IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
AT KANSAS CITY

KAVEH ABEDI, *Petitioner*, v. CRYSTAL CARTER, as Warden US Penitentiary in Leavenworth; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; CHRISTOPHER CHAMBERLIN Acting Assistant Field Office Director for the Kansas City Field Office and US Department of Homeland Security *Respondents*.	)	Case No. 25-3141-JWL VERIFIEDPETITION FOR WRIT OF HABEAS CORPUS AND DECLARATORY AND INJUNCTIVE RELIEF FOR AN ORDER TO SHOW CAUSE

INTRODUCTION

This Petition challenges *only* the legality of Petitioner's current detention and not the underlying order of removal in the matter. For that reason, the Real ID Act of 2005 does not prevent this Court from granting *habeas* relief and ordering Petitioner's release under such supervision terms as the Court may deem appropriate.

Kavah Abedi ("Petitioner" or "Mr. Abedi" or "Kaveh") has been in the United States since he was just 10 years old. For some 35 years now, he has considered the United States home. Mr. Abedi had come to the United States with his family in 1991 as a visitor. Given his father's political stances in Iran, the country of Mr. Abedi's birth, the family was granted asylum in the United States in 1999. A year later, he was granted lawful permanent resident status retroactive to the date of his asylum grant.

Mr. Abedi had a painful and tragic childhood full of raw trauma. The scar of being sexually assaulted by neighborhood boys in Iran left damage not easily visible to the eyes; a

child's psyche, forever broken by the violation, was never able to fully recover. At the age of 21, Mr. Abedi found himself, as many young adults do, making poor choices. As a result of those choices, he was charged with, and later convicted of, a single count of possession of a controlled substance for sale in violation of California law. He was sentenced to confinement for a period of 180 days and thereafter placed on probation, which he completed successfully. Apart from this one conviction, and for most of his adult life, Mr. Abedi has led an exemplary life.

For noncitizens, though, even the smallest of lapses in judgments can have a profound effect. In Mr. Abedi's case, this meant the loss of his lawful permanent status and a life of immigration limbo. After his conviction, Mr. Abedi was, on April 19, 2002, placed in removal proceedings and held without bond. **(See attached Exhibit A).** Given Iran's harsh policies towards drug related convictions, Mr. Abedi sought protections under the United Nation's Article III Convention Against Torture ("CAT").

There are two types of CAT protection: withholding of removal and deferral of removal. Both forms of relief rely on the same general legal standards, but withholding of removal is only available to those who do not have a "particularly serious crime" or an aggravated felony for which the term of imprisonment was five years or more. The individuals must also not have engaged in the persecution of others, committed a serious non-political crime outside of the U.S., and/or been deemed a danger to the security of the United States.

The second type of CAT protection, deferral, is the same as withholding under CAT with the only difference being the procedure for terminating the protections. Otherwise, both allow an individual to stay in the United States and apply for work authorization. CAT

relief, under either withholding or deferral, does not confer lawful immigration status or a path to permanent residency. Rather, it will only prevent deportation to the specific country to which removal has been withheld or deferred.

On September 30, 2002, after a trial on Mr. Abedi's request for protections, an immigration judge granted him deferral of removal under CAT[1]. **(See attached Exhibit B)**. This grant of relief was based on the fact that, in accordance with international and U.S. law, a person cannot be returned to a country where they are likely to face torture. Under Article III of CAT, countries that sign-on agree to condemn and prohibit torture and a signatory nation must not "expel, return . . . or extradite" a person to a country where there are "substantial grounds for believing that he would be in danger of being subjected to torture."

As a practical matter, under the INA, relief under CAT requires an immigration judge to first enter an order of removal to a specific country or countries and then withhold or defer the removal to those countries. This means that a person granted CAT relief has a final order of removal against them but if immigration officials wish to seek termination of those protections, they must first file a motion to reopen with the Immigration Court.

