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UNITED STATES DISTRICT COURT
THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-2540

JUAN REINALDO RIVERA (AKA SANTOS AMADOR RIVERA) ,

Petitioner

v.

JUAN BALTAZAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity,
GEORGE VALDEZ, Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity,
MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security, in his official capacity,
DAVID VENTURELLA, Acting Director of Immigration and Customs Enforcement, in his official capacity,
TODD BLANCHE, Acting Attorney General, U.S. Department of Justice, in his official capacity,
Respondents

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Respondents' incarceration of Juan Reinaldo Rivera, otherwise known as Santos Amador Rivera ("Mr. Rivera") is unlawful. Mr. Rivera was awarded protection from removal through a grant of Withholding of Removal on September 17, 2013 due to severe torture he suffered in Honduras.[1] For thirteen years, Mr. Rivera has been fully compliant with an Order of Supervision upon his release pursuant to the grant of withholding of removal until it was revoked without notice when Mr. Rivera was unlawfully detained by Respondents in May 12, 2026. Because Mr. Rivera has protection from removal to Honduras and no other country has been designated as a country of removal, there is no significant likelihood of removal in the reasonably foreseeable future. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (finding the government's authority under 8 U.S.C. § 1231 limited to six months unless the Government shows a significant likelihood of removal in the reasonably foreseeable future). Moreover, Immigration and Customs Enforcement ("ICE") violated Mr. Rivera's right to due process, the *Accardi* doctrine, and its own regulations when it revoked his Order of Supervision and jailed him. Mr. Rivera now seeks redress from this Court to remedy his unlawful loss of liberty.

2. Mr. Rivera first entered the United States in 1993 and departed without incident. He re-entered in 1998 under a false identity, Santos Amador Rivera, and received Temporary Protected Status but was ordered removed in absentia on August 19, 1998. In 2005, Mr. Rivera was removed

[1] The IJ granted Mr. Rivera's application for withholding of removal under 8 U.S.C. § 1231(b)(3) of the Immigration and Nationality Act. A grant of withholding of removal includes a removal order to the noncitizen's country of origin. *Id.* It also includes an order prohibiting ICE from removing the person to that country due to the likelihood of persecution the noncitizen will face there. *Id.*

pursuant to the 1998 order. He remained in Honduras from 2005 until 2013 and while in Honduras, [redacted]

3. Mr. Rivera entered the U.S. in 2013 to seek protection and while he presented information regarding his true identity, he was processed under the previous, false identity (Santos Amador Rivera). Mr. Rivera passed a reasonable fear interview and was granted protection under withholding of removal to Honduras on September 17, 2013 by an Immigration Court in Los Fresnos, Texas. Exh 1. After seven months of incarceration, Mr. Rivera was released from DHS custody on an Order of Supervision in September of 2013. From his first reporting date in October of 2013, Mr. Rivera has diligently reported annually to the ICE Field Office in Miami, Florida (excepting a few years during the COVID-19 pandemic). He is scheduled for a check-in on July 22, 2026. Exh. 2, Order of Supervision detailing thirteen years of compliance. Nonetheless, ICE arrested Mr. Rivera at a gas station in Florida in on May 12, 2026 and despite his compliance and grant of withholding of removal, has incarcerated Mr. Rivera for more than three weeks.

4. ICE now incarcerates Mr. Rivera at the ICE Denver Contract Detention Facility in Aurora, Colorado ("Aurora Facility").[2] Nobody from ICE has met with Mr. Rivera since ICE jailed him again on May 12, 2026. Nobody from ICE notified him of the reason(s) why he is jailed; however, in response to a petition to stay his removal, ICE issued a letter dated May 25, 2026 finding that Mr. Rivera does not warrant an exercise of discretion to release him from custody. Exh. 3.

[2] This Petition does not refer to the Aurora Facility or Mr. Rivera's loss of liberty as detention because it does not accurately reflect the conditions at the Aurora Facility. *E.g.*, *L.G. v. Choate*, 744 F. Supp. 3d 1172, 1182 (D. of Colo. 2024) (citation omitted) (acknowledging that the District of Colorado has already found that the GEO Facility is "more akin to incarceration than civil confinement"). Moreover, Courts in this District have found the conditions at the Aurora Facility "abhorrent." *Arostegui-Maldonado v. Baltazar*, 794 F.Supp.3d 926, 940 (D. Colo. Aug. 8, 2025).

5. Mr. Rivera, through counsel, respectfully moves the Court for a writ of habeas corpus to remedy the unlawful deprivation of his liberty and enjoin further unlawful incarceration by Respondents.

II. PARTIES

Petitioner

6. ICE jails Mr. Rivera at the Aurora Facility in Aurora, Colorado. Mr. Rivera has lived in the United States for approximately thirteen years and has a grant of withholding of removal. If released, he would return to live in Florida with his U.S. family.

Respondents

7. Juan Baltazar is the Warden of the Aurora Facility where ICE jails Mr. Rivera, and is an employee of the GEO Group, the for-profit prison company that operates the facility. Mr. Baltazar is a legal custodian of Mr. Rivera. He is sued in his official capacity.

8. George Valdez is the ICE Field Office Director of the Denver ICE Field Office and is sued in his official capacity. Mr. Valdez is the immediate custodian of Mr. Rivera and is responsible for Mr. Rivera's detention and removal.

9. Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). Mr. Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"). DHS is the parent agency of ICE, and thus Mr. Mullin also oversees ICE, which is responsible for Mr. Rivera's illegal detention. Mr. Mullin has ultimate custodial authority over Mr. Rivera and is sued in his official capacity.

10. David Venturella is the Acting Director of ICE and is sued in his official capacity. Mr. Venturella is responsible for Mr. Rivera's illegal detention and has custodial authority over him.

