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UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA
Fresno Division

Gennadiy Yuryevich Glushchuk,

Petitioner,

v.

Markwayne Mullin, *Secretary of Homeland Security*;
David J. Venturella, *Acting Director, U.S. Immigration and Customs Enforcement*;
Orestes Cruz, *Field Office Director, San Francisco Field Office, Immigration and Customs Enforcement*;
Todd Blanche, *Acting Attorney General*;
Christopher Chestnut, *Warden, California City Detention Facility*,

Respondents.

Case No.:
1:26-cv-05350-KES-EPG

AMENDED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

AMENDED PETITION FOR WRIT OF HABEAS CORPUS[1]

[1] Pursuant to Fed. R. Civ. P. 15(a)(1)(B), this Amended Complaint is filed "as a matter of course" since less than 21 days have elapsed since the Petitioner filed his original pleadings.

INTRODUCTION

1. Petitioner Gennadiy Yuryevich Glushchuk [redacted] is a stateless individual who was born in the former Soviet Union in 1984. He received a final order of removal in 2009, after which Respondents detained him for approximately six months. They were unable to remove him to Ukraine, the country that now contains the region where he was born, and released him under an Order of Supervision. On June 13, 2025—395 days ago—Respondents re-detained Petitioner notwithstanding the lack of any articulable facts that removal would now suddenly become possible. Petitioner has now been detained for more than twice the six-month period the Supreme Court has deemed presumptively reasonable. Under such circumstances, continued detention violates the statute as interpreted by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and Petitioner must be released from custody on an Order of Supervision until such time as Respondents actually obtain the ability to remove Petitioner from the United States.

2. Respondents insist, despite all evidence to the contrary, that they are able to remove Petitioner to Ukraine. Ukraine refused to accept Petitioner on June 27, 2025. ERO El Paso was informed in January 2026 that Ukraine will not issue Petitioner a travel document because he is stateless. On February 3, 2026, ICE headquarters advised that Petitioner could enter Ukraine only with approval obtained through the U.S. Department of State, and that ERO "does not have a timeframe of when that will occur." On February 17, 2026, ICE confirmed that the request

remained pending. Respondents have identified no development since. Respondents have not alleged removal to any other third country, instead choosing to leave Petitioner in a jail-like detention center, away from his family, including his youngest child who was born after his detention began and whom he has been unable to meet in person. Such conduct cries out for immediate judicial relief.

JURISDICTION AND VENUE

3. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241; 28 U.S.C. § 1331, Federal Question Jurisdiction; and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. Declaratory relief is available as a remedy under 28 U.S.C. §§ 2201–2202. This petition challenges the lawfulness of Petitioner's continued detention, not the validity or execution of his removal order, and no provision of 8 U.S.C. § 1252 bars review. *See Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001); *INS v. St. Cyr*, 533 U.S. 289, 314 (2001).

4. Venue lies in this District because Petitioner is currently detained at the California City Detention Facility in California City, California, within this judicial district; and each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

5. Petitioner Gennadiy Yuryevich Glushchuk [redacted] was born in the former Soviet Union, in territory that is now within Ukraine, and is a stateless individual who has lived in the United States since 1995. He does not have

citizenship in any country. He is currently detained by Respondents at the California City Detention Facility, within the territorial jurisdiction of this court.

6. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). He is the cabinet-level secretary responsible for all immigration enforcement in the United States.

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

8. Respondent Orestes Cruz is or was the Field Office Director of the ICE San Francisco Field Office. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is Petitioner's immediate legal custodian.

9. Respondent Todd Blanche is the Acting Attorney General of the United States. The immigration judges of the Executive Office for Immigration Review ("EOIR") immigration courts and Board of Immigration Appeals ("BIA"), who decide removal cases and applications for relief from removal, do so as his designees.

10. Respondent Christopher Chestnut is the warden of the California City Detention Facility in California City, California, and is the immediate custodian holding Petitioner in physical custody.

11. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

12. 8 U.S.C. §1231(a) permits the government to detain noncitizens during the "removal period," which is defined as the 90-day period during which "the Attorney General shall remove the alien from the United States." 8 U.S.C. §1231(a)(1)(A). In this case, pursuant to 8 U.S.C. § 1231(a)(1)(B), the removal period began when Petitioner's removal order became administratively final, January 9, 2009. The "removal period" therefore expired on April 9, 2009.

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

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

preventative detention based on dangerousness only when limited to especially dangerous individuals [like suspected terrorists] and subject to strong procedural protections.")

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

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

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

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

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

19. Factors courts consider in analyzing the likelihood of removal include "the existence of repatriation agreements with the target country, the target country's prior record of accepting removed aliens, and specific assurances from the target country regarding its willingness to accept an alien." *Hassoun v. Sessions*, 2019 WL 78984 at *4 (W.D.N.Y., Jan. 2, 2019) (citing *Callender v. Shanahan*, 281 F. Supp. 3d 428, 436-37 (S.D.N.Y. 2017)); *see also Nma v. Ridge*, 286 F. Supp. 2d 469, 475 (E.D. Pa. 2003).

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

21. After 90 days, an individual may be released from detention on an order of supervision. 8 U.S.C. § 1231(a)(3); *see also* 8 C.F.R. §§ 241.4(j); 241.5.

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

23. Conditions of supervised release include: reporting to an immigration officer; making "efforts to obtain a travel document and assist the [government] in obtaining a travel document"; reporting for physical and mental examinations;

obtaining advance approval of travel; and providing ICE with written notice of any address changes. *See* 8 C.F.R. § 241.5(a).

24. An order of supervision may be revoked under two circumstances. First, it may be revoked for violations of conditions of release. *See* 8 C.F.R. § 241.4(*l*)(1). Second, it may be revoked if the Service makes one of the four determinations: "(i) the purposes of release have been served; (ii) the alien violates any condition of release; (iii) it is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) the conduct of the alien, or any other circumstance indicates that release would no longer be appropriate." *See* 8 C.F.R. § 241.4(*l*)(2).

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

26. The regulation guarantees that "[u]pon revocation, the alien will be notified of the reasons for revocation of his or her release or parole." 8 C.F.R. § 241.4(*l*)(1). Additionally, the regulation provides that "[t]he alien will be afforded an initial informal interview promptly after his or her return to Service custody to

afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(*l*)(1).

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

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

29. Where ICE decides to re-detain a noncitizen, this individualized determination must be conducted prior to re-detention. 8 C.F.R. §

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

30. Following release on an order of supervision, the noncitizen is only eligible for work authorization if the immigration officer specifically determines that "(1) [t]he alien cannot be removed in a timely manner; or (2) [t]he removal of the

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

FACTS

31. Petitioner was born in 1984 in what is now Ukraine, but was then the USSR. Petitioner left the territory of the former USSR (by then, independent Ukraine) in or about 1995 with his mother when he came to the United States. He was admitted as a lawful permanent resident in or about September 1995. Ex. 1, Petitioner's Affidavit.

32. Between 2006 and 2015, Petitioner sustained California convictions for robbery, receipt of stolen property, possession of a controlled substance in prison, and second-degree robbery, stemming from a years-long drug addiction. Ex. 5, Declaration of Acting Assistant Field Office Director Maria Erica Estrada (Nov. 20, 2025) ("Estrada Decl.") ¶¶ 5, 8–10. He has not been arrested for, charged with, or convicted of any offense since his release from his final sentence in September 2017—nearly nine years ago.

33. On January 9, 2009, an immigration judge ordered that Petitioner be removed from the United States. No appeal was taken, and the order became administratively final. ICE detained Petitioner for approximately six months while it attempted to remove him to Ukraine; when Ukraine declined to issue travel documents, ICE released him. Ex. 1; Estrada Decl. ¶¶ 6–7.

