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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

Mohamed SEYDY,

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; David VENTURELLA, Acting Director of U.S. Immigration and Customs Enforcement; Todd BLANCHE, U.S. Attorney General; Richard JONES, Warden of Butler County Jail

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful detention of Petitioner Mr. Mohamed Seydy, a 47-year-old native and citizen of Mauritania, who is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Butler County Jail in Hamilton, Ohio. Petitioner is neither a flight risk nor a danger to the community. However, on July 21, 2026, ICE detained him 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 2018. 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 July 21, 2026, Respondents suddenly revoked Petitioner's order of supervision and arrested him. Petitioner has been detained at the Butler County Jail in Hamilton, 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 him.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Butler County Jail in Hamilton, 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 Southern 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 Southern District of Ohio.

PARTIES

11. Petitioner Mohamed Seydy is a citizen of Mauritania who has been in immigration detention since July 21, 2026. On that date, Petitioner was taken into DHS/ICE custody in Westerville, Ohio, and later transferred to the Butler County Jail in Hamilton, Ohio, where he is currently detained. Petitioner has resided in the United States for over 24 years. Prior

to Petitioner's detention, Petitioner resided in Columbus, Ohio with his wife and their three 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 David Venturella 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 Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

17. Respondent Richard Jones is sued in his official capacity. He is the Sheriff of Butler County. The Butler County Jail is under the administration of the Butler County Sheriff's

Office. As such, he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Jones is a legal custodian of Petitioner.

FACTS

18. Petitioner Mohamed Seydy is a 47-year-old native and citizen of Mauritania and came to the United States over 24 years ago. Petitioner has resided in the United States continuously since then.

19. Petitioner is married to a Senegalese national named Ngussially Sarr and has three U.S. Citizen children.

20. Petitioner originally entered the United States in approximately 2002 using another person's passport. He did this to flee persecution in his native Mauritania.

21. Upon entering the United States, Petitioner applied for asylum from Mauritania. His case was referred to the immigration court for removal proceedings. His application for asylum was ultimately denied, and Petitioner was granted voluntary departure on August 16, 2007. Petitioner appealed this decision to the Board of Immigration Appeals, which dismissed his appeal on June 4, 2009. Because he never departed the United States, the order converted into a final order of removal. 8 C.F.R. § 1240.26(d).

22. Because Petitioner could not be returned to Mauritania, he was placed on an Order of Supervision ("OSUP"). He was not detained but was instead required to check in regularly with ICE officers.

23. This Order of Supervision was renewed as recently as 2018, when he received his most recent OSUP paperwork. Petitioner continued to attend regular check-ins with ICE since 2007.

24. The 2018 Order of Supervision contained a number of conditions which Petitioner agreed to. Among these were: that he agreed to appear in person at the time and place specific upon any request by the agency, for identification and for deportation or removal; that he notify ICE if he travels outside of Ohio for more than 48 hours, and that he provide written notice of any change of residence or employment; that he not associate with any known gang members and not commit any crimes while on the OSUP; and that he provide ICE with written copies of requests to embassies regarding travel documents and any written responses from those embassies.

25. On April 7, 2026, Petitioner appeared for a scheduled check-in and was instructed by his ICE officer to request a passport from the Embassy of Mauritania. Petitioner has never had a Mauritanian passport in his name.

26. On April 17, 2026, Petitioner traveled to Washington, D.C. to obtain a birth certificate or national ID card from the Mauritanian Embassy as a prerequisite for getting a passport. A person at the embassy informed him that the embassy was not issuing these documents at this time, but that he should "keep in touch" because the next time he would be able to request the documents was sometime next year. The person at the embassy did not give him an exact date to return.

27. After he returned to Columbus, Ohio, Petitioner received a traffic ticket from a red light camera from his trip to Washington, D.C.

28. Petitioner's next ICE check-in was sometime in May, 2026, but he does not recall the exact date. At this appointment, he attempted to present his proof that he attempted to request a Mauritanian passport, but the officer refused to accept them. The officer scheduled him for an appointment on July 21, 2026, and said Petitioner should return with contact information for

someone from the Mauritanian embassy. Petitioner attempted to provide the officer with the phone number of the person he met at the Mauritanian Embassy, but the officer again refused to accept it, and did not specify what type of contact information would be acceptable.

29. Petitioner's wife also reports to ICE for immigration check-ins. She was also scheduled for a check-in at the same ICE office on July 21, 2026.

30. When Petitioner returned to the office on July 21, 2026, he entered the office to provide his check-in documents. He was immediately confronted by immigration officers and arrested.

31. Petitioner was taken to a separate room at the office and an officer asked him a brief series of questions. Petitioner recalls them asking him about his employment, whether he paid taxes, and if he had any family in the military. Petitioner responded that he has paid taxes in the United States since 2002, has been employed by Kroger for approximately 18 years, and that one of his U.S. citizen daughters serves in the military.

