

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
INDIANA, NEW ALBANY DIVISION

**Delia Hernandez Duque v. Scotty Maples, Kristi Noem, Pamela
Bondi, Samuel Olson, Todd Lyons**

No. 4:25-cv-00231-SEB-KMB (S.D. Ind. Jan. 6, 2026) · No. No. 4:25-cv-00231-SEB-KMB · Decided January
6, 2026

SUMMARY

The United States District Court for the Southern District of Indiana granted in part Delia Hernandez Duque’s habeas petition challenging her detention after the revocation of her order of supervision. The Court held that the government had not demonstrated compliance with the applicable regulatory procedures or shown that an authorized official had revoked the order. Respondents were ordered to complete the required revocation process by January 8, 2026, or release the petitioner subject to her most recent supervision conditions.

CASE DETAILS

COURT	United States District Court for the Southern District of Indiana, New Albany Division
WRITING FOR THE COURT	Sarah Evans Barker
JURISDICTION	United States District Court for the Southern District of Indiana, New Albany Division
DECIDED	January 6, 2026
DOCKET	No. 4:25-cv-00231-SEB-KMB
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner sought habeas relief under 28 U.S.C. § 2241 from civil detention following the alleged revocation of her order of supervision without compliance with governing regulations. The court granted the petition in part and ordered the government either to properly revoke the order of supervision through the prescribed process or release petitioner.
STANDARD OF REVIEW	Under the Administrative Procedure Act, agency action must be set aside if it is arbitrary, capricious, an abuse of discretion, contrary to law or constitutional rights, or in excess of statutory authority. The court reviewed the legality of petitioner's detention and the agency's

	compliance with its own regulations in habeas proceedings under 28 U.S.C. § 2241.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation and no stated precedential designation
PARTIES	Delia Hernandez Duque v. Scotty Maples, Kristi Noem, Pamela Bondi, Samuel Olson, Todd Lyons

TOPICS

immigration detention removal proceedings administrative procedure act judicial review of agency action
procedural due process

PRACTICE AREAS

Immigration Administrative law Habeas corpus Constitutional law Civil procedure

QUESTIONS PRESENTED

1. Whether 8 U.S.C. § 1252(g) barred judicial review of petitioner's challenge to her detention.
2. Whether petitioner's detention was authorized by the 90-day mandatory-detention provision of 8 U.S.C. § 1231(a)(1).
3. Whether the government lawfully revoked petitioner's order of supervision and returned her to custody under 8 C.F.R. § 241.4(l).
4. What remedy was appropriate for the government's failure to comply with the procedures governing revocation of release.

HOLDINGS

1. Section 1252(g) did not bar jurisdiction because petitioner's claim challenged the lawfulness of her confinement rather than the decision to execute a removal order.
2. The record did not establish that petitioner's November 2025 re-detention fell within the 90-day mandatory detention period.
3. The government did not establish a lawful revocation of petitioner's order of supervision because it failed to show that an authorized official revoked the order and failed to provide the required notice and prompt informal interview.
4. The appropriate remedy was to order the government to complete the legally required revocation process promptly or release petitioner if it could not do so within the court-ordered timeframe.

KEY QUOTATIONS

“Accordingly, we hold that we have jurisdiction over Petitioner's petition because, and to the extent that it challenges her unlawful detention.” (Section III.A)

“Applying the APA and the Accardi doctrine, we hold that the revocation of Petitioner’s release and her detention are contrary to law.” (Section III.C)

“Respondents, by no later than 5:00 p.m. on January 8, 2026, must file documentation with the Court showing that an expressly authorized official pursuant to 8 C.F.R. § 241.4(1)(2) has taken the necessary steps to revoke Petitioner’s OSUP, or if Respondents are unable to take such action in the allotted timeframe to release Petitioner from detention, subject to her most recent order (and conditions) of supervision.” (Section IV)

FACTUAL BACKGROUND

Delia Hernandez Duque, a Guatemalan national who entered the United States without inspection in 2007, was placed in removal proceedings in 2008. After the denial of asylum and withholding claims and the dismissal of her appeal, her voluntary-departure period expired and the order became an order of removal in 2016; DHS placed her on an order of supervision that April. In November 2025, ICE arrested and detained her and issued removal warrants without first serving a regulatory notice of revocation of her order of supervision or providing an informal interview. Although respondents later served a notice referring to revocation of parole, the record did not establish that an authorized official revoked the order of supervision or that petitioner received the required prompt interview.

PROCEDURAL HISTORY

Petitioner filed a § 2241 petition on November 24, 2025. The court issued a limited temporary restraining order, but respondents transferred petitioner to Texas and deported her to Guatemala before returning her to Indiana after the court issued show-cause orders concerning possible contempt. The parties briefed the habeas petition, and the federal respondents later submitted documentation of a December 31, 2025 notice of revocation. The court denied the contempt motion as moot, granted habeas relief in part, and withheld final judgment pending the government’s compliance with the order.

DISPOSITION

other

REMAND INSTRUCTIONS

Respondents were ordered, by 5:00 p.m. on January 8, 2026, to file documentation showing that an expressly authorized official under 8 C.F.R. § 241.4(l)(2) had taken the necessary steps to revoke petitioner’s order of supervision. If they could not do so within that timeframe, they were ordered to release petitioner from detention subject to her most recent order and conditions of supervision. Final judgment was not to issue at that time.

CASES CITED

- Martinez Camargo v. I.N.S., 282 F.3d 487, 491 (7th Cir. 2002)
- United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 267-68 (1954)
- Zelaya Diaz v. Rosen, 986 F.3d 687, 690 (7th Cir. 2021)

- K.E.O. v. Woosley, 2025 WL 2553394, at *3 (W.D. Ky. Sept. 4, 2025)
- N.A.L.R. v. Bondi, No. 4:25-cv-00192-SEB-KMB, 2025 WL 2987239, at *3 (S.D. Ind. Oct. 23, 2025)
- Carrera-Valdez v. Perryman, 211 F.3d 1046, 1047 (7th Cir. 2000)
- E.F.L. v. Prim, 986 F.3d 959, 964 (7th Cir. 2021)
- Reno v. American-Arab Anti-Discrimination Committee, 525 U.S. 471, 482 (1999)
- Department of Homeland Security v. Regents of the University of California, 591 U.S. 1, 19 (2020)
- Parra v. Perryman, 172 F.3d 954, 957 (7th Cir. 1999)
- C.M. v. Maples, No. 4:25-cv-00198-TWP-KMB, 2025 WL 3091623, at *4 (S.D. Ind. Nov. 5, 2025)
- Cedeno-Gonzalez v. Noem, No. 2:25-cv-00473-JPH-MJD, 2025 WL 2999583, at *9 (S.D. Ind. Oct. 27, 2025)
- Zhu v. Genalo, 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025)
- Ceesay v. Kurzdorfer, 781 F. Supp. 3d 137, 157, 164-65 (W.D.N.Y. 2025)
- Orellana v. Baker, 2025 WL 2444087, at *5 (D. Md. Aug. 25, 2025)
- Waller v. Georgia, 467 U.S. 39, 50 (1984)
- Jackson v. Denno, 378 U.S. 368, 393-94 (1964)
- Barrios v. Ripa, No. 1:25-CV-22644, 2025 WL 2280485, at *8 (S.D. Fla. Aug. 8, 2025)

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