In Mr. Abedi's case, the Immigration Judge granted deferral of removal and both he and the government waived appeal. **(See attached Exhibit B)**. Post order, Mr. Abedi

[1] The record does not contain sufficient information regarding why withholding was not granted. For purposes of withholding of removal not all aggravated felonies are defined as particularly serious crimes. *See Lopez-Cardona v. Holder*, 662 F.3d 1110, 1111-12 (9th Cir. 2011). While there is a presumption that an aggravated felony is a particularly serious offense, it is not automatically one unless the applicant was sentenced to an aggregate term of imprisonment of at least five years for one or more aggravated felonies. *See* 8 CFR 208.16(d)(3). Petitioner should have been eligible for withholding, and it is unclear why the Immigration Court did not grant withholding. That legal issue, however, is not before this Court and is simply flagged for context purposes.

remained in custody from September 30, 2002, until December 19, 2002. **(See attached Exhibit C)**.

Realizing that Mr. Abedi was neither a threat to the community or a flight risk, DHS then allowed him to be released on an Order of Supervision ("OSUP") pursuant to 8 U.S.C. §1231(a)(3). He has remained successfully on OSUP for over two decades[2]. **(See attached Exhibit C and D)**.

On OSUP, an individual can live and work in the U.S. with the permission of DHS; intermittent check-ins with DHS are part of the agreement. Mr. Abedi always checked in and always made sure to comply with each request. At each visit, DHS determined that no legitimate purpose would be served by Mr. Abedi's detention and removal.

On June 23, 2025, with his most recent OSUP still in place, Mr. Abedi was suddenly, inexplicably, and without notice or opportunity to be heard detained by ICE. He was taken from his home, without a warrant and with no warnings at all.

Mr. Abedi's detention is unlawful for many reasons. First, his detention is not authorized by statute. The post-final order removal statute and associated regulations provide for a removal period, or, in the alternative, supervised release and work authorization. The statute and regulations do not provide for re-detention without cause, notice, and an opportunity to be heard. Second, detention based on a revocation of his order of supervision violates Mr. Abedi's right to due process. Mr. Abedi's order of supervision creates a property and liberty interest in which Mr. Abedi has a due process

[2] There are two orders of supervision Forms I-220B because after some years the one issued in 2002 was damaged and therefore reissued in 2005. There has never been any allegations that there was ever any violation of supervised release and the sole reason for the reissuance was the damage done to the initial form based on the passage of time.

right. Third, Mr. Abedi's detention without a bond hearing violates the statute and the Constitution because it is unconstitutionally prolonged. Finally, Mr. Abedi's detention violates the statute and the Constitution because the post-order custody review process is constitutionally inadequate.

For any or all these reasons, this Court should grant Mr. Abedi's habeas petition and order the Respondents to release Mr. Abedi on reasonable conditions of supervision.

REQUIREMENTS OF 28 U.S.C. § 2243 AND APPLICATION FOR AN ORDER TO SHOW CAUSE

The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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).

Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. 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).

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that the Court issue an order to all Respondents requiring them to show cause why the Petitioner's Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; 28 U.S.C. § 1331; Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C. § 701; and the Declaratory Judgment Act, 28 U.S.C. § 2201 should not be granted and why Respondents

should not be ordered to release Petitioner from detention.

Pending adjudication of these claims, Petitioner asks for an order enjoining Respondents from transferring Petitioner from the jurisdiction of the Kansas City Field Office of the Immigration & Customs Enforcement Office of Enforcement and Removal Operations ("ERO") and this District.

PARTIES

1. Petitioner Kaveh Abedi is a resident of Great Bend, Kansas. Until recently, he and his U.C. wife of almost 10 years, lived in San Diego, California. He is currently being detained under the direction of Respondents in Leavenworth, Kansas, some 254 miles from his home and family.