11. Todd Blanche is the Acting Attorney General of the United States. He is responsible for the actions of the Department of Justice ("DOJ"). The Executive Office for Immigration Review ("EOIR") and the immigration court system it operates are a component agency of DOJ. Mr. Blanche is sued in his official capacity.

III. REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, *not exceeding twenty days*, is allowed." *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute protecting individuals from unlawful incarceration. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

IV. JURISDICTION AND VENUE

14. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), (3), and the INA, 8 U.S.C. § 1101 *et seq.*

15. Under 28 U.S.C. § 1331, this Court has federal question jurisdiction over actions arising under the Constitution, laws, or treaties of the United States.

16. Federal courts have subject matter jurisdiction under 28 U.S.C. § 2241(c)(1) and (c)(3) (habeas corpus) to determine whether people imprisoned in federal custody are held in violation of law. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001) *superseded by statute*, REAL ID Act of 2005, 119

Stat. 310 (codified as amended at 8 U.S.C. § 1252(a)(5) (2005)), *as recognized in Nasrallah v. Barr*, 140 S. Ct 1683 (2020); *Boumediene v. Bush*, 128 S.Ct. 2229, 2248 (2008) (citing *St. Cyr*).

17. Jurisdiction is also proper pursuant to 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (waiver of sovereign immunity); 28 U.S.C. § 1346 (original jurisdiction); Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause); the All Writs Act, 28 U.S.C. § 1651; and 28 U.S.C. §§ 2201–02 (Declaratory Judgement Act).

18. Mr. Rivera is "in custody," and the custody is "in violation of the Constitution or laws or treaties of the United States." *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *St. Cyr*, 533 U.S. at 301 ("at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest.").

19. Venue properly lies in the District of Colorado. 28 U.S.C. §§ 1391(b)(2), (e); 2241. This petition is filed while Mr. Rivera is physically present within the District because he is detained by Respondents Baltazar and Valdez at the Aurora Facility in Aurora, CO. Undersigned counsel is also in the district.

V. EXHAUSTION OF ADMINISTRATIVE REMEDIES

20. Exhaustion is not required because Congress did not codify a requirement that petitioners seeking a writ of habeas corpus exhaust administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("Where Congress specifically mandates, exhaustion is required... But where Congress has not clearly required exhaustion, sound judicial discretion governs.") (citation omitted).

21. While inapplicable here, some courts require prudential exhaustion of administrative remedies prior to seeking a writ under § 2241. *Baquera v. Longshore*, 948 F. Supp. 2d 1258, 1259 (D. Colo. 2013) (citing *Williams v. O'Brien*, 792 F.2d 986, 987 (10th Cir. 1986) (per curiam)) *abrogated on different grounds by Nielsen v. Preap*, 139 S. Ct. 954 (2019). However, exhaustion of remedies is unnecessary if futile. *Goodwin v. State of Okl.*, 923 F.2d 156, 157 (10th Cir. 1991) (finding that exhaustion is not required due to futility where the state's highest court recently decided the precise legal issue petitioner raised in his federal habeas petition).

22. Here, exhaustion would be futile because the detention statute does not provide for a bond hearing when an individual is held pursuant to 8 U.S.C. § 1231. *See Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2277 (2021) (when a noncitizen "is ordered removed and the order becomes 'administratively final,' detention becomes mandatory."). Thus, an IJ does not have jurisdiction to reconsider Mr. Rivera's custody status. In other words, exhaustion is futile because there is no process to exhaust.

23. In other words, ICE is judge and jailer. ICE conducts its own custody reviews for detained noncitizens every 90 days after a final removal order. 8 C.F.R. §§ 241.4(d), (h), (i), (k). During those reviews, ICE must consider, *inter alia*, whether the noncitizen is a non-violent person; whether they will remain non-violent if released; whether they are likely to violate conditions of release; whether they had any disciplinary infractions or incidents while incarcerated; whether they have criminal legal contacts; whether they will adjust to life in the community; and whether they will engage in future criminal activity if released. 8 C.F.R. §§ 241.4(e),(f).

24. After his removal order became final in 2013, ICE released Mr. Rivera on an Order of Supervision ("OSUP"). He complied with his OSUP requirements for next thirteen years until ICE re-jailed him on May 12, 2026 without notice or an opportunity to be heard. Exh. 2. In fact, Mr.

Rivera is still scheduled for an upcoming check-in on his OSUP on July 22, 2026. Exh. 2. Since being reincarcerated, ICE has not provided Mr. Rivera with the process he is due.

25. Although no statutory exhaustion requirements apply to Mr. Rivera's claim of unlawful incarceration, he exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action. The Supreme Court agrees. *See Zadvydas*, 533 U.S. at 692 (criticizing the limited protections Respondents provide in the post-removal process as likely unconstitutional).

VI. RELEVANT FACTUAL AND PROCEDURAL BACKGROUND

26. Mr. Rivera is 54 years old and was born in Honduras. Mr. Rivera first entered the United States in 1993 and departed without incident. He re-entered in 1998 under a false identity, Santos Amador Rivera, and received Temporary Protected Status but was ordered removed *in absentia* on August 19, 1998. In 2005, Mr. Rivera was removed pursuant to the 1998 order. He remained in Honduras from 2005 until 2013 and while in Honduras, [redacted]

27. Mr. Rivera entered the U.S. in 2013 to seek protection and while he presented information regarding his true identity, he was processed under the previous, false identity (Santos Amador Rivera). Mr. Rivera passed a reasonable fear interview and, on September 17, 2013, was granted statutory relief called Withholding of Removal pursuant to INA § 241(b)(3); 8 U.S.C. § 1231(b)(3) by an Immigration Court in Los Fresnos, Texas. Exh 1. Mr. Rivera's removal order and grant of relief from removal became final on September 17, 2013. 8 C.F.R. § 1003.39. In other words, on that date, Mr. Rivera became subject to a final order of removal to Honduras and ICE became subject to a final order preventing it from removing Mr. Rivera to Honduras.

