

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

**Lee Song,**

*Petitioner,*

**v.**

**KRISTI NOEM** (or her successor, **Markwayne Mullin**), in their capacity as Secretary of the United States Department of Homeland Security;  
**TODD M. LYONS**, in his official capacity as Acting Director of the United States Immigration and Customs Enforcement;  
**PAMELA BONDI**, in their official capacity as Attorney General of the United States;  
**DAVID EASTERWOOD** in his official capacity as Acting Director, St. Paul Field Office, U.S. Immigration and Customs Enforcement;

*Respondents.*

**Agency Case Number: 023 845 462**

Case No. 26-CV-1786

**Verified Petition for Writ of Habeas  
Corpus Pursuant to 28 U.S.C. § 2241  
WITH EMERGENCY REQUEST FOR  
INJUNCTIVE RELIEF AND STAY  
OF REMOVAL PENDING  
ADJUDICATION**

**INTRODUCTION**

1. This case challenges the unlawful detention of Petitioner Lee Song (“Petitioner”), who is currently in the custody of Immigration and Customs Enforcement (“ICE”). Petitioner is neither a flight risk nor a danger to the community.

2. Petitioner Song Lee was apprehended by the Department of Homeland Security, Immigration & Customs Enforcement on March 09, 2026, in her home in Inver Grove Heights, Minnesota, her compliance with the December 24, 2015, Order of Supervision, notwithstanding and a scheduled June 23, 2026 check-in appointment.

3. ICE arrested and detained her without notice or opportunity to be heard, on the decision of an individual without authority to do so, without findings required by law, and in violation of agency rules, and without an opportunity for an orderly departure when the time case for Petitioner's removal from this country.

4. Petitioner's removal order became administratively final on September 25, 2014. Originally, Petitioner was detained by the Department of Homeland Security, Immigration & Customs Enforcement, upon her release from the Minnesota Department of Corrections. Petitioner remained in custody of the Department of Homeland Security, Immigration & Customs Enforcement until she was released from detention, and placed on an Order of Supervision dated December 24, 2015, because removal was not reasonably foreseeable. The Order for Supervision included several requirements, including regular reporting to the US Enforcement and Removal Office at Fort Snelling, Minnesota.

5. ICE found that Petitioner was neither a flight risk nor a danger to the community when it previously released Petitioner from ICE detention under an order

of supervision dated December 24, 2015. Since then, Petitioner has fully abided by the order's terms, including attending regularly scheduled check-ins with ICE.

6. Along with the order of supervision, ICE issued Petitioner a release notification which stated that once the agency obtained a travel document for Petitioner, she would "be required to surrender to ICE for removal" and would "be given the opportunity to prepare for an orderly departure."

7. But on March 9, 2026, ICE agents entered her garage and sought to apprehend and detain the Petitioner. At approximately 07:43CST, by telephone call initiated by the Petitioner, ICE agents reported to the undersigned of their intention to arrest her and transport her to the Henry Whipple Building, Fort Snelling, Minnesota. Petitioner's minor son was awaiting arrival of his older sister to retrieve and care for him.

8. Accordingly, to vindicate Petitioner's statutory and constitutional rights, to rectify her reaprehension, and to put an end to her continued arbitrary detention, this Court should grant the instant petition for a writ of habeas corpus.

9. Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions.

10. Petitioner is Hmong, a native of Thailand, born in a refugee camp. Petitioner has neither held a Laotian passport nor resided in Laos. Absent an order from this Court, Petitioner will likely remain detained for many more months, if not years, given the Department of Homeland Security has been unable to obtain a travel document to secure her removal since the September 25, 2014, final administrative order for the same.

11. Petitioner brings this action for injunctive, habeas, and declaratory relief ordering Respondents to release him.

### **JURISDICTION**

12. Upon information and belief, Petitioner is detained in civil immigration custody via operations conducted in Minnesota and is being transported to Fort Snelling, Minnesota. She is not eligible for an individualized bond hearing before an immigration judge (IJ) due to her criminal conviction history.

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

15. Venue is proper in this District pursuant to 28 U.S.C. § 1391(e), because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to her claims occurred in this district, and no real property is involved in this action.