2. Respondent Crystal Carter is the Warden of the US Penitentiary in Leavenworth and has ultimate authority over the facility where Mr. Abedi is detained. She is Mr. Abedi's immediate custodian responsible for his physical custody. Respondent Carter's address is 100 Hwy Terrace, Leavenworth, KS 66048

3. Respondent Kristi Noem is named in her official capacity as the Secretary of Homeland Security in the United States Department of Homeland Security. In this capacity, she is responsible for the administration of the immigration laws pursuant to Section 103(a) of the INA, 8 U.S.C. § 1103(a) (2007); routinely transacts business in Kansas, and Missouri and supervises Respondent Chamberlin; who is legally responsible for pursuing Petitioner's detention and removal; and as such is the legal custodian of Petitioner. Respondent Noem's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

4. Respondent Christopher Chamberlin is named in his official capacity as the Acting Assistant Field Office Director for the Kansas City Field Office for ICE within the United States Department of Homeland Security. In this capacity, he is responsible for the administration of immigration laws and the execution of detention and removal determinations within the Kansas City region and is the legal custodian of Petitioner. Respondent Chamberlin's address is Department of Homeland Security, Enforcement and Removal Office, 555 N. Woodlawn Street, Bld. 4, Ste. 160 Wichita, KS 67208.

5. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for enforcing Petitioner's continued detention pending his removal proceedings. DHS's address is U.S. Department of Homeland Security, 800 K Street, N.W. #1000, Washington, District of Columbia 20528.

JURISDICTION

6. This Court has subject matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution; the All Writs Act, 28 U.S.C. § 1651; the Administrative Procedure Act, 5 U.S.C § 701; and for injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201. Petitioner's current detention as enforced by Respondents constitutes a "severe restraint[] on [Petitioner's] individual liberty," such that Petitioner is "in custody in violation of the . . . laws . . . of the United States." *See Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3).

7. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *See, e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The REAL ID Act of 2005, which eliminated habeas

corpus jurisdiction over final orders of removal, deportation, and exclusion and consolidated such review in the court of appeals, did not impact the ongoing availability of habeas corpus filed in the district court to challenge the length or conditions of immigration detention. *See* H.R. REP. No. 109-72, at 175 (2005), ("Moreover, section 106 would not preclude habeas review over challenges to detention that are independent of challenges to removal orders. Instead, the bill would eliminate habeas review only over challenges to removal orders.") *reprinted in* 2005 U.S.C.C.A.N. 240, 300; *see Hernandez v. Gonzales*, 424 F.3d 42, 42-43 (1st Cir. 2005); *Sissoko v. Rocha*, 412 F.3d 1021, 1033 (9th Cir. 2005); *Kellici v. Gonzales*, 472 F.3d 416 (6th Cir. 2006).

VENUE

8. The District of Kansas is the proper venue to resolve Mr. Abedi's petition for a writ of Habeas Corpus. Mr. Abedi is physically present within the District of Kansas since he is housed at the US Penitentiary in Leavenworth, Kansas. He has been there since July 3, 2025, after being transferred from Chase County Jail in Cottonwood Falls, Kansas where he was initially held after he was arrested at home, without a warrant, by ICE agents. Designation for trial, if necessary, is the District of Kansas at Kansas City.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Petitioner has no administrative remedies regarding his custody determination to exhaust. The only administrative process available to Mr. Abedi which may apply is a Post Order Custody Review ("POCR"), which Respondents have advised is not going to occur at this time. Moreover, given that Respondents unexpectedly and without notice and opportunity to be heard took Petitioner into custody, it is unlikely they would now simply agree to release him.

10. There was no reason to disrupt the December 19, 2002, administrative decision to release Mr. Abedi and there is no other administrative process available to individuals facing re-detention.

11. Moreover, even if there were administrative redress that petitioner could seek, Petitioner need not exhaust his administrative remedies. The detention statute pursuant to which Mr. Abedi is detained, 8 U.S.C. § 1231(a), has no exhaustion requirement. Exhaustion is required only when Congress specifically mandates it. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). In all other instances, "sound judicial discretion governs." *Id*.

