

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 25-CV-22914-RUIZ

EDMOND GRIGORIAN,

Petitioner,

v.

U. S. ATTORNEY GENERAL, et al.,

Defendants.

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**DEFENDANT'S RESPONSE TO PLAINTIFF'S EMERGENCY MOTION FOR  
IMMEDIATE TEMPORARY RESTRAINING ORDER**

Defendants, Pamela Bondi, United States Attorney General, et al., file this response to Petitioner Edmund Grigorian's Emergency Motion for Immediate Temporary Restraining Order (ECF No.1).

**INTRODUCTION AND BACKGROUND**

Petitioner Edmund Grigorian is a national of Iran. *See* Petition at ¶ 18. In 1982, Grigorian and his family were granted asylum in the United States. *Id.* at ¶ 19. In 2002, Grigorian adjusted his status to that of lawful permanent resident. *Id.* at ¶ 20. In 2007, however, Grigorian was convicted on six counts of mail and wire fraud in connection with a scheme to defraud consumers of DVD vending machines. *See* Judgment in a Criminal Case, ECF No. 325

in *United States v. Edmund Grigorian*, Case No. 05-60203-CR-MARTINEZ. Grigorian was sentenced to serve nine years in prison and ordered to pay \$3,113,799.00 in restitution. *Id.*<sup>1</sup>

In 2010, on account of his criminal conviction, Grigorian was placed in removal proceedings pursuant to Immigration and Nationality Act § 237(a) (codified at 8 U.S.C. § 1227(a)). *See* Exhibit B to Plaintiff's Petition (ECF No. 1-1). On July 18, 2011 an Immigration Judge ordered Grigorian removed (*see id.*) and the removal order became final when the Board of Immigration Appeals dismissed his appeal on October 21, 2011.<sup>2</sup>

Although he was ordered removed to Iran, the presiding Immigration Judge deferred Petitioner's removal to that country under Article 3 of the Convention Against Torture, based upon a finding that Plaintiff would more likely than not be tortured "if returned to Iran." *See* Petition Ex. B. (ECF No. 1-1 at 29).

Grigorian was not in ICE's custody during his removal proceedings, nor was he in custody following his release from federal prison. Instead, Grigorian remained free pursuant to an Order of Supervision. *See* Petition at ¶ 4. On June 23, 2025, however, Mr. Grigorian was issued a Notice of Revocation of Release. *See* Exhibit B hereto. The Notice of Revocation informed Mr. Grigorian that the decision to keep him in custody was based "on a review of [his] file and/or [his] personal interview." *Id.* The Notice specifically referenced the "[m]ost recent BIA decision in [Petitioner's] case." *Id.* That is the decision by the Board of Immigration Appeals, rendered on October 21, 2011, dismissing Plaintiff's appeal of the Immigration Judge's

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<sup>1</sup> Although Plaintiff made minimum payments while incarcerated and on supervised release, he has made no voluntary payments toward restitution since 2018 and the restitution debt to Plaintiff's victims, including interest, is now greater than \$6 million.

<sup>2</sup> A copy of the BIA's Order is attached hereto as Exhibit A. The BIA's dismissal of Plaintiff's appeal made the Immigration Judge's Order of Removal final. *See* 8 CFR § 1241.1(a).

denial of a waiver of removability under § 212(h) of the Immigration and Nationality Act. *See* Exhibit A hereto. The BIA's dismissal of Grigorian's appeal made his removal order final. *See* 8 CFR § 1241.1(a).

Thus, Grigorian's release was revoked and he was taken into ICE custody based upon his final order of removal. The Notice advised Grigorian that he would "promptly be afforded an informal interview" at which he would be given an opportunity to respond to the reasons for the revocation of his release. *See* Exhibit B hereto. The Notice further advised Grigorian that if he were not released after the informal interview, he would receive notification of a new review, which would occur "within approximately three months of the date of this notice." *Id.*

Grigorian filed his Petition in this action on June 27, 2025. Grigorian argues that his detention violates 8 CFR § 241.4(l)(2), regarding the "detention of inadmissible, criminal, and other aliens beyond the removal period," because he has not violated terms of his supervision. *See* Petition at ¶ 5. Grigorian also argues that, because he cannot be deported to Iran and the government has not identified a third country to which he *could* be deported, his removal is not reasonably foreseeable and his detention is, therefore, unlawful under *Zadvydas v. Davis*, 533 US 678 (2001). Both of these arguments fail.

The regulation governing the detention of criminal aliens, 8 CFR § 241.4(l), does not limit ICE's authority to revoke supervised release to instances where the alien has violated the conditions of release. In addition to revocation on account of an alien's violation of the conditions of supervision, ICE may revoke release when, *inter alia*, "it is appropriate to enforce a removal order." 8 CFR § 241.4(l)(2). Thus, ICE was entirely within its authority to revoke Grigorian's release in order to effect his removal pursuant to his final order of removal. Further,

the Court does not have subject matter jurisdiction to review ICE's decision to revoke Grigorian's release.

