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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Bintou BARRO,

Petitioner,

v.

Kevin RAYCRAFT, Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Todd LYONS, Acting Director of U.S. Immigration and Customs Enforcement; Warden of Corrections Center of Northwest Ohio.

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful detention of Petitioner Ms. Bintou Barro, a 51-year-old native and citizen of Mauritania, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Corrections Center of Northwest Ohio ("CCNO") in Stryker, Ohio. Petitioner is neither a flight risk nor a danger to the community. However, on March 17, 2026, ICE 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. *See Mbonga v. Raycraft*, Case No. 4:25-cv-02315-DAP (N.D. Ohio Nov. 7, 2025); *Hammouda v. Dep't of Homeland Sec.*, Case No. 4:25-cv-02696-BYP (N.D. Ohio Jan. 13, 2026); *Salgar v. Noem*, Case No. 4:25-cv-04797 (S.D. Tex. Nov. 14, 2025); *Roble v. Bondi*, Case No. 25-cv-03196-LMP-LIB (D. Minn. Aug. 25, 2025).

2. ICE found that Petitioner was neither a flight risk nor danger to the community when it previously released Petitioner under an order of supervision in approximately 2009. Since then, Petitioner has fully abided by the order's terms, including attending regularly scheduled check-ins with ICE.

3. But at one of these regularly scheduled check-ins on March 17, 2026, Respondents suddenly revoked Petitioner's order of supervision and arrested her. Petitioner has been detained at CCNO in Stryker, Ohio since then.

4. 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.

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

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Corrections Center of Northwest Ohio ("CCNO") in Stryker, Ohio.

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

8. 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

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Northern District of Ohio, the judicial district in which Petitioner currently is detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Northern District of Ohio.

PARTIES

11. Petitioner Bintou Barro is a citizen of Mauritania who has been in immigration detention since March 17, 2026. On that date, Petitioner was taken into DHS/ICE custody, and later transferred to CCNO in Stryker, Ohio, where she is currently detained. Petitioner has resided in the United States for over 26 years. Prior to Petitioner's detention, Petitioner resided in

Columbus, Ohio with her U.S. Citizen husband. Petitioner is also the mother of four U.S. Citizen children.

12. Respondent Kevin Raycraft is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Kevin Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

13. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

14. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

15. Respondent Todd Lyons is named in his official capacity as Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner.

16. Respondent Warden of the Corrections Center of Northwest Ohio ("CCNO") in Stryker, Ohio is the warden of the facility where Petitioner is detained. The warden has immediate physical custody of petitioner, and is sued in their official capacity

FACTS

17. Petitioner Bintou Barro is a 51-year-old native and citizen of Mauritania and came to the United States over 26 years ago. Petitioner has resided in the United States continuously since then.

18. Petitioner has learned some English during her time in the United States, but the only language she is fluent in is Fulani. She also speaks some French.

19. Petitioner is married to a U.S. Citizen and has four U.S. Citizen children.

20. When she originally entered the United States in 1999, Petitioner entered on a tourist visa under the name of Mariama Barro and representing a Senegalese nationality. When government officials determined this identity to be fraudulent, Ms. Barro was placed in removal proceedings. Her application for asylum was ultimately denied and she was ordered removed by the Immigration Judge on December 18, 2008.

21. In approximately 2009, Ms. Barro received a letter in the mail from Immigration and Customs Enforcement requesting her presence at an interview. When she appeared for this interview, she was not detained but was instead placed on an Order of Supervision ("OSUP").

22. On May 27, 2021, Petitioner's U.S. Citizen husband, Mamadou Abou Barro, filed an I-130 Petition for Alien Relative, the first step in gaining legal status as the spouse of a U.S. Citizen. *See* 8 C.F.R. § 245.2(a)(2)(i)(A). This application was approved by U.S. Citizenship and Immigration Services on September 22, 2022.