12. This Court also should not require Petitioner to exhaust his administrative remedies. First, the Supreme Court has recognized that courts should not require exhaustion where there is an unreasonable or indefinite time-frame for administrative action. Exhaustion is thus not appropriate where plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *Id.* at 147. Petitioner has a constitutionally protected liberty interest in his freedom from government custody. *Zadvydas*, 533 U.S. at 690. Petitioner's unlawful indefinite detention constitutes irreparable harm. *See Seretse- Khama v. Ashcroft*, 215 F. Supp.2d 37, 53 (D.D.C. 2002); *Hardy v. Fischer*, 701 F.Supp. 2d 614, 619 (S.D.N.Y. 2010) (threat of unlawful detention and reimprisonment would constitute quintessential irreparable harm).

13. Second, exhaustion is not required where the Petitioner challenges the constitutionality of the agency procedure itself, "such that the question of the adequacy of the administrative remedy is for all practical purposes identical with the merits of the plaintiff's lawsuit." *McCarthy*, 503 U.S. at 148. In this case, Petitioner is challenging the constitutionality of any administrative procedures by which Respondents review the

custody status of immigrants in his situation, including the post-order custody review process and those individuals who are unexpectedly taken into custody after remaining on extended orders of supervision. Thus, exhaustion of administrative remedies is not required.

STATEMENT OF FACTS REGARDING CURRENT DETENTION

14. At exactly 11:17am. on the morning of June 23, 2025, while Mr. Abedi was in his yard at home, ICE Officers came and inexplicably arrested him. They provided no arrest warrant, and no information about why his release was being revoked.

15. This detention came after Mr. Abedi was placed on an Order of Supervision (OSUP) by ICE on December 19, 2002; nearly 22 years earlier. **(See attached Exhibit C)**.

16. Mr. Abedi complied with all requirements of his OSUP release and has never violated the conditions of his release in any way. He worked as a mechanic and rental property owner, took care of his wife and had no new criminal contacts or convictions. **(See attached Exhibit C and D)**.

17. Despite having no reason whatsoever to find that Mr. Abedi had violated the terms of his release, ICE arrested Mr. Abedi without cause, without notice and without warning. He was ambushed in his home.

18. Although Chicago Field Office Assistant Field Office Director Keone Feliciano has signed a "Notice of Revocation and Release" on June 22, 2025, the document was not provided to Mr. Abedi at the time of his arrest. Instead, the document purports to have been tendered to him after he was already in the Chase County Jail in Cottonwood Falls,

Kansas; the document itself does not bear Mr. Abedi's signature as having been served it[3]. **(See attached Exhibit E)**.

19. The Notice of Revocation of Release advised Mr. Abedi that he would be "promptly afforded an informal interview at which you will be given an opportunity to respond to the reasons for the revocation. If you are not released after the informal interview, you will receive notification of a new review, which will occur within approximately three months of the date of this notice."

20. No interview or any other administrative process has been provided to Mr. Abedi at any time regarding his continued custody.

21. The Notice of Revocation also indicated that there have been "changed circumstances" in Mr. Abedi's case. Again, to date, no information has been provided to Mr. Abedi as to the nature of those changed circumstances.

22. Mr. Abedi was granted deferral of removal under the Convention Against Torture, and it is unlawful to remove him to Iran. **(See attached Exhibit B).** Respondents have not filed a Motion to Reopen with the immigration Court to seek the recession of the deferral grant and thus, the order barring removal to Iran remains in effect. Furthermore, there is no evidence to suggest, and none has been provided to Petitioner, that removal is imminent in Mr. Abedi's case.

23. In essence, Respondents have failed to follow any procedural mandates in re-detaining Mr. Abedi and are continuing to hold him unlawfully in violation of the regulations. *See* 8 C.F.R. §241.13(i)(2) and (i)(3).

[3] While page 3 of Exhibit E has a marking next to the word "iniciales", that marking appears to have been done by the same individual who completed page 2, namely Officer McCoy and not the Petitioner.

CLAIMS FOR RELIEF

24. The Government is holding Mr. Abedi in violation of the Due Process Clause of the U.S. Constitution, the Immigration and Nationality Act, and federal regulations. The factual allegations listed above are incorporated into each of the causes of actions listed below.