As for Grigorian's argument that his detention is unlawful because his removal is not reasonably foreseeable, it misapplies the Supreme Court's holding in *Zadvydas*. As Grigorian acknowledges on page 11 of his Petition, the Supreme Court in *Zadvydas* held that an indefinite detention "beyond 180 days" is presumptively unreasonable in instances where there is no significant likelihood of removal. But Grigorian has, as of this writing, been detained in ICE's custody fewer than 10 days. His claim is, therefore, premature.

Grigorian's Habeas Petition and Motion seeks an order requiring his immediate release from ICE's custody, prohibiting his removal from this District, and requiring the government to provide him with notice and a hearing where he can confront and oppose removal to any alternative third country that agrees to accept him. As explained below, Grigorian's is not entitled to an order requiring his release or preventing his removal, but he will be provided notice prior to his removal to a third country and an opportunity to oppose the same.

### **ARGUMENT**

#### **I. ICE lawfully revoked Grigorian's supervised release and the Court lacks jurisdiction to review the matter.**

Grigorian argues that his detention violates 8 CFR § 241.4(l)(2) because he has not violated terms of his supervision. The regulation, however, does not limit ICE's authority to revoke an alien's supervised release to instances where the person has violated the conditions of release. Under 8 CFR § 241.4(l)(2), ICE has discretion to revoke an alien's release when, in the opinion of the revoking official:

- (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.

8 CFR § 241.4(l)(2)(emphasis added).

Here, ICE revoked Grigorian's release to enforce the final removal order against him. As required by the regulation, ICE "notified [him] of the reasons for revocation of his [] release" and is providing Grigorian "an initial informal interview" at which he will have "an opportunity to respond to the reasons for revocation stated in the notification." *See* 8 CFR § 241.4(l)(3) and Exhibit B hereto. ICE's Notice explains to Grigorian that, if he is not released from custody following the informal interview, ICE will schedule a review process which will ordinarily be expected to occur within approximately three months after release is revoked. *Id.* Pursuant to the regulation, that custody review will include a final evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release." 8 CFR § 241.4(l)(3).

The Court is prohibited from reviewing ICE's decision to revoke Grigorian's supervised release. *See Westley v. Harper*, Case No. 25-229, 2025 WL 592788 (E.D. La. Feb. 24, 2025). In *Westley*, the district court dismissed an alien's habeas petition that challenged the alien's detention following the agency's allegedly unlawful revocation of supervised release. The court found it lacked subject matter jurisdiction over the alien's petition because the revocation of supervised release was part of ICE's effectuation of the plaintiff's removal and judicial review was, therefore, prohibited by 8 U.S.C. § 1252(g)). *Id.*

Section 1252(g) of Title 8, United States Code provides that “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to . . . execute removal orders against any alien.” 8 U.S.C. § 1252(g). The foregoing provision not only strips the district court of jurisdiction to stay the execution of a removal order, it also prohibits review of actions necessary to secure the alien for removal. *Westley*, 2025 WL 592788 at \*4 (citing *Foster v. Townsley*, 243 F.3d 210, 214 (5th Cir. 2010)).

ICE’s revocation of Grigorian’s release was lawful and undertaken in accordance with 8 CFR § 241.4(l)(2). Regardless, the Court does not have jurisdiction to review ICE’s decision to revoke Grigorian’s release and take him into custody because those actions were taken for the purpose of executing the final order of removal pending against him.

## **II. Grigorian’s continued detention pending removal is lawful.**

Grigorian’s argument that his detention is unlawful because he cannot be deported to Iran and the government has not identified a third country to which he *could* be deported also fails. Under INA section 241 (codified at 8 U.S.C. § 1231), “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231 (a)(1)(A). That 90-day period is called the “removal period.” During the removal period, the Attorney General is required to detain the alien. 8 U.S.C. § 1231(a)(2)(A). “An alien ordered removed who is inadmissible under section 1182 of this title. . . may be detained beyond the removal period” or released subject to supervision. 8 U.S.C. § 1231(a)(6).

In *Zadvydas*, the Supreme Court held that § 1231(a)(6) only authorizes detention for a period reasonably necessary to remove the alien, and “does not permit indefinite detention.”

*Zadvydas*, 533 U.S. at 682 (“[W]e construe the statute to contain an implicit ‘reasonable time’ limitation”). To help guide lower court determinations, and to limit the occasions when courts will need to make them, the Court held that six months of post-removal-order detention is presumptively reasonable. *Id.* at 700–01. Even in cases where detention is longer than the presumptively reasonable period, the