23. Petitioner filed a motion to reopen her removal proceedings based on her approved I-130 Petition on January 8, 2025. *See* 8 C.F.R. § 1003.23(b)(1). On April 28, 2025, the Immigration Judge denied her motion to reopen. Petitioner appealed this denial to the Board of Immigration Appeals, and her appeal remains pending. She continues to be subject to the final order of removal from December 18, 2008.

24. Since ICE released Petitioner from her interview on an order of supervision on or about 2009, 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.

25. But at a regularly scheduled check-in with ICE on March 17, 2026, ICE suddenly revoked Petitioner's order of supervision and arrested her.

26. Before this appointment, Petitioner attended a check-in with her counsel at the same ICE office in Westerville, Ohio on February 18, 2026. This appointment was with Deportation Officer Meaghan Murphy, who requested that Petitioner return with a copy of her Mauritanian birth certificate to her next appointment on March 17, 2026 at 9:00 a.m. Petitioner stated she believed this document was at her home and that she would bring it to the next appointment.

27. Prior to the March 17, 2026 check-in, Petitioner conferred with her counsel and determined she could not locate a copy of the birth certificate. Counsel had previously obtained a copy from a Freedom of Information Act ("FOIA") request for Ms. Barro's complete immigration file, and stated he would bring it to the check-in on March 17 when he accompanied her.[1]

28. Petitioner arrived at the ICE office for her check-in on March 17, 2026 shortly before 8:00 a.m.

29. Upon entering the office to provide the staff there with her check-in documentation, Petitioner was immediately confronted by Officer Murphy who stated that her check-in scheduled for 9:00 a.m. would be now and that Petitioner was to accompany her to a separate room in the building. When Petitioner stated she was waiting for her attorney to arrive,

[1] As the birth certificate was obtained through a FOIA request for a complete copy of Ms. Barro's "A file", i.e., the complete copy of her immigration history on file with U.S. Citizenship and Immigration Services, a component of DHS, it is likely that Deportation Officer Murphy could have accessed this document from ICE's own systems.

Officer Murphy refused to allow her to wait and again stated her appointment was "now." Officer Murphy took Petitioner's order of supervision papers and escorted Petitioner to the separate room. The order of supervision papers were later returned to Petitioner's property at the CCNO, but she does not know how to access them or request assistance.

30. When Petitioner entered the separate room with Officer Murphy, the officer told her she was being detained. Officer Murphy again denied Petitioner's request to wait for her attorney to arrive for her appointment that was scheduled for 9:00 a.m. The officer did not request or mention the previously requested birth certificate and did not state why Petitioner was being detained, apart from not having travel documents in her possession.

31. Petitioner was placed into arm and leg restraints. In the shock of being detained, Petitioner fell in the room and hit her right arm and head on the ground, which was extremely painful.

32. The Officer then provided her with documents in English and instructed her to sign. The Officer did not explain what the documents were or provide her with copies of those documents. Petitioner cannot read English and so did not know the contents of the paperwork. In shock and feeling extremely pressured, she signed the documents where indicated.

33. Petitioner remained at the ICE office in Westerville, Ohio for several hours until she was transported to the CCNO in Stryker, Ohio. No officers interviewed her further and she has not met or spoken to any ICE officers since arriving at CCNO.

34. On April 9, 2026, an ICE officer who Petitioner did not recognize met with Petitioner at CCNO. The officer provided her documents in English and instructed Petitioner to sign them. The officer did not interview Ms. Barro, ask her any questions, explain what the documents were, or explain why she had been detained.

35. On March 17, 2026, Petitioner's counsel arrived at the ICE office in Westerville, Ohio at approximately 8:40 a.m. Upon entering the building, counsel was informed that Petitioner had been detained. A different officer provided Counsel with a scrap of paper listing Ms. Barro's name and the address of the CCNO. Counsel stated that the appointment was for 9:00 a.m. and that he had a copy of the birth certificate that was previously requested by Officer Murphy. The other officer took the copy of the birth certificate to Officer Murphy, but Officer Murphy did not speak with Counsel or provide any other documentation.