FIRST CAUSE OF ACTION

THE IMMIGRATION AND NATIONALITY ACT DOES NOT AUTHORIZE MR. ABEDI'S DETENTION BECAUSE A NEW REMOVAL PERIOD HAS NOT BEEN RE-TRIGGERED

24. Respondents presumed basis for re-detaining Mr. Abedi is 8 U.S.C. § 1231, the statute governing detention following a final order of removal ("post-order detention"). However, under the terms of this statute and the governing regulations, Mr. Abedi's detention is unlawful.

25. 8 U.S.C. § 1231 authorizes the detention of individuals following a final order of removal only under specifically delineated circumstances. First, 8 U.S.C. § 1231(a)(2) requires the detention of individuals during a 90-day statutory "removal period" during which time the government must secure the individual's removal. *See* 8 U.S.C. § 1231(a)(1)(A).

26. The removal period begins on the latest of a list of three occurrences: (i). The date the administrative order becomes final, (ii). If the removal order is judicially reviewed and if the court orders a stay of the removal of the alien, the date of the court's final order or (iii). If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement. *See* 8 U.S.C. § 1231(a)(1)(B).

27. The plain language of the statute contemplates three district instances when the removal period can be re-started. The Courts in the District of Kansas, and others, have

recognized that one of the "triggering events" under 8 U.S.C. § 1231(a)(1)(B), *if it reoccurs,* can restart the removal period. *See Garcia Uranga v. Barr*, 5:20-cv-03162-JWL (Doc. 6 at page 9) (distinguishing *Diaz-Ortega v. Lund*, No. 1:19-CV-670-P, 2019 WL 6003485, *7 (W.D. La. Oct.15, 2019). *See also Nay v. Napolitano*, 2013 U.S. Dist. Lexis 68607 *10 ("The only sensible reading of [§ 1231(a)(1)(3)] is that [ICE] is required to effectuate the removal within 90 days of certain events, but will have 90 days if another one of the designated events occurs at a later date." and "removal period begins anew upon the happening of any of the events described in § 1231(a)(1)(B))"(cleaned up. internal cites omitted.)

28. Mr. Abedi has never left the United States since the order of removal was issued against him on September 30, 2002. He has remained on an order of supervision since December 19, 2002, and has incurred no other criminal convictions since his conviction in 2001. In this way, none of the three statutory criteria for re-triggering a new removal period has occurred. Thus, the statutory removal period that began in 2002 has long lapsed and no subsequent or intervening event restarting that removal period has occurred.

29. Mr. Abedi is therefore being detained currently in violation of the plain language of the statute since the removal period has long lapsed and no re-triggering event has occurred which would start the removal period anew.

SECOND CAUSE OF ACTION:

THE IMMIGRATION AND NATIONALITY ACT DOES NOT AUTHORIZE MR. ABEDI'S DETENTION BECAUSE HE HAD BEEN RELEASED ON A VALID ORDER OF SUPERVISION

30. If the government fails to remove the individual during the 90-day removal period, 8 U.S.C. § 1231(a)(6) provides that the government may detain an individual or release him or her under terms of supervision under paragraph 3 of the subsection. *See* 8

U.S.C. § 1231(a)(6). ("An alien ordered removed who is [1] inadmissible . . . , [2] removable [as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or foreign policy,] or [3] who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to [certain] terms of supervision in paragraph (3).").

31. Paragraph (3) provides that an individual who is not removed "shall be subject to supervision" under specific terms, including requirements that he or she appear periodically before an immigration officer, obey any written restrictions, and other conditions. 8 U.S.C. § 1231(a)(3). *See also* 8 C.F.R. § 241.5 (providing for specific conditions for release—involving but not limited to reporting requirements and travel document acquisition requirements—should an order of supervision be issued).

32. Furthermore, 8 U.S.C. § 1231(a)(7) provides that work authorization can be issued when the removal of an individual is impossible because of travel document related issues or "otherwise impracticable or contrary to the public interest." *See also* 8 C.F.R. § 274a.12(c)(18) (same).