### **PARTIES**

16. Petitioner is a Hmong native of Thailand who was admitted to the United States as a refugee at 18-months-old. She was ordered removed following proceedings under 8 U.S.C. § 1229a. She had been previously detained, following her administratively final removal order. Petitioner was apprehended at her home on March 9, 2026, after ICE agents entered her garage while she was preparing to bring her nine-year-old son to school. Arresting agents informed the undersigned that she would be arrested and detained; an is, therefore believed to be the custody of and under the direct control of Respondents and their agents.

17. Respondent Markwayne Mullin (or Kristi Noem) is named in their official capacity as the Acting (or still appointed) Secretary of the United States Department of Homeland Security. DHS is a department of the U.S. executive branch tasked with administering and enforcing federal immigration laws. Secretary Noem is ultimately responsible for ICE's actions, specifically for the administration and enforcement of immigration laws pursuant to Section 103(a) of the INA, 8

U.S.C. § 1103(a). Secretary Mullin is legally responsible for any effort to detain and, as such, is Petitioner's legal custodian.

18. Respondent Todd M. Lyons is named in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement. ICE is the agency within DHS specifically responsible for managing all aspects of the immigration enforcement process, including immigration detention. ICE is responsible for apprehension, incarceration, and removal of noncitizens from the United States, and as such Acting Director Lyons is Petitioner's legal custodian.

19. Respondent Pamela Bondi is named in her official capacity as the U.S. Attorney General. Attorney General Bondi is responsible for continuing a custody case against a noncitizen and, as such, is Petitioner's legal custodian.

20. Respondent David Easterwood is named in his official capacity as the Acting Director for the ICE St. Paul Field Office. Director Easterwood is responsible for the enforcement of the immigration laws within this district, and for ensuring that ICE officials follow the agency's policies and procedures. Acting Director Easterwood is responsible for continuing a custody case against a noncitizen and, as such, is Petitioner's legal custodian.

### **STATEMENT OF FACTS AND PROCEDURAL HISTORY**

21. Petitioner is a 47-year-old Hmong native of Thailand. She entered the United States as a refugee on November 27, 1979, when she was 18 months old. Petitioner has resided in the United States continuously since then.

22. Petitioner acquired legal permanent resident status on or about October 4, 1985 and was made retroactive to her date of entry, under Section 209(a) of the Immigration & Nationality Act.

23. Petitioner was served a Notice to Appear charging her with removability under INA Sections 237(a)(2)(A)(ii) and (iii). She was ordered removed by the immigration court in September 2014 due to her criminal conviction history.

24. She is the mother of two U.S. citizen children, ages 26 and nine years old.

25. She has documented nearly eleven years of compliance with ICE's order of supervision, which included a provision for "an opportunity to prepare for an orderly departure" upon acquisition or a travel document.

26. Since ICE released Petitioner on an order of supervision on dated December 24, 2015, Petitioner has complied with all conditions of the order,

including periodic check-ins with ICE. No circumstances have changed that make Petitioner a flight risk or danger to the community.

27. Throughout this time, Petitioner understood from a release notification accompanying the order of supervision that ICE would give “the opportunity to prepare for an orderly departure” after securing Petitioner’s travel documents.

28. But without notice and proper revocation of Petitioner’s order of supervision, ICE arrested her at her home on March 9, 2026, entering her garage at approximately 07:40CST.

29. Upon arrest, ICE indicated that they would transfer Petitioner to the Henry Whipple Building at Fort Snelling.

30. Upon information and belief, at the time ICE arrested Petitioner and presumably revoked her order of supervision, the agency had not secured travel documents necessary for removal from the United States as she was not provided notice of any travel document issuance or revocation of her Order of Supervision.

### **LEGAL FRAMEWORK**

31. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant petition for writ of habeas corpus or issue an order to show cause to Respondents, unless Petitioner is not entitled to relief. If the Court issues an order to show cause, Respondents must file a response “within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed.” 28 U.S.C. § 2243 (emphasis added).

**Due Process Governs Decisions to Revoke an Order of Supervision**

32. “The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). “Freedom 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).

33. Under substantive due process doctrine, a restraint on liberty like revocation of a non-citizen’s order of supervision is only permissible if it serves a “legitimate nonpunitive objective.” *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

34. “Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty,” like the decision to revoke a non-citizen’s order of supervision. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). “The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Id.* at 333 (citation modified).