28. Mr. Rivera was released from DHS custody on an Order of Supervision in September of 2013. From his first reporting date in October of 2013, Mr. Rivera has diligently reported annually to the ICE Field Office in Miami, Florida (excepting a few years during the COVID-19 pandemic). He is scheduled for his next appointment with the ICE Field Office in Miami, Florida on July 22, 2026. Exh. 2, Order of Supervision detailing thirteen years of compliance. Nonetheless, ICE arrested Mr. Rivera at a gas station in Florida on May 12, 2026 and despite his compliance and grant of withholding of removal, has incarcerated Mr. Rivera for more than three weeks.

29. ICE released Mr. Rivera in 2013 concluding that his removal was not significantly likely in the reasonably foreseeable future and that he was neither a risk of flight nor danger. *see Zadvydas*, 533 U.S. at 690 (discussing that flight and danger are the only two justifications for immigration detention post-final order); *Lopez v. Sessions*, 18-cv-4189 (RWS), 2018 WL 2932726, at *12 (SDNY 2018) (acknowledging that the OSUP release process involves a determination that the noncitizen is neither a flight risk nor danger). Upon release, ICE advised him that he would be able to prepare for an orderly departure if ICE were to procure a travel document for him. Mr. Rivera thereafter complied with the terms of his OSUP for the next approximately seven years.

30. On May 12, 2026, Mr. Rivera was at a gas station in Florida when he was approached by ICE officers. It seems that this was a random stop and that ICE was not targeting Mr. Rivera. Mr. Rivera informed the ICE officers that he had been granted withholding of removal and was compliant with his OSUP. Nevertheless, ICE arrested Mr. Rivera.

31. ICE did not provide him with advanced notice of its intent to revoke his OSUP and has not met with him since it jailed him 29 days ago. ICE has not provided him with any process to contest his reincarceration and revocation of his OSUP.

32. Upon information and belief, the official responsible for revoking Mr. Rivera's OSUP did not first refer the case to the ICE Executive Associate Director, did not make a finding that revocation was in the public interest, and did not make a finding that circumstances did not reasonably permit referral to the Executive Associate Director. Also upon information and belief, the person that revoked Mr. Rivera's OSUP was not a delegated authority to revoke an OSUP.

33. ICE has not explained to Mr. Rivera why it revoked his OSUP beyond saying he has a final order of removal nor has it given him an opportunity to respond to that reason.

34. ICE has not provided him with a custody review since his reincarceration.

35. ICE has not given him the opportunity to establish why his continued incarceration is unnecessary.

36. As of the date of this petition, Mr. Rivera has been deprived of his liberty at the Aurora Facility for the past 29 days and approximately 239 days in the aggregate since his removal order became final in 2013.

37. This petition follows.

VII. LEGAL FRAMEWORK FOR RELIEF SOUGHT

A. ICE's Incarceration of Mr. Rivera Violates the Statute and Constitution

38. ICE is generally required to physically remove someone subject to a final removal order during the 90-day removal period. 8 U.S.C. § 1231(a). The removal period begins on: "(i) [t]he date the order of removal becomes administratively final." 8 U.S.C. § 1231(a)(1)(B)(i). Incarceration during the 90-day removal period is mandatory. 8 U.S.C. § 1231(a)(2). Pursuant to 8 U.S.C. § 1231(a)(6), ICE "may" keep someone incarcerated beyond the 90 days under limited circumstances. 8 U.S.C. § 1231(a)(6).

39. In *Zadvydas*, the U.S. Supreme Court held that 8 U.S.C. § 1231(a)(6), when "read in light of the Constitution's demands, limits a [noncitizen]'s post-removal-period detention to a period reasonably necessary to bring about that [noncitizen]'s removal from the United States." 533 U.S. at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699. If the individual's removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute." *Id.* at 699–700.

40. The "presumptively reasonable period of detention" for someone subject to a final order of removal is six months. *Zadvydas*, 533 U.S. at 701. ICE's administrative regulations also recognize that the Headquarters Post-Order Detention Unit ("HQPDU") has a six-month period for determining whether there is a significant likelihood of a noncitizen's removal in the reasonably foreseeable future. 8 C.F.R. § 241.4(k)(2)(ii).

41. Here, ICE's statutory authority to jail and the presumptively reasonable period of Mr. Rivera's incarceration expired on March 16, 2014, six months after his removal order became final on September 17, 2013. *See Zadvydas*, 533 U.S. at 701. His incarceration is therefore no longer presumptively reasonable. *Id.*

42. ICE cannot continue to detain someone beyond the presumptive six months pursuant to 8 U.S.C. § 1231(a)(1)(C) except in limited circumstances. "A review of the case law shows that the courts have read § 1231(a)(1)(C) narrowly." *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 501 (S.D.N.Y. 2009) (collecting cases). "The Congressional intent underlying § 1231 is for the Attorney General to remove a [ ] [noncitizen] subject to an order of removal within the 90-day removal period, if possible." *Farez-Espinoza*, 600 F. Supp 2d at 502; *Morales-Fernandez v. INS*, 418 F.3d 1116, 1123 (10th Cir. 2005). It is "the responsibility of [ICE] to

make a bona fide attempt to do so within the removal period." *Farez-Espinoza*, 600 F.Supp.2d at 502. When ICE does not fulfill its responsibility, § 1231(a)(1)(C) does not apply. *Id.*; *Nzayikorera v. Fabbricatore*, 1:21-cv-02037-RMR 2021 WL 9385836, at *2 (D. Colo. Sept. 9, 2021) ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute") (citation and quotations omitted).