33. Mr. Abedi had been complying with all the conditions of his release and receiving work authorization pursuant to 8 U.S.C. § 1231(a)(7) and 8 C.F.R. § 274a.12(c)(18) since his release in 2002. The grants of work authorization represent a finding by the federal government that Mr. Abedi's removal is impracticable and/or contrary to the public interest. 8 U.S.C. § 1231(a)(7); 8 C.F.R. § 274a.12(c)(18).

34. No statute authorizes Mr. Abedi's detention at this time, outside the removal period, without cause, prior notice, and an opportunity to be heard. Rather, the only

statutory provision that applies to him is the statute that provides that noncitizens "shall" be subject to an order of "supervision" as opposed to "detention." *See* 8 U.S.C. 1231(a)(6).

THIRD CAUSE OF ACTION:

DETENTION PURSUANT TO A REVOCATION OF MR. ABEDI'S ORDER OF SUPERVISION IS CONTRARY TO THE STATUTE, VIOLATES ICE'S OWN REGULATIONS, AND VIOLATES MR. ABEDI'S CONSTITUTIONAL RIGHTS.

35. As articulated herein, Mr. Abedi's release on an order of supervision is authorized by statute. *See* 8 U.S.C. §1231(a)(3). None of the conditions of Mr. Abedi's order of supervision has been violated.

36. In addition, the regulations provide specific circumstances and due process safeguards to individuals for whom ICE seeks to revoke an OSUP. 8 C.F.R. 241.13.

37. OSUP may be revoked if an individual violates the terms of OSUP. 8 C.F.R. 241.13(h)(4)(i)(1). Mr. Abedi has never violated the terms of his OSUP in nearly 23 years.

38. OSUP may be revoked "on account of changed circumstances" and that there is now a "significant likelihood that [the individual] may be removed in the reasonable future". 8 C.F.R. 241.13(h)(4)(i)(2). Respondents have provided no showing of any changed circumstances or that there is a significant likelihood that Mr. Abedi will be removed in the reasonable future.

39. Notwithstanding, the basis for revocation, the regulations also mandate certain procedures upon which revocation may occur. Specifically, the regulations outline:

> "The Service will conduct 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. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release."

See 8 C.F.R. 241.13(h)(4)(i)(3).

40. None of these processes have occurred in Mr. Abedi's case.

41. To the extent the government has revoked Mr. Abedi's order of supervision without notice or an opportunity to be heard, the government has violated the statute and the applicable regulations, 8 C.F.R. § 241.4(l) and 241.13, by failing to provide Mr. Abedi with a particularized notice of the reason(s) of the revocation of his release or an opportunity to respond to the allegations contained therein. *See* 8 C.F.R. 241.13(h)(4)(i)(2) and (3). In addition, to the extent this was done to effectuate a removal order, it would also present a violation of 8 C.F.R. §241.22 and 241.33(b). When the government fails to comply with its own federal regulations, as it did when it revoked Mr. Abedi's release in violation of its own procedures, the action should be found invalid. *See e.g., Ying Fong v. Ashcroft*, 317 F. Supp. 2d 398, 403-04 (S.D.N.Y. 2004) (granting habeas petition where petitioner was deported fewer than 72 hours after her arrest and regulation mandated a 72- hour rule); *Rombot v. Souza*, No. 17-11577-PBS, 2017 U.S. Dist. LEXIS 185244, at *12 (D. Mass. Nov. 8, 2017) (granting habeas petition where ICE conducted custody status review improperly in violation of 8 C.F.R. § 241.4).

42. To the extent the government has revoked Mr. Abedi's order of supervision without notice or an opportunity to be heard, the government has also deprived Mr. Abedi of due process of law. The Due Process clause applies to all persons in the United States, "whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Procedural due process constrains governmental decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause of the Fifth Amendment. *See Matthews v. Eldridge*, 424 U.S. 319, 332 (1976);

see also Perry v. Sindermann, 408 U.S. 593, 601–03 (1972) (reliance on informal policies and practices may establish a legitimate claim of entitlement to a constitutionally-protected interest). Infringing upon a protected interest triggers a right to a hearing before that right is deprived. *See Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 569–70 (1972).