32. Petitioner was not asked any questions about a Mauritanian passport, travel documents, the Mauritanian Embassy, or his evidence of traveling to the embassy to attempt to obtain the necessary documents for a passport.

33. The officer did not explain to Petitioner the reason why he was being detained.

34. The officer spent most of the brief meeting printing papers for Petitioner to sign. The officer did not explain what the documents were or provide him with copies of those documents.

35. Petitioner remained at the Westerville ICE officer for approximately four hours before he was transported to the Butler County Jail in Hamilton, Ohio.

36. Petitioner has remained detained at the Butler County Jail since July 21, 2026. No immigration officials have met with or communicated with Petitioner since his detention.

37. On August 12, 2026, Petitioner's U.S. Citizen daughter, Penda Seydy, filed an I-130 Petition for Alien Relative, the first step in gaining legal status as the immediate relative parent of a U.S. Citizen. *See* 8 C.F.R. § 245.2(a)(2)(i)(A). This application is currently pending with U.S. Citizenship and Immigration Services.

38. Since ICE released Petitioner on an OSUP since at least 2018, 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.

39. Nevertheless, at a regularly scheduled check-in with ICE on July 21, 2026, ICE suddenly revoked Petitioner's order of supervision and arrested him.

40. On July 30, 2026, attorney Rachel Zupan provided ICE with a Notice of Appearance by email and requested copies of all documents that were provided to Petitioner related to his arrest and the revocation of his Order of Supervision.

41. On August 5, 2026, ICE Officer Richard Tiruchelvam emailed Ms. Zupan a copy of Petitioner's Notice of Revocation of Release. Officer Tiruchelvam did not provide any other documents related to Petitioner's arrest, such as a warrant.

42. The first page of the Notice of Revocation of Release states that Petitioner's Order of Supervision was revoked pursuant to 8 C.F.R. § 241.4(l) because Petitioner allegedly violated a condition of his release in failing to apply for a passport from Mauritania as instructed. The Revocation notice also states as reasons that: "It is appropriate to enforce the removal order entered against you as ICE has the ability and means to effectuate your removal" and that ICE is seeking a travel document to effect the removal to Mauritania.

43. There are two conflicting second pages of the Notice of Revocation of Release.

44. The first page is digitally signed by Acting Deputy Field Office Director Ryan M. Overton on July 23, 2026. It states that Petitioner will be afforded an informal interview to contest the reasons for the revocation on July 24, 2026. It is not signed by the Petitioner and the proof of service is not filled out. No one met with the Petitioner on July 24, 2026, which was three days after Petitioner was detained.

45. The second page is not signed by Ryan Overton, but the signature line is dated July 21, 2026. It states that the date of the informal interview would be July 21, 2026. As proof of service, it says that Deportation Officer Michael Benjey served a copy of the Notice of Revocation on Petitioner at the Westerville ICE Office on July 21, 2026, and is signed by the Petitioner.

46. 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.

47. Upon arrest, ICE transferred Petitioner to the Butler County Jail, where he is currently detained. Petitioner is being housed with the general population, including those detained for criminal offenses.

48. At no time following Petitioner's arrest did ICE officers explain why they revoked Petitioner's order of supervision or give him an opportunity to respond to those reasons.

49. 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

50. 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 his liberty interest are not subject to any statutory requirement of administrative exhaustion.

51. 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.

52. 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 he 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

53. "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.

54. 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).

55. "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

56. 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").

57. 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).

58. 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.

59. 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).

60. 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).

61. 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

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

63. 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).

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

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

66. 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 his rights under the Constitution, statute, and regulation.

The *Accardi* Doctrine Requires Agencies to Follow Internal Rules

67. 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.").

68. *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).

69. 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

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

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

72. 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.

73. 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.

74. 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

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

76. 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.

77. 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).

78. 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 he was previously released on an order of supervision, Petitioner possess a weighty interest in his 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)).

79. 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.

80. 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.

81. 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

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

83. 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).

84. 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).

85. 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.

86. 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.

87. 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.

88. 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.

89. 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 he 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.

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

91. 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

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

93. 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).

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

95. 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).

96. 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 his order of supervision and no new facts or changed circumstances suggest he would.

97. 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).

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

99. 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.

100. 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.

101. 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

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

103. 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).

104. "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).

105. 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.

106. 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).

107. 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

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

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

110. 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

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

112. 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").

113. 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).

114. 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 19th day of August, 2026.

s/ David L. Dawson
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Attorney for Petitioner

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

I represent Petitioner, Mohamed Seydy, and submit this verification on his 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 19th day of August, 2026.

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