34. Petitioner was placed on an Order of Supervision in 2009, pursuant to 8 U.S.C. § 1231(a)(3). Ex. 1. Following criminal sentences that concluded in 2014 and in September 2017, ICE interviewed Petitioner before each release, determined on each occasion that he could not be removed in the reasonably foreseeable future, and again released him on an Order of Supervision rather than re-detaining him. In total, on three separate occasions over seventeen years—in 2009, 2014, and 2017—the government examined whether Petitioner could be removed, and each time it reached the same conclusion: removal was not reasonably foreseeable because no country would accept him, and Petitioner should be released on an Order of Supervision.

35. Since his release in September 2017, Petitioner has maintained stable housing and employment. Petitioner has married a United States citizen, and has three United States citizen children: daughters aged three and two, and a son born on [redacted] one month after Petitioner was detained. Petitioner has never met his son in person; the child will turn one year old on [redacted] Ex. 1.

36. Petitioner experienced a religious conversion while incarcerated in 2017 and has had no criminal record of any kind since. He completed a faith-based residential drug rehabilitation program in January 2020. Ex. 1.

37. Petitioner has since served as an Evangelist and Pastor in his church, the God Will Provide Christian Church. He built a construction company, Kingdom Gates and Fences, which employed approximately ten individuals before his detention. Ex. 1.

38. On June 2, 2025, Petitioner received a letter from ICE moving his annual check-in date from August 12, 2025 to June 14, 2025. Ex. 1; Ex. 2, Letter from ICE.

39. On June 13, 2025—one day before the rescheduled date, and accompanied by his then eight-months-pregnant wife—Petitioner voluntarily appeared for the check-in with ICE at the Los Angeles Field Office, in a good-faith effort to demonstrate that he was not evading the agency and to ask to report on his original August 12 date so that he could be present for the birth of his son. Estrada Decl. ¶ 11; Ex. 1. Without any explanation of the legal or factual basis of his detention, Petitioner was detained by ICE that day, and he has remained in custody ever since. Upon information and belief, Petitioner was not served with a Notice of Revocation of Release, nor was he afforded the prompt informal interview required by 8 C.F.R. § 241.4(*l*)(1).

40. Petitioner was informed in June 2025 that he was being removed to Ukraine. Ukraine refused to accept Petitioner. On June 27, 2025, the Consulate General of Ukraine in San Francisco confirmed in writing that it "is unable to issue Mr. Gennadiy Yuryevich Glushchuk … a Ukrainian passport or confirm his Ukrainian citizenship due to a lack of information." Ex. 3, Letter from Ukrainian Consulate.

41. On October 29, 2025, while detained at the El Paso Service Processing Center in Texas, Petitioner filed a pro se petition for writ of habeas corpus in the United States District Court for the Western District of Texas. *Glushchuk v. Bondi*, No. 3:25-CV-00501-LS (W.D. Tex. filed Oct. 29, 2025).

42. On November 15, 2025, ICE transferred Petitioner to Florence, Arizona, to stage him for a removal flight to Ukraine scheduled for November 17, 2025. ICE's own Travel Unit declined to proceed with the removal on November 17, 2025, "due to lack of a Travel Document." Estrada Decl. ¶ 13. Respondents thus physically attempted to remove Petitioner to Ukraine and failed—for want of the same travel document Ukraine has refused to issue for seventeen years.

43. Respondents twice asked Mexico to accept Petitioner as a third country, submitting requests on or about September 18, 2025, and November 17, 2025. Mexico refused. An ICE deportation officer confirmed in writing that Mexican authorities "will only take him if he has a permanent residence there or a passport," neither of which Petitioner has. Ex. 1; Estrada Decl. ¶¶ 14–15.