43. Mr. Abedi's order of supervision creates legitimate liberty and property interests. Although the regulatory framework suggests that orders of supervision may be rescinded at the discretion of the government, both create vested liberty and property rights for Mr. Abedi. First, Mr. Abedi has a liberty interest in his freedom from physical confinement, which his order of supervision helps to secure. *See Zadvydas*, 533 U.S. at 690. Second, Mr. Abedi also has a property interest in his order of supervision and the employment authorization that stems from the order of supervision.

44. Property interests "are created and their dimensions are defined by existing rules or understandings that . . . secure certain benefits and that support claims of entitlement to those benefits." *Board of Regents of State Colleges*, 408 U.S. at 577. Put another way, even if the Department of Homeland Security maintains the ability to grant or deny a benefit, it does not change the mandatory requirement to render a decision on that pending application. *See Mansor v. United States Citizenship & Immigr. Servs.*, 685 F. Supp. 3d 1000, 1014 (W.D. Wash. 2023)(explaining "even if USCIS retains discretion with respect to *when* to issue a prima facie eligibility determination, it does not retain discretion with respect to *whether* to issue such a determination; only the latter is material to whether Plaintiffs have articulated a "cognizable interest" in the benefit. Thus, because 8 C.F.R. § 244.1 restricts USCIS's discretion to reject or deny a prima facie eligibility determination, it

confers a property interest subject to procedural due process protections.")(internal citations omitted).

45. Mr. Abedi, while on his valid OSUP, and as he has done for over two decades, filed for and tendered fees for his employment authorization document. **(See attached Exhibit F)**. His application remains pending and while DHS could either grant or deny the benefit, it does not alter Mr. Abedi's property interest in obtaining a decision on an application that was properly filed in paid for in accordance with the Agency instructions and regulations. *See* 8 C.F.R. 241.13(h)(3).

46. As already demonstrated herein, Mr. Abedi's order of supervision generates a protected property interest. Since he paid for and is awaiting his employment authorization, he likewise has a property interest in being able to obtain the benefit for which he his property interest would remain protected until at least that time.

47. To the extent that the government revoked Mr. Abedi's order of supervision without prior notice or opportunity to be heard, the government has infringed upon Mr. Abedi's protected liberty and property interests. Mr. Abedi should thus be afforded an opportunity to be heard prior to the revocation of his order of supervision.

48. Finally, Mr. Abedi's civil detention with no foreseeable end infringes upon a protected liberty interest and thus violates his Constitutional rights. See *Zadvydas v. Davis*, 533 U.S. 678, 679, 121 S. Ct. 2491, 2493, 150 L. Ed. 2d 653 (2001)("Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause. Government detention violates the Clause unless it is ordered in a criminal proceeding with adequate procedural safeguards or a special justification outweighs the individual's liberty interest. The instant proceedings are civil and assumed to be nonpunitive, and the

Government proffers no sufficiently strong justification for indefinite civil detention under this statute.").

49. Likewise, there is no proof that the revocation is regulatorily sound as only limited individuals can authorize revocation. 8 CFR 241.4(l)(2). Until the Respondents satisfy these requirements to trigger a valid removal, Mr. Abedi's re-detention currently is premature and thus improper. This is especially true since Mr. Abedi did not engage in any conduct which could have resulted in the revocation of his OSUP.

FOURTH CAUSE OF ACTION:

MR. ABEDI'S DETENTION BEARS NO REASONABLE RELATIONSHIP TO ANY LEGITIMATE PURPOSE AS HIS REMOVAL IS NOT REASONABLY FORESEEABLE.

50. To comport with due process, detention must bear a reasonable relationship to its two regulatory purposes—to ensure the appearance of noncitizens at future hearings and to prevent danger to the community pending the completion of removal. *Zadvydas v. Davis*, 533 U.S. at 690–691 (2001); *Diop v. ICE*, 656 F.3d 221, 233–234 (3d Cir. 2011); *Gordon v. Shanahan*, No. 15-Civ-261, 2015 WL 1176706 at *10 (S.D.N.Y. Mar. 13, 2015). Such a justification for detention is required to be particularly strong once detention is presumptively unconstitutional.