**Statute and Regulation Govern Procedures for Revoking an Order of Supervision**

35. A non-citizen with a final order of removal “who is not removed within the [90-day] removal period . . . shall be subject to [an order of] supervision under regulations prescribed by the Attorney General.” 8 U.S.C. § 1231(a)(3) (titled “Supervision after 90-day period”).

36. A non-citizen may only be detained past the 90-day removal period following a removal order 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. *Id.* § 1231(a)(6).

37. But even where initial detention past the 90-day removal period is authorized, if “removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700.

38. 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: “(1) the purposes of release have been served; (2) the alien violates any condition of release; (3) it is appropriate to enforce a removal order . . . ; or (4) the conduct of the alien, or any other circumstance,

indicates that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2); see also id. § 241.13(i) (permitting revocation of an order of supervision only if a non-citizen “violates any of the conditions of release”). Because “[r]egulations cannot circumvent the plain text of the statute[,]” courts question whether these regulations are ultra vires of statutory authority. *See, e.g., You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018) (comparing regulations to 8 U.S.C. § 1231(a)(6), which authorizes detention past the removal period only if person is a risk to the community, unlikely to comply with the order of removal, or was ordered removed on specified grounds).

39. It is clear, however, that regulations permit only certain officials to revoke an order of supervision: the ICE Executive Associate Director, a field office director, or an official “delegated the function or authority . . . for a particular geographic district, region, or area.” *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 161 (W.D.N.Y. 2025) (citing 8 C.F.R. §§ 1.2, 241.4(l)(2) and explaining that the Homeland Security Act of 2002 renamed the position titles listed in § 241.4). If the field office director or a delegated official intends to revoke an order of supervision, they must first make findings that “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).

40. Upon revocation of an order of supervision, ICE must give a non-citizen notice of the reasons for revocation and a prompt interview to respond. 8 C.F.R. § 241.4(l)(1).

#### **The APA Sets Minimum Standards for Final Agency Action**

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

42. Final agency actions are those (1) that “mark the consummation of the agency’s decision-making 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).

43. ICE’s revocation of an order of supervision is a final agency action subject to this Court’s review. The apparent revocation here marked the consummation of ICE’s decision-making process regarding Petitioner’s custody.

44. The revocation was also an action by which rights or obligations have been determined or from which legal consequences flowed because it led ICE to

detain Petitioner in violation of her rights under the Constitution, statute, and regulation.

**The *Accardi* Doctrine Requires Agencies to Follow Internal Rules**

45. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (setting aside an order of deportation where the Board of Immigration Appeals failed to follow procedures governing deportation proceedings); *see also Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

46. *Accardi* is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Courts must also reverse agency action for violation of unpublished rules and instructions to agency officials. *See Morton v. Ruiz*, 415 U.S. 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).

47. 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).

### **CLAIMS FOR RELIEF**

#### **Count One**

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

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

49. When ICE issued Petitioner an order of supervision, it found that she is neither a danger to the community nor a flight risk.

50. When Respondents purportedly revoked the order of supervision, Petitioner had complied with every condition of the order, and upon information and belief, ICE has not secured the necessary travel documents for removal. No change in circumstances warranted the order’s revocation.

51. Petitioner’s detention therefore does not bear a reasonable relationship to the two regulatory purposes of immigration detention: preventing danger to the community or flight prior to removal. Because Respondents had no legitimate, non-punitive objective in revoking Petitioner’s order of supervision, Petitioner’s

detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

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

52. Petitioner's reallege all paragraphs above as if fully set forth here. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

53. 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 v. Davis*, 533 U.S. 678, 690.

54. 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, the statute specifies the limited grounds for revoking an order of supervision. 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.

55. The third factor, the government's interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

56. 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.

**Count Three**  
**Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B)**  
**Contrary to Law and Constitutional Right**

57. Petitioners reallege all paragraphs above as if fully set forth here.

58. 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).

59. The APA’s reference to “law” in the phrase “not in accordance with law,” “means, of course, *any law*, and not merely those laws that the agency itself is charged with administering.” *FCC v. NextWave Pers. Commc’ns Inc.*, 537 U.S. 293, 300 (2003) (emphasis in original).

60. Respondents’ apparent revocation of Petitioner’s order of supervision was contrary to the agency’s constitutional power under the Fifth Amendment’s Due Process Clause, as explained above.