44. On December 9, 2025, the Western District of Texas ordered Respondents to show cause, directing them to detail "the status of any third country removal efforts, including but not limited to whether any requests for travel documents have been made with other countries on Petitioner's behalf and whether, when, and to which countries any additional requests will be sent, as well as any other efforts made by Respondents to remove Petitioner from the United States." Order to Show Cause, *Glushchuk*, ECF No. 11, at 2.

45. On January 20, 2026, ICE headquarters (HQ-RIO) advised ERO El Paso that it "can not issue a travel document from Ukraine to the petitioner as he is considered stateless." Ex. 4, Declaration of Acting Supervisory Detention and Deportation Officer Guadalupe Tello ("Tello Decl.") ¶ 3. On February 3, 2026, HQ-RIO advised that Petitioner "needs approval from Ukraine via the Department of State to be approved to enter Ukraine," and that "El Paso ERO does not have a timeframe of when that will occur." *Id.* ¶ 4. On February 17, 2026, HQ-RIO reported that the Department of State request "is still pending." *Id.* ¶ 5. Respondents have identified no development since.

46. Respondents' March 11, 2026 response to that order identified no third country and no timeframe for removal; its sole substantive content was the Ukraine correspondence described above. *Glushchuk*, ECF Nos. 16, 16-1 (Ex. 4 hereto).

47. Respondents thereafter transferred Petitioner from Texas to the California City Detention Facility, in this District. On July 9, 2026, the parties

jointly stipulated to the dismissal of the Texas action without prejudice, and the court dismissed it the same day, permitting Petitioner to refile in his district of confinement. *Glushchuk*, ECF Nos. 19, 20. No court has ever adjudicated the merits of Petitioner's challenge to his detention.

48. Respondents also failed to provide the custody reviews their own regulations require. ICE requested a 90-day post-order custody review on September 11, 2025; as of November 20, 2025, that review remained "pending," Estrada Decl. ¶ 12, and Petitioner had received no custody review decision after more than 178 days in custody. According to ICE's own correspondence with Petitioner's counsel, the agency initially conducted a "270 review" "based on his prior history," then re-requested a 90-day review—a sequence that complies with neither 8 C.F.R. § 241.4(k) nor 8 C.F.R. § 241.13(e). To date, upon information and belief, no post-order custody review decision has ever been served on Petitioner.

49. Respondents have not been able to obtain travel documents for Petitioner to Ukraine, Mexico, or any other country. Ex. 1; Ex. 3; Ex. 4.

50. Prior to his unlawful detention, Petitioner was dutifully attending scheduled check-ins with ICE pursuant to his release on supervision.

51. There are no allegations that Petitioner had violated the terms of his Order of Supervision.

52. Petitioner's detention has inflicted severe hardship on his United States citizen family. His wife, left alone with three children under the age of four, was

forced to give up the family home, move into her parents' small apartment, and rely on public assistance. Petitioner's construction business has declined from approximately ten employees to three, and the church congregation he pastors has struggled in his absence. Ex. 1 ¶¶ 8–10; Ex. 6, Declaration of Yekaterina Glushchuk.

53. Respondents currently lack any factual or legal basis to detain Petitioner, since Respondents cannot establish that that Petitioner will likely be removed from the United States in the reasonably foreseeable future.

54. Petitioner has exhausted all administrative remedies. No further administrative remedies are available to Petitioner.

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

55. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-54.

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

57. No significant likelihood of removal in the reasonably foreseeable future exists.

58. Under *Zadvydas*, the continued detention of someone like Petitioner is unreasonable and not authorized by 8 U.S.C. § 1231.

SECOND CLAIM FOR RELIEF:
Detention in Violation of Due Process

59. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-54.

60. Petitioner's detention beyond the removal period is only constitutionally permissible under the Due Process Clause when there is a significant likelihood of removal in the reasonably foreseeable future. Respondents have rearrested and re-detained Petitioner on the assumption that Petitioner will be removable to a third country but have no factual basis to believe that such third country removal will ever become practicable and legally permissible.

