable future to the country to which the alien was ordered removed or to a third country, then procedures in 8 C.F.R. § 241.4 apply. 8 C.F.R. § 241.4(b)(4); *see also Martinez v. Hyde*, 2025 WL 3719656, at *1–2 (D. Mass. Dec. 23, 2025) (describing the differences in the two sections). Under this section, the OSUP may also be revoked where the noncitizen "violates the conditions of release." 8 C.F.R. § 241.4(*l*)(1). Additionally, the regulation also allows for redetention, when "[i]t is appropriate to enforce a removal order." 8 C.F.R. § 241.4(l)(2)(iii). But, as described above, absent a specific violation of the conditions of release, only designated, high-level ICE officials are authorized to revoke an OSUP (including for the purpose of effectuating removal), namely the Executive Associate Commissioner. 8 C.F.R. 241.4(l)(2). Additionally, the government must still explain the reason for the revocation and the noncitizen must be provided with an opportunity to respond. 8 C.F.R. § 241.4(*l*)(1).

FIRST CLAIM FOR RELIEF:
Violation of 8 U.S.C. § 1231(a)(6)

50. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-49.

51. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by *Zadvydas*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts have long since passed, and no significant likelihood of removal exists in the reasonably foreseeable future.

52. Under *Zadvydas*, the continued detention of Petitioner is unreasonable and not

authorized by 8 U.S.C. § 1231(a)(6).

SECOND CLAIM FOR RELIEF:
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution

53. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-52.

54. Petitioner's detention beyond the presumptively reasonable 180-day Section 1231(a)(6) period is only constitutionally permissible when there is a significant likelihood of removal in the reasonably foreseeable future. In Petitioner's case, China has not issued any travel documents for his removal, a condition that has persisted for more than twenty years since the issuance of his final order of removal; he has also not been recognized as a national of any other country. These factors lend support to the conclusion that there is no likelihood of Petitioner's removal in the reasonably foreseeable future. Respondents continue to detain Petitioner without evidence that China will ultimately issue a travel document and with no reason to believe that they will obtain a travel document within a reasonable amount of time. No significant likelihood of removal exists in the reasonably foreseeable future.

55. Respondents' detention of Petitioner no longer bears any reasonable relation to a legitimate government purpose, and thus violates the Due Process Clause.

THIRD CLAIM FOR RELIEF:
Violation of Regulations and the *Accardi* doctrine

56. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-52.

57. As stated above, upon information and belief, Petitioner was released on an order of supervision in 2010. Upon information and belief, at the time of his re-arrest on July 30, 2026, no notice outlining the reasons for the revocation was provided to him – at the time of the arrest or at any time thereafter. Respondent's re-arrest of Petitioner without notice of

revocation is a clear violation of 8 C.F.R. § 241.4(*l*)(1), which requires notice "upon revocation" of the release, i.e. at the time of re-arrest.

58. Further, Respondent falls under the protections of 8 C.F.R. § 241.13(i)(2) given he was released from detention 2010 after being detained for approximately 180 days and the government necessarily finding that that there was no significant likelihood of removal. Here, prior to detention, ICE did not demonstrate individualized changed circumstances such that there is there is a significant likelihood that Petitioner may be removed in the reasonably foreseeable future. *See Escalante v. Noem*, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) ("These regulations clearly indicate, upon revocation of supervised release, it is the Service's burden to show a significant likelihood that the alien may be removed.") *Nguyen v. Noem*, No. 5:25-CV-176, 2026 WL 237282, at *8 (S.D. Tex. Jan. 28, 2026)

59. Additionally, following his re-arrest and *de facto* revocation of his order of supervision, Petitioner has been afforded no opportunity to contest any facts against his or respond in any way to the revocation. This is a clear violation of 8 C.F.R. § 241.4(*l*)(1), which requires Petitioner be afforded an informal interview and opportunity to respond.

60. Lastly, Respondents had no legal basis under the regulations to revoke Petitioner's Order of Supervision or re-arrest Petitioner, and upon information and belief, the revocation was carried out by an official without legal authority to do so, without sufficient determinations having been made. As such this action was taken by an official who lacked authority to do so under 8 C.F.R. § 241.4(*l*)(2).