61. The revocation was also not in accordance with the INA and implementing regulations governing who may lawfully revoke an order of supervision and under what circumstances, as cited and discussed in the Statutory Framework section above.

62. Before revoking the order, Respondents did not make findings that Petitioner is dangerous or unlikely to comply with a removal order, as required by statute.

63. Even assuming that regulations purporting to offer additional justifications for revocation of an order of supervision are not *ultra vires*,

respondents 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 had 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.

64. Nor did the Respondents give Petitioner notice of the reasons for revocation and opportunity to be heard.

65. The revocation should be held unlawful and set aside because it was contrary to the agency's constitutional power and not in accordance with the INA and implementing regulations.

**Count Four**  
**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A)**  
**Arbitrary and Capricious**

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

67. 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).

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

69. An agency decision that “runs counter to the evidence before the agency” is also arbitrary and capricious. *Motor Vehicle Mfrs. Ass’n v. State Farm Mut. Auto. Ins.*, 463 U.S. 29, 43 (1983).

70. Respondents’ decision to revoke Petitioner’s order of supervision ran counter to the evidence before the agency that Petitioner would comply with a demand to appear for removal without detention. Petitioner has never violated a condition of her order of supervision and no new facts or changed circumstances suggest she would.

71. The revocation also “failed to consider important aspects of the problem” before Respondents, making it arbitrary and capricious for multiple other reasons. *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 140 S. Ct. 1891, 1910 (2020).

72. First, Respondents failed to consider the serious constitutional concerns raised by revoking Petitioner’s order of supervision without notice and opportunity to respond.

73. 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, and for whom the agency does not have travel documents needed to effectuate removal, including financial and administrative costs incurred by the agency due to unnecessary detention.

74. 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.

75. Fourth, Respondents failed to consider Petitioner's substantial reliance interest, created by its instruction on Petitioner's release notification, the agency would give an opportunity to arrange for an orderly departure once it obtained travel documents.

76. For these and other reasons, Respondents' revocation of Petitioner's order of supervision was arbitrary and capricious and should be held unlawful and set aside.

**Count Five**  
**Violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(C)**  
**In Excess of Statutory Authority**

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

78. 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). 75. "An 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).

79. 8 U.S.C. § 1231(a)(6) only authorizes detention past the 90-day removal period for a person who is found to be a danger to the community, unlikely to comply with a removal order, or whose removal order is on certain grounds specified in the statute. Even then, if removal “is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by [§ 1231(a)(6)]. In that case, of course, the alien’s release may and should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . .” *Zadvydas v. Davis*, 533 U.S. 678, 699-700. 77. 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 v. Nielsen*, 321 F. Supp. 3d. 451, 463 (S.D.N.Y. 2018)

80. Respondents’ revocation of Petitioner’s order of supervision was based on ultra vires regulations. So it was in excess of statutory authority and should be held unlawful and set aside.

### **Count Six** **Ultra Vires Action**

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

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

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

**Count Seven**  
**Violation of the *Accardi* Doctrine**

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

85. 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”).

86. 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.” *Cesay 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 revocation of an ICE order of supervision was ordered by someone without regulatory authority to do so).

87. 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.

88. 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.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner requests that this Court:

- a) exercise jurisdiction over this matter;
- b) enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- c) declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;
- d) order Petitioner's immediate release;
- e) order that upon Petitioner's release she be returned all property in her possession at the time of her arrest;
- f) award Petitioner costs and reasonable attorneys' fees; and

g) order such other relief as this Court may deem just and proper.

DATE: March 9, 2026

Respectfully submitted,



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Attorney for Petitioner

**Verification by Someone Acting on  
Petitioner's Behalf Pursuant to 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner and the Petitioner's daughter, the events described in this Petition. Furthermore, I have reviewed a copy of the Petitioner's Freedom of Information Act, Responsive Record consisting of 204<sup>1</sup> pages to document facts contained in this petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's detention status, are true and correct to the best of my knowledge.



March 9, 2026

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Rachel M. Engebretson, Attorney for Petitioner

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<sup>1</sup> Petitioner's counsel notes that pages 162-186 of the FOIA responsive record contains information regarding an asylum application, asylum interview notes, and EOIR filings for a Somali native not related to the Petitioner.