36. When the officer returned, Counsel asked why Ms. Barro had been detained. The officer shrugged and did not give a response.

37. Upon information and belief, the official responsible for revoking Petitioner's order of supervision did not first refer the case to the ICE Executive Associate Director, did not make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Director, and had not been delegated authority to revoke an order of supervision.

38. Upon arrest, ICE transferred petitioner to the CCNO, where she is currently detained. Petitioner is being housed with the general population, including those detained for criminal offenses. While jail has a telephonic interpretation service, the service does not have Fulani, making it difficult for her to understand jail procedures and instructions.

39. Ms. Barro suffers from high blood pressure and sleep apnea, for which she was medicated before her detention. She has not been provided medication for these ailments since being detained.

40. Ms. Barro has not been provided meals that have been prepared in accordance with her Muslim faith. Since being detained, her family has given her money to purchase food from the commissary.

41. At no time following Petitioner's arrest did ICE explain why it revoked Petitioner's order of supervision or give her an opportunity to respond to those reasons.

42. At the time ICE revoked Petitioner's order of supervision, the agency had not secured travel documents necessary for removal from the United States.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

43. No statutory exhaustion requirement applies to a § 2241 petition challenging the lawfulness or constitutionality of immigration detention. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006); *accord Bangura v. Hansen*, 434 F.3d 487, 494 (6th Cir. 2006) ("exhaustion of administrative remedies may not be required in cases of nonfrivolous constitutional challenges to an agency's procedures.") (citation omitted); *see also McCarthy v. Madigan*, 503 U.S. 140, 144-49 (1992) (delineating jurisdictional and prudential exhaustion). Thus, Petitioner's claims of receiving a constitutionally inadequate process to justify the intrusions into her liberty interest are not subject to any statutory requirement of administrative exhaustion.

44. To the extent that any prudential considerations might lead the Court to consider requiring exhaustion as a matter of discretion, the Supreme Court has recognized that courts should not require exhaustion where there is an "unreasonable or indefinite timeframe for administrative action." *Madigan*, 503 U.S. at 147. Exhaustion is thus not appropriate where plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *Id.* Similarly, exhaustion is not required where any requests for administrative relief would be futile. *Id.* at 148-49.

45. Here, exhaustion would be futile. Neither the Immigration Judge nor the Board of Immigration Appeals, as administrative bodies, can rule on the constitutionality of Petitioner's detention. Petitioner therefore lacks an administrative forum where she can raise constitutional challenges to his detention. *See Matter of Rodriguez-Carillo*, 22 I. & N. Dec. 1031, 1035 (BIA 1999) ("[N]either the Immigration Judge nor this Board may rule on the constitutionality of the statutes that we administer.").

LEGAL FRAMEWORK

Due Process Governs Decisions to Revoke an Order of Supervision

46. "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). "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the library that Clause protects." *Id.* at 690.

47. Under substantive due process doctrine, a restraint on liberty like revocation of 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 objects 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).

48. "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). "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

49. A non-citizen with a final order of removal "who is not removed with 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").

50. 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).

51. 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.

52. 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 circumstances, 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).

53. 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).

54. Upon revocation of an order of supervision, ICE must give a non-citizen notice of the reasons for revocation and prompt interview to respond. 8 C.F.R. § 241.4(l)(1). Such an interview is required regardless of the reason for the revocation. *Ceesay*, 781 F. Supp. 3d 163-64; *M.Q. v. United States*, 776 F. Supp. 3d 180, 190 n.1 (S.D.N.Y. 2025); *Doe v. Smith*, 2018 WL 4696748 (D. Mass. Oct. 1, 2018); *see also K.E.O. v. Woosley,* 2025 WL 2553394, at *6 (W. D. Ky. Sep. 4, 2025) (notice of revocation 90 days after the fact does not cure due process violation of lack of notice upon revocation and failure to give interview promptly after); *Orellana v. Baker*, 2025 WL 2444087 (D. Md. Aug. 25, 2025) (lack of any written notice or opportunity to be heard constitute stark violation of due process).