61. Sections 241.4 and 241.13 are regulations designed to protect the due process rights of noncitizens like Petitioner and – as this regulation pertains to continued detention, conditions for release, and revocation of release – it directly impacts Petitioner's individual

liberty interest.

62. This violation of required procedures also violated Petitioner's due process rights under the Fifth Amendment to the U.S. Constitution.

63. Under the *Accardi* doctrine, "when an agency fails to follow its own procedures or regulations, that agency's actions are generally invalid." *Nader v. Blair*, 549 F.3d 953, 962 (4th Cir. 2008), *citing United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Several federal district courts have held that where ICE revokes an Order of Supervision without following the procedures set forth in these regulations, such revocation violates due process and the post-removal-period statute. *See Santamaria Orellana v. Baker*, 2025 WL 2444087 (D. Md. Aug. 25, 2025); *Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *20-*21 (W.D.N.Y. May 2, 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (same).

FOURTHCLAIM FOR RELIEF:
Procedural Due Process/ Third Country Removal

64. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-49.

65. Should Respondents attempt to remove Petitioner to a third-country, which Petitioner expects Respondents to do, Respondents' policy on third-country deportations allows a noncitizen to be deported to a third country based on generalized assurances from that country's government that the noncitizen will not be tortured in that country. Petitioner has a procedural due process right to an individualized determination as to whether she will be persecuted or tortured in any country of removal to which she claims a fear of removal.

66. Even where Respondents carry out an individualized determination of persecution or torture in a third country of removal, Respondents' policy on third-country deportations provides only for an interview by a single immigration officer, with no further right of review by an immigration judge. Petitioner has a procedural due process right not to be removed to any country in which he fears persecution or torture, without an immigration judge first reviewing his claim of fear of removal. Due process requires that the immigration judge conduct this initial screening review at the "reasonable possibility" standard, not the more-likely-than-not standard; and that the immigration judge take into account the likelihood of refoulement to persecution or torture, not just persecution or torture in the country of direct removal.

PRAYER FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enters an order:

a. Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;

b. Restoring Petitioner to his prior supervised release, and releasing him from custody thereupon;

c. Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody;

d. Preliminarily and permanently enjoining Respondents from removing Petitioner to any third country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country, by means of (1) a fear interview before a USCIS asylum officer, followed by (2) Immigration Judge review; and

e. Granting such other relief at law and in equity as justice may require.

Date: February 20, 2026

/s/ Benjamin Osorio
Benjamin Osorio, Esq.
Georgia State Bar no. 194702
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
Facsimile: 703-763-2304
benjamin@murrayosorio.com

Counsel for Petitioner

____

INDEX OF EXHIBITS

Ex. 1) Ex. 1. NTA October 1997;

Ex. 2) Immigration Judge Order;

Ex. 3.) BIA Decision;

Ex. 4) Court Disposition;

Ex. 5) Order of Supervision and Release Order 2010

Ex. 6) I-130 Form Receipt Notice;

Certificate of Service

I, the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

Civil Process Clerk
U.S. Attorney's Office for the Middle District of Georgia
24 12th Street, Second Floor
Columbus, GA 31901

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW, Mail Stop 0485
Washington, DC 20528-0485

Pamela Bondi
Attorney General of the United States
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Office of the Principal Legal Advisor
U.S. Immigration and Customs Enforcement
500 12th Street SW, Mail Stop 5902
Washington, DC 20536-5902

Jason Streeval, Warden,
Stewart Detention Center
146 CCA Road,
Lumpkin, GA 31815

Respectfully submitted,

Date: February 20, 2026

<u>/s/ Benjamin Osorio</u>
Benjamin Osorio, Esq.
Georgia State Bar no. 194702
Murray Osorio PLLC
4103 Chain Bridge Road, Suite 300
Fairfax, Virginia 22030
Telephone: 703-352-2399
Facsimile: 703-763-2304
benjamin@murrayosorio.com

Counsel for Petitioner