43. After six months of incarceration, if there is "*good reason* to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701 (emphasis added); *Aguilar v. Noem*, 25-cv-03463-NYW, 2025 WL 3514282, at *4 (D. Colo. Dec. 8, 2025). This good reason standard is "something less" than showing that removal is not significantly likely in the reasonably foreseeable future. *Azzo v. Noem*, 3:25-cv-03122-RBM-BJW, 2025 WL 3535208, at *3 (S.D. Ca. Dec. 10, 2025). The "distinction is not a matter of semantics, but an important clarification of [Mr. Wolde's] burden at this stage." *Aguilar*, 2025 WL 3514282, at *4.

44. The good reason standard is satisfied "by, inter alia, showing the existence of either institutional barriers to repatriation or obstacles to . . . removal." *Aguilar*, 2025 WL 3514282, at *4 (citation omitted) (collecting cases). ICE's requirement to provide a noncitizen with a reasonable fear interview should they express fear of removal to a third country is but one example of an institutional barrier to removal. *Castellano v. U.S. Department of Homeland Security*, No. 26-cv-00080-PAB, 2026 WL 472732, at *3 (D. Colo. Feb. 19, 2026). Courts regularly find a grant of withholding of removal as another institutional barrier to removal as "a grant of withholding of removal substantially increases the difficulty of removing an

individual." *Banoub v. Crawford*, ---F.Supp.3d---, 2025 WL 3723458, at *9 (E.D. Va. Dec. 23, 2025) (collecting cases).

45. Here, Mr. Rivera meets the good reason standard. ICE has incarcerated him for 239 days since his removal order became final and 59 days longer than the six-month presumptively reasonable period. Moreover, ICE cannot remove Mr. Rivera to Honduras, the only country to which Mr. Rivera has a travel document or any ties. In addition, ICE has not asked Mr. Rivera to sign any documents requesting a travel document elsewhere. ICE has not shown Mr. Rivera a travel document to any country. ICE has not provided Mr. Rivera a timeline for his removal.

46. Mr. Rivera met his burden and ICE must now come forward with evidence to demonstrate that his removal is significantly likely in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. This Court must order Mr. Rivera's immediate release when it fails to expeditiously do so.

B. ICE's Reincarceration of Mr. Rivera Violates the Agency's Binding Regulations.

47. A noncitizen 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).

48. The statute only permits ICE to jail the noncitizen 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).

49. Even where the 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 [noncitizen's] release may and

should be conditioned on any of the various forms of supervised release that are appropriate in the circumstances . . . ." *Zadvydas*, 533 U.S. at 699–700.

50. Once released on an OSUP, the regulations provide ICE with two options to revoke release. 8 C.F.R. §§ 241.4(l), 241.13(i). Section 241.13(i) permits OSUP revocation only "on account of changed circumstances . . . that there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

51. Section 241.4 permits revocation when a noncitizen violates their conditions of release, 8 C.F.R. § 241.4(l)(1), or when ICE determines that "(i) [t]he purposes of release have been served; (ii) [t]he [noncitizen] violates any condition of release; (iii) [i]t is appropriate to enforce a removal order or to commence removal proceedings . . . (iv) [t]he conduct of the [noncitizen, or any other circumstances, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2)(i)-(iv).

52. At bottom, "[b]oth regulations were intended to provide due process protections to [noncitizens] following the removal period as they are considered for continued detention, release, and then possible revocation of release." *Virachak v. Baltazar*, No. 26-cv-00391-STV, 2026 WL 746285, at *3 (D. Colo. Mar. 17, 2026) (quoting *Santamaria Orellana v. Baker*, No. 25-1788-TDC, 2025 WL 2444087, at *6 (D. Md. Aug. 25, 2025)).

53. The regulations permit only certain officials to revoke an OSUP: the ICE Executive Associate Commissioner, 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); *Izquierdo Navarro v. Bondi*, No. 25-cv-04210-NYW, 2026 WL 468582, at *2 (D. Colo. Feb. 18, 2026) (granting habeas relief

because, *inter alia*, an Executive Associate Commissioner or district director did not revoke release).

54. 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). 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 at 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). In other words, ICE's revocation of an OSUP is unlawful unless the proper official either conducts or explicitly approves the revocation. Courts have repeatedly held that ICE's failure to adhere to this requirement violates due process and mandates release. *E.g.*, *M.S.L. v. Bostock*, No. 25-cv-01204-AA, 2025 WL 2430267, at *9–10 (D. Or. Aug. 21, 2025); *Rombot v. Souza*, 296 F.Supp.3d 383, 385, 387–88 (D. Mass. 2017). That includes Judge Wang from this District. *Izquierdo Navarro*, 2026 WL 468582.

55. The regulations also require that ICE give noncitizens notice of the reasons for an OSUP revocation. 8 C.F.R. § 241.4(l)(1) ("Upon revocation, the [noncitizen] will be notified of the reasons for revocation of [their] release or parole"); 8 C.F.R. § 214.13(i)(3) (same).

56. Once OSUP is revoked, the regulations require ICE to "conduct an initial informal interview *promptly* after [their] return to . . . custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.13(i)(3); 8 C.F.R. § 241.4(l)(1) (same). If ICE chooses to use the regulation permitting revocation of release to effectuate removal, the regulations require that there be "changed circumstances . . . that there is a

significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

57. After revocation and if ICE does not release the noncitizen again, the agency must frequently consider whether continued incarceration is necessary, provide opportunities to the noncitizen to argue that it is not, and explain its reasoning to the noncitizen why continued incarceration is necessary. *See generally* 8 C.F.R. § 241.4.