The APA Sets Minimum Standards for Final Agency Action

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

56. 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." *Bennet v. Spear*, 520 U.S. 154, 178 (1997).

57. ICE's revocation of an order of supervision is a final agency action subject to this Court's review.

58. The revocation here marked the consummation of ICE's decision making process regarding Petitioner's custody.

59. 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

60. Under the *Accardi* doctrine, a foundational principle of administrative law, agencies must follow their own procedures, rules, and instructions. *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.").

61. *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).

62. 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 instructions 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 I
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution
Substantive Due Process

63. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

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

65. When Respondents revoked the order of supervision, Petitioner had complied with every condition of the order and ICE had not secured necessary travel documents for removal. No change in circumstances warranted the order's revocation.

66. 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.

67. 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 II
Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution Procedural Due Process

68. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

69. Even "[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner." *Salerno*, 481 U.S. at 746.

70. Courts use the three-factor *Mathews v. Eldrige* test to determine what process is due to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976); *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852–56 (6th Cir. 2020). The *Mathews* factors assess: (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." *Id.* at 335; *see Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 WL 2496379, at *9 (E.D. Mich. Aug. 29, 2025) (citing *Mathews*, 424 U.S. at 335).

71. 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. In addition, because she was previously released on an

order of supervision, Petitioner possess a weighty interest in her continued liberty. *See Morrissey v. Brewer*, 408 U.S. 471 (1972); *Diallo v. Trump*, 25-cv-2012, Dkt. 73 (W.D. La. Mar. 5, 2026) (finding that the petitioner "acquired 'a protected liberty interest'" and "the Government cannot revoke it at their whim"). The Court may also consider Petitioner's conditions of confinement, i.e., "whether a detainee is held in conditions indistinguishable from criminal incarceration." *See Günaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. 2025) (citing *Hernandez-Lara v. Lyons*, 10 F.4th 19, 28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020)).

72. 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.

73. 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.

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

75. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

76. 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).

77. 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).

78. Respondents' 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.

79. 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 Legal Framework section above.

80. Petitioner's order of supervision was not revoked by the ICE Executive Associate Director. The officer who revoked the order 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. Nor had the officer, upon information and belief, been delegated authority to revoke an order of supervision.

81. 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.

82. 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.

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

84. 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 IV
Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(A), (B)
Arbitrary and Capricious

85. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

86. 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).

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

88. 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).

89. 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.

90. 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).

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

92. 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.

93. 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.

94. 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 V
Violation of Administrative Procedure Act, 5 U.S.C. § 706(2)(C)
In Excess of Statutory Authority

95. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

96. 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).

97. "An agency . . . literally has no power to act – including under its own 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).

98. 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 aliens' 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.

99. Regulations that purport to give Respondents authority to revoke an order of supervision on grounds other than those listed in § 1231(a)(6) are ultra vires and in excess of

statutory authority because "[r]egulation cannot circumvent the plain text of the statute." *You v. Nielsen*, 321 F. Supp. 3d 451, 463 (S.D.N.Y. 2018).

100. 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 VI
Ultra Vires Action

101. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

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

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

Count VII
Violation of the *Accardi* Doctrine

104. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

105. 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 (1954)("If petitioner can prove the allegation [that agency failed to follow its rules in a hearing] he should receive a new hearing").

106. 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. Genali*, 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).

107. 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.

108. 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 prays that this Court grant the following relief:

a. Assume 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. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days absent good cause for a short extension;

d. 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;

e. Order Petitioner's immediate release;

f. Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying redetention by clear and convincing evidence;

g. Award Petitioner costs and reasonable attorneys' fees; and

h. Order such other relief as this Court may deem just and proper.

DATED this 10th day of April, 2026.

s/ David L. Dawson
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Attorney for Petitioner

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

I represent Petitioner, Bintou Barro, 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 April, 2026.

s/ David L. Dawson
David L. Dawson, Esq.