51. The detention of Mr. Abedi nearly 23 years after his release is arbitrary on its face. As ICE recognized when they released Mr. Abedi on December 19, 2002, Mr. Abedi was not a danger to the community, nor was he a flight risk. **(See attached Exhibit C)**. In the interim between Mr. Abedi's release in 2002 and his re-detention in 2025, Mr. Abedi was not arrested or convicted of any crimes. For over 2 decades, Mr. Abedi has dutifully complied with every condition of his order of supervision. Thus, DHS's justification for Mr. Abedi's current detention cannot be based on any new criminal convictions or non-

compliance with his order of supervision. Without any explanation or new basis for why Mr. Abedi is now subject to detention—when nearly 23 years ago, he was released—his continued detention is arbitrary and violates due process. *See supra,* Third Cause of Action.

52. Nor has the government met its burden of proof that Mr. Abedi's removal is reasonably foreseeable as is required by *Zadvydas*. 533 U.S. at 701. There are no known travel documents for removal, and Mr. Abedi has not been informed of any third country to which removal is imminent. In addition, even if ICE were to secure a third country to which Mr. Abedi were to be removed, he would be entitled to written notice and fear screening pursuant to the Respondent DHS' own policies. **(See attached Exhibit G)**. Therefore, removal is not reasonably foreseeable.

53. The Supreme Court has specifically determined release from custody is appropriate in both contexts: where removal is not reasonably foreseeable, and where if removal is reasonably foreseeable. The Supreme Court has indicated:

> "*if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute*. 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, and the alien may no doubt be returned to custody upon a violation of those conditions. And *if removal is reasonably foreseeable, the habeas court should consider the risk of the alien's committing further crimes as a factor potentially justifying confinement within that reasonable removal period*.

Zadvydas v. Davis, 533 U.S. 678, 699-700, 121 S. Ct. 2491, 2504 (2001)(internal citations omitted)(emphasis added).

54. Consistent with the Supreme Court's holding, Mr. Abedi should be released from detention as his removal is not reasonably foreseeable and there is no evidence to suggest otherwise. In addition, even if removal was reasonably foreseeable, given his long history of compliance with the law, his continued detention under the circumstances of this

case is not justified. Allowing Mr. Abedi to return home to his wife so that he may put his affairs in order in the event that removal becomes imminent is the fair, just, and constitutionally protected thing to have happen here.

55. Finally, and in the event that the court deems appropriate, an individual such as Mr. Abedi, who has been re-detained over two decades after his release and has reintegrated into his community, should not be subject to detention without a bond hearing. His detention is presumptively unconstitutional, and the government has failed to rebut that presumption by articulating any legitimate purpose with which Mr. Abedi's continued detention comports.

56. Moreover, given that there is nothing to suggest that Mr. Abedi is a danger to the community or a flight risk, Respondents having determined that for some 23 years, his continued detention, despite his having a valid work authorization document, a job to which he can return, and his US citizen wife and extended family, Mr. Abedi's continued detention is punitive in violation of the Due Process Clause of the Constitution. *Wong Wing v. United States*, 163 U.S. 228, 235 (1896); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;
2) Enjoin Respondents from transferring the Petitioner outside the jurisdiction of the District of Kansas pending the resolution of this case;
3) Issue a Writ of Habeas Corpus Ordering Respondents to release Petitioner immediately;

4) Declare that Respondent's revocation of Petitioner's order of supervised release was unlawful without a constitutionally adequate, individualized hearing and in violation of the statute and regulations;

5) Declare that his continued detention, without cause or justification, is improper as punitive;

6) Award Petitioner his costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute; and

7) Grant such further relief as the Court deems just and proper.

Respectfully submitted this 21st day of July, 2025.

Sharma-Crawford Attorneys at Law

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VERIFICATION

I declare under a penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

s/Rekha Sharma-Crawford July 21, 2025
Rekha Sharma-Crawford