58. "Government agencies are required to follow their own regulations." *Hoac*, 2025 WL 1993771, at *4. (citing *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)). "[W]here an immigration regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute, like the opportunity to be heard, and [ICE] fails to adhere to it, the challenged [action] is invalid . . . ." *Waldron v. I.N.S.*, 17 F.3d 551, 518 (2d Cir. 1993) (alterations in original).

59. ICE's regulatory violations here are numerous. First, based on information and belief, Mr. Rivera's OSUP was not revoked by the ICE Executive Associate Commissioner, or a district director and the officer that did revoke his OSUP did not make findings that revocation was in the public interest and that circumstances did not reasonably permit referral to the Executive Associate Commissioner. Second, ICE has not provided Mr. Rivera with the reasons for its revocation. Third, ICE has yet to provide Mr. Rivera with an opportunity to respond to the purported reasons for its OSUP revocation. Fourth, ICE has not provided Mr. Rivera with any custody reviews since his reincarceration.[3] Fifth, ICE did not meet its burden to demonstrate changed circumstances that Mr.

[3] ICE did issue a letter in response to Mr. Rivera's petition to stay his removal on May 25, 2026 stating that he does not warrant a favorable exercise of discretion to be released from custody. No reasons for the denial are given. Exh. 3.

Rivera's removal is significantly likely in the reasonably foreseeable future when it revoked his OSUP.

60. ICE's decision to re-jail Mr. Rivera is therefore invalid and this Court must order his release. Courts in this District confronted with the same facts ordered exactly that. *Medykowski v. Baltazar*, No. 1:26-cv-01986-SKC, 2026 WL 1532897 (D. Colo. June 1, 2026); *Mukesh Kumar v. Mullin*, No. 26-cv-1264-WJM, 2026 WL 1139601 (D. Colo. Apr. 24, 2026); *Virachak*, 2026 WL 746285; *Izquierdo Navarro*, 2026 WL 468582; *Sanchez v. Bondi*, 1:25-cv-02287, 2025 WL 3484756 (D. Colo. Dec. 4, 2025).

B. ICE's Reincarceration of Mr. Rivera Violates Procedural Due Process

61. Alternatively, this Court must order Mr. Rivera's release because ICE did not provide Mr. Rivera with procedural due process when it decided to re-jail him despite knowing his removal is not significantly likely in the reasonably foreseeable future.

62. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty . . . ." *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). The "touchstone" of due process is protecting people against arbitrary government action, whether from "denial of a fundamental procedural fairness, or the exercise of power without any reasonable justification in the service of a legitimate government objection." *Cty. of Sacremento v. Lewis*, 532 U.S. 833, 845–46 (1998).

63. Whether government action violates procedural due process is determined by the three-factor balancing test in *Mathews*. 424 U.S. at 335. The test requires the Court to balance (1) "the private interest that will be affected by the official action"; (2) "the risk of 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.* A proper application of the test demonstrates ICE's unlawfulness and the need for this Court to order Mr. Rivera's release.

64. First, the private liberty interest at stake is the most significant liberty interest there is, the interest in being free from imprisonment. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). "Freedom from bodily restrain has always been at the core of the liberty protected by the Due Process Clause from arbitrary government action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Incarceration "constitutes a significant deprivation of liberty that requires due process protection" no matter the purpose. *Jones v. United States*, 463 U.S. 354, 361 (1983).

65. Mr. Rivera's has a protected liberty interest even though he was "subject to extensive conditions of release . . . ." *Guillermo M.R. v. Kaiser*, 791 F.Supp.3d 1021, 1030 (N.D. Cal 2025) (citation omitted); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972).

66. Federal courts have frequently held that several types of government-created liberty interests are entitled due process protection. *E.g.*, *Morrissey v. Brewer*, 408 U.S. 471 (1972) (finding parolees have a liberty interest); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973) (revocation of probation without due process is a deprivation of a protected liberty interest); *Young v. Harper*, 520 U.S. 143 (1997) (revocation of pre-parole conditional supervision program is a deprivation of a protectable liberty interest); *U.S. v. Sanchez*, 225 F.3d 172, 175 (2d. Cir. 2000) (revocation of supervised release is a liberty interest entitled due process); *United States v. Higgs*, 731 F.2d 167 (3d Cir. 1984) (denial of bail following jury verdict is a deprivation of protected liberty interest); *Chhoen v. Marin*, 306 F.Supp.3d 1147 (C.D.Cal. 2018) (issuing a preliminary

injunction prohibiting the government from removing people it re-detained after originally releasing them years earlier without providing procedural remedies to seek release and relief from removal).

67. Here, "[g]iven the civil context, [Mr. Rivera's] liberty interest is arguably greater than the interest of the parolees in *Morrissey*." *Guillermo M.R.*, 791 F.Supp.3d at 1030 (citation omitted). Moreover, ICE jails Mr. Rivera in a facility that every court in this District has determined is akin to a penal institution. *E.g.*, *Daley*, 2023 WL 2336052 at *4. This factor therefore weighs heavily in Mr. Rivera's favor.

68. Second, the risk of erroneous deprivation of Mr. Rivera's liberty interest is significant because ICE's decision to re-jail Mr. Rivera lacked *any procedures* at all, and ICE has not provided Mr. Rivera with *any process* since his reincarceration. *E.g.*, *Lopez*, 2018 WL 2932726, at *11 (finding that the petitioner's "re-detention, in the absence of any procedure or evidentiary findings, establishes the risk of erroneous deprivation of a liberty interest"). Moreover, there is "no statutory or regulatory entitlement to a bond hearing" for individuals like Mr. Rivera who ICE jails pursuant to § 1231(a). *Guillermo M.R.*,791 F.Supp.3d at 1031. This factor therefore weighs heavily in his favor because at no point was there any notice, any process, or any independent adjudicator to consider whether stripping Mr. Rivera of his liberty was necessary to prevent flight or danger to the community.