61. Respondent continues to detain Petitioner without evidence that they will be able to remove him imminently, to Ukraine or to any other country.

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

THIRD CLAIM FOR RELIEF:
Violation of due process/third country removal

63. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-54.

64. Respondents have previously represented to a federal court that they

intend to remove Petitioner to a third country, *see* Estrada Decl. ¶¶ 14–15, while simultaneously identifying no such country in response to a direct court order, *see* Ex. 4. This claim is pleaded protectively in the event Respondents renew any third-country removal effort. Respondents cannot have it both ways: they cannot contend that removal is reasonably foreseeable on the strength of unspecified third-country options while contending that any challenge to third-country removal procedures is unripe.

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

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

that the immigration judge take into account the likelihood of refoulement to persecution or torture, not just persecution or torture in the country of direct removal.

67. Petitioner has a procedural due process right not to be removed to any country to which he expresses a fear of removal, without an immigration judge first reviewing his fear claim. Respondents' procedures for third-country removal violate due process because they do not allow Petitioner the right to go before an immigration judge for review of his fear-of-removal claim to any particular third country.

FOURTH CLAIM FOR RELIEF:
Violation of 8 C.F.R. § 241.4(l), 241.13(i)

68. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-54.

69. As set forth above, Respondents' actions in cancelling Petitioner's release on supervision and re-arresting Petitioner without any explanation of the legal or factual basis for re-detention, without an opportunity to respond to that reasoning, and without any prior individualized determination of changed circumstances making his removal significantly likely, violated 8 C.F.R. § 241.4(*l*) and 8 C.F.R. § 241.13(i)(2), regulations designed to protect the due process rights of noncitizens like Petitioner.

70. In addition, upon information and belief, Petitioner's supervised release was revoked by an individual who lacked authority to do so without observance of

proper and required formalities and without the requisite findings being made, in violation of 8 C.F.R. § 241.4(l)(2).

71. Respondents further failed to provide the timely 90-day and 180-day post-order custody reviews required by 8 C.F.R. § 241.4(k) and the review procedures required by 8 C.F.R. § 241.13(e), compounding the regulatory violations described above.

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

73. "The Accardi doctrine, in essence, requires administrative agencies to follow their own rules and regulations." *Jahromi v. Rubio*, No. 8:25-CV-00246-JWH-DFM, 2025 WL 3279022, *4 (C.D. Cal. Oct. 9, 2025); *See also Nader v. Blair*, 549 F.3d 953, 962 (4th Cir. 2008), citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Several federal district courts have held that where ICE revokes an Order of Supervision without following the procedures set forth in these regulations, such revocation violates due process and the post-removal-period statute. *See, e.g., Santamaria Orellana v. Baker*, 2025 WL 2444087 (D. Md. Aug. 25, 2025); *Ceesay v. Kurzdorfer*, 2025 WL 1284720, at *20-*21 (W.D.N.Y. May 2, 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (same).

74. In arresting and re-detaining Petitioner, Respondents violated important substantive and procedural rules designed to protect his due process rights, and the writ of habeas corpus should issue.

PRAYER FOR RELIEF

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

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

b) Preliminarily and permanently enjoining Respondents from removing Petitioner to any other country without first providing him notice and offering him adequate opportunity to apply for withholding of removal as to that country, including but not limited to review by an Immigration Judge, and any appeals therefrom;

c) Preliminarily enjoining Respondents from removing Petitioner from this District pending the outcome of this litigation;

d) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith;

e) Restoring Petitioner to his prior Order of Supervision; and

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

Respectfully submitted,

/s/ Megan B. Herndon Dated: July 14, 2026

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CERTIFICATE OF SERVICE

I, Megan B. Herndon, hereby certify that on this 14th day of July 2026, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I furthermore will send a copy by certified U.S. mail, return receipt requested, to:

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