69. Third, Government's interest is not served by the process it gave Mr. Rivera because, once again, it gave him no process. The Supreme Court recognized that the government's interest in civil immigration detention is limited to "certain special and narrow nonpunitive circumstances." *Zadvydas*, 533 U.S. at 690 (quotation omitted). Those limited interests are mitigation of flight and danger to the community. *Id.* The non-existent process to jail Mr. Rivera without notice, without

cause, and without an interview after having released him almost years ago does not address the government's purported interest and reeks of arbitrariness. *Lopez*, 2018 WL 2932726 at *12. This is especially true where—as here—the noncitizen "was released pursuant to a process that involved a determination that he was neither a danger to himself or others and" then re-detained "without prior notice, a showing of changed circumstances, or any meaningful opportunity to respond . . . ." *Id.* This factor therefore also weighs in his favor.

70. Courts have repeatedly found that ICE's failure to provide noncitizens with notice and the opportunity to be heard prior to reincarceration violates procedural due process. *E.g.*; *Medykowski v. Baltazar*, No. 1:26-cv-01986-SKC, 2026 WL 1532897 (D. Colo. June 1, 2026); *Grigorian v. Bondi*, 25-cv-22914-RAR, 2025 WL 2604573, at *6–10 (S.D.Fla. Sept. 9, 2025); *K.E.O. v. Woosley*, No. 4:25-cv-74-RGJ, 2025 WL 2553394, at *3 (W.D.Ky. Sept. 4, 2025); *Zhu v. Genalo*, 1:25-cv-06523 (JLR), 2025 WL 2452352, at *5–9 (S.D.N.Y. Aug. 26, 2025); *Roble v. Bondi*, No. 25-cv-3196 (LMP/LIB), 2025 WL 2443453, at *5 (D. Mass. June 20, 2025); *Ceesay*, 781 F.Supp.3d at163–64. This Court should do the same.

C. ICE's Revocation of Mr. Rivera's OSUP Violated the Administrative Procedures Act

71. Under the Administrative Procedures Act ("APA"), a court shall "hold unlawful and set aside agency action . . . found to be arbitrary [or] capricious." 5 U.S.C. § 706(2)(A).

72. Respondents' revocation of Petitioner's OSUP was arbitrary and capricious because it violated statute, regulation, and the Constitution.

73. 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).

74. Respondents' decision to revoke Mr. Rivera's OSUP ran counter to the evidence before the agency that Mr. Rivera would comply with a demand to appear for removal without detention. Mr.

Rivera always appeared for his OSUP appointments and there are no new facts to suggest he would start failing to comply. Not only has Mr. Rivera been compliant with this OSUP for thirteen years as documented by DHS' own reports, he has a future appointment for OSUP scheduled for July 22, 2026. Exh. 2.

75. 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).

76. First, Respondents failed to consider the serious constitutional, statutory, and regulatory concerns raised by revoking Mr. Rivera's OSUP without notice and opportunity to respond.

77. Second, Respondents failed to consider the increased administrative burden to the agency caused by revoking Mr. Rivera's OSUP, who is neither a flight risk nor a danger to the community and for whom it does not have a travel document. Indeed, prolonged incarceration for someone who is neither a risk to the community nor a risk of flight provides no benefit to the government. *Velasco Lopez v. Decker*, 978 F.3d 842, 856 (2d Cir. 2020) (noting that the Government prevails when it releases noncitizens like Mr. Rivera because "it has no interest in the continued detention of an individual who it cannot show to be either a flight risk or a danger to [the] community").

78. Third, Respondents failed to consider reasonable alternatives to revoking Mr. Rivera's OSUP that were before the agency, like continuing release under the OSUP and scheduling a future time and date to appear for removal. This alternative would vindicate the government's interest in effectuating a removal order and save it the expense of detention not needed to guarantee Mr. Rivera's appearance.

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

80. ICE's reincarceration of Mr. Rivera violates the APA.

D. Mr. Rivera's Ongoing Incarceration Violates the Statute and Constitution.

81. ICE is generally required to physically remove someone subject to a final removal order during the 90-day removal period. 8 U.S.C. § 1231(a). The removal period begins on: "(i) [t]he date the order of removal becomes administratively final." 8 U.S.C. § 1231(a)(1)(B)(i). Incarceration during the 90-day removal period is mandatory. 8 U.S.C. § 1231(a)(2). Pursuant to 8 U.S.C. § 1231(a)(6), ICE "may" keep someone incarcerated beyond the 90 days under limited circumstances. 8 U.S.C. § 1231(a)(6).

82. In *Zadvydas*, the U.S. Supreme Court held that 8 U.S.C. § 1231(a)(6), when "read in light of the Constitution's demands, limits a [noncitizen]'s post-removal-period detention to a period reasonably necessary to bring about that [noncitizen]'s removal from the United States." 533 U.S. at 689. A "habeas court must [first] ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Id.* at 699. If the individual's removal "is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by the statute." *Id.* at 699–700.

83. The "*presumptively* reasonable period of detention" for someone subject to a final order of removal is six months. *Zadvydas*, 533 U.S. at 701 (emphasis added). ICE's administrative regulations also recognize that the Headquarters Post-Order Detention Unit ("HQPDU") has a six-month period for determining whether there is a significant likelihood of a noncitizen's removal in the reasonably foreseeable future. 8 C.F.R. § 241.4(k)(2)(ii).

84. Here, ICE's statutory authority to jail and the presumptively reasonable period of Mr. Rivera's incarceration expired almost thirteen ago, six months after his removal order became final in 2013. *See Zadvydas*, 533 U.S. at 701; *Zavvar v. Scott*, No. 25-cv-2104-TDC, 2025 WL 2592543, at *4 (D. Md. Sept. 8, 2025); *Tadros v. Noem*, No. 25cv4108 (EP), 2025 WL 1678501, at *3 (D. N.J. June. 13, 2025); *Hoang Trinh v. Homan*, 333 F.Supp.3d 984, 994 (C.D. Cal. 2018). His incarceration is therefore no longer presumptively reasonable. *Id.*

85. ICE cannot detain someone beyond the presumptive six months except in limited circumstances. "A review of the case law shows that the courts have read § 1231(a)(1)(C) narrowly." *Farez-Espinoza v. Chertoff*, 600 F. Supp. 2d 488, 501 (S.D.N.Y. 2009) (collecting cases). "The Congressional intent underlying § 1231 is for the Attorney General to remove a [ ] [noncitizen] subject to an order of removal within the 90-day removal period, if possible." *Farez-Espinoza*, 600 F. Supp 2d at 502; *Morales-Fernandez v. INS*, 418 F.3d 1116, 1123 (10th Cir. 2005). It is "the responsibility of [ICE] to make a bona fide attempt to do so within the removal period." *Farez-Espinoza*, 600 F.Supp.2d at 502. When ICE does not fulfill its responsibility, § 1231(a)(1)(C) does not apply. *Id.*; *Nzayikorera v. Fabbricatore*, 1:21-cv-02037-RMR 2021 WL 9385836, at *2 (D. Colo. Sept. 9, 2021) ("[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute") (citation and quotations omitted).

86. After six months, if there is "*good reason* to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Zadvydas*, 533 U.S. at 701 (emphasis added); *Aguilar v. Noem*, 25-cv-03463-NYW, 2025 WL 3514282, at *4 (D. Colo. Dec. 8, 2025). This good reason standard is "something less" than showing that removal is not significantly likely in the reasonably foreseeable future. *Azzo v. Noem*, 3:25-cv-03122-RBM-BJW, 2025 WL 3535208, at *3 (S.D. Ca.

Dec. 10, 2025). The "distinction is not a matter of semantics, but an important clarification of [Mr. Wolde's] burden at this stage." *Aguilar*, 2025 WL 3514282, at *4.

87. The good reason standard is satisfied "by, inter alia, showing the existence of either institutional barriers to repatriation or obstacles to . . . removal." *Aguilar*, 2025 WL 3514282, at *4 (citation omitted) (collecting cases). ICE's requirement to provide a noncitizen with a reasonable fear interview should they express fear of removal to a third country is but one example of an institutional barrier to removal. *Castellano v. U.S. Department of Homeland Security*, No. 26-cv-00080-PAB, 2026 WL 472732, at *3 (D. Colo. Feb. 19, 2026).

88. Here, Mr. Rivera meets the good reason standard. The removal period expired and his incarceration is not tied to a legitimate purpose since his removal order became final over thirteen ago. Moreover, ICE has taken zero steps to ensure his removal is significantly likely in the reasonably foreseeable future. For example, ICE has not asked Mr. Rivera to sign any documents requesting a travel document or shown Mr. Rivera a travel document to any country. ICE has not provided Mr. Rivera a timeline for his removal.

89. Mr. Rivera met his burden and ICE must now come forward with evidence to demonstrate that his removal is significantly likely in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701. This Court must order Mr. Rivera immediate release when it fails to expeditiously do so.

VIII. CLAIMS FOR RELIEF

COUNT I
Violation of 8 U.S.C. § 1231

43. Mr. Rivera incorporates by reference the allegations of fact and statements of law set forth in the preceding paragraphs.

44. Respondents' continued detention of Mr. Rivera is no longer authorized by statute. *Zadvydas*, 533 U.S. at 700–01. The removal period began on September 17, 2013. 8 U.S.C. § 1231(a)(1)(B)(i). Mr. Rivera was granted statutory relief from removal and DHS did not appeal that decision and his removal order became final on September 17, 2013. 8 U.S.C. § 1231(a)(1)(B). He has been cooperative with ICE throughout the removal period and he is not a danger to the community.

45. There is no evidence that ICE will succeed in deporting Mr. Rivera in the reasonably foreseeable future as they are prevented from removing him to Honduras pursuant to the grant of withholding of removal. On the contrary, ICE's failure to secure Mr. Rivera's removal for the past thirteen years is evidence enough that his removal is not significantly likely in the reasonably foreseeable future as he cannot be removed to Honduras and has no citizenship or ties to a third country.

46. What's more, ICE is prohibited from removing Mr. Rivera to Honduras, the only country to which he has citizenship. ICE has not asked Mr. Rivera to sign any applications for travel documents; ICE has not shown Mr. Rivera any applications for travel documents; ICE has not identified a third country. This Court must therefore order ICE to release Mr. Rivera immediately. *Morales-Fernandez v. INS*, 418 F.3d at 1124 ("The Government having brought forward nothing to indicate that a substantial likelihood of removal subsists despite the passage of six months . . . the petitions for habeas corpus should have been granted"); *See Zadvydas*, 533 U.S. at 701 (after "the [noncitizen] provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence to rebut that showing" or the petition will be granted).

47. ICE failed to deport Mr. Rivera within a constitutionally compliant timeframe and there is no significant likelihood that it will be able to deport him in the reasonably foreseeable future. ICE's decision to continue Mr. Rivera's detention is unreasonable and unlawful. *Zadvydas*, 533 U.S. at 701; *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

COUNT II
Respondents' Continued Incarceration of Mr. Rivera is Impermissibly Indefinite, Contravening Supreme Court Precedent in *Zadvydas*

90. Mr. Rivera incorporates by reference the allegations of fact and statements of law set forth in the preceding paragraphs.

91. Mr. Rivera's continued incarceration is unlawful and fails to follow 8 U.S.C. § 1231(a)(6). *Zadvydas*, 533 U.S. at 700–01. Mr. Rivera's order of removal became final over thirteen years ago. Nevertheless, Mr. Rivera remains without his liberty and ICE still does not have a travel document.

92. ICE is unable to deport him within a constitutionally compliant timeframe. Respondents cannot show that his removal is significantly likely in the reasonably foreseeable future. Mr. Rivera's continued incarceration is unreasonable and violates 8 U.S.C. § 1231(a). *Zadvydas*, 533 U.S. at 701; *Clark v. Martinez*, 543 U.S. 371, 386 (2005).

COUNT III
Violation of the Fifth Amendment of the U.S. Constitution
Substantive Due Process

93. Mr. Rivera incorporates by reference the allegations of fact and statements of law set forth in the preceding paragraphs.

94. When ICE issued Mr. Rivera's an order of supervision, it found that he is neither a danger to the community nor a flight risk.

95. When ICE revoked the order of supervision, Mr. Rivera had meaningfully complied with the conditions of the order and ICE had not secured necessary travel documents for removal. No change in circumstances warranted the order's revocation.

96. Mr. Rivera's detention therefore does not bear a reasonable relationship to the two lawful purposes of immigration detention: preventing danger to the community or flight prior to removal.

97. Because Respondents had no legitimate, non-punitive objective in revoking Mr. Rivera's OSUP, Mr. Rivera's detention violates substantive due process under the Fifth Amendment to the U.S. Constitution.

COUNT IV
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

98. Mr. Rivera incorporates by reference the allegations of fact and statements of law set forth in the preceding paragraphs.

99. ICE has yet to provide Mr. Rivera with any process related to its decision to revoke his OSUP and re-jail him. The person who revoked his OSUP was not authorized to do so. It did not provide him with notice for reasons his OSUP was revoked. It has not demonstrated changed circumstances that his removal is now significantly likely in the reasonably foreseeable future. It did not provide him with an interview after re-jailing him to respond to the purported reasons for re-jailing him. It has not provided him with any interview since his imprisonment.

100. Respondents' revocation of Mr. Rivera's OSUP without providing notice and a meaningful opportunity to be heard violates procedural due process under the Fifth Amendment to the U.S. Constitution.

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

101. Mr. Rivera incorporates by reference the allegations of fact and statements of law set forth in the preceding paragraphs.

102. 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).

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

COUNT VI
Violation of the *Accardi* Doctrine

104. Mr. Rivera incorporates by reference the allegations of fact and statements of law 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. *Accardi*, 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").

106. Respondents violated agency regulations governing who and upon what findings it may revoke an order of supervision when revoking Mr. Rivera's OSUP. "As a result, this Court cannot conclude that [the revoking officer] had the authority to revoke release" and Mr. Rivera "is entitled to release on that basis alone." *Ceesay*, 781 F.Supp.3d at 162 (citing *Rombot v. Moniz*, 296 F. Supp. 3d 386, 386-89); *see also, e.g.*, *Medykowski v. Baltazar*, No. 1:26-cv-01986-SKC, 2026 WL 1532897 (D. Colo. June 1, 2026); *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).

107. Respondents also violated agency instructions in Mr. Rivera's release notification to give him the opportunity to prepare for an orderly departure when Respondents revoked Mr. Rivera's order without advance notice.

108. Respondents' failure to provide Mr. Rivera with notice of its revocation, the reasons for the revocation, an opportunity to respond to those alleged reasons, show changed circumstances demonstrating that removal is now significantly likely in the reasonably foreseeable future, and a custody review after his reincarceration also violated agency regulations.

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

PRAYER FOR RELIEF

Mr. Rivera respectfully asks that this Court take jurisdiction over this matter and grant the following relief:

1. Enjoin Respondents from transferring Mr. Rivera outside of the jurisdiction of the District of Colorado pending the resolution of this case;
2. Declare that Mr. Rivera's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations, the APA, and the *Accardi* doctrine;
3. Issue a writ of habeas corpus directing Respondents to immediately release Mr. Rivera from ICE custody on his own recognizance or under reasonable conditions of supervision;
4. Award Mr. Rivera attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
5. Grant any other and further relief that this Court deems just and proper.

Dated: June 9, 2026

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VERIFICATION

I, Jodi Ziesemer, declare as follows:

1. I am an attorney employed at The Meyer Law Office, PC
2. I met with Mr. Juan Reinaldo Rivera at the Aurora Facility.
3. I have read the foregoing Petition for Writ of *Habeas Corpus* and know the contents thereof to be true to my knowledge, information, and belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 8, 2026

/s/ Jodi Ziesemer
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CERTIFICATE OF SERVICE

I, Jodi Ziesemer, hereby certify that on June 9, 2026 filed the foregoing with the Clerk of Court using the CM/ECF system. I, Leslie Bezanilla, hereby certify that I will mail a hard copy of the

document to the individuals identified below pursuant to Fed.R.Civ.P. 4 via certified mail within 72 business hours of filing or pursuant to any forthcoming Court order requiring something else. Kevin Traskos, attorney for Respondents, confirmed with undersigned counsel that he will accept service on behalf of all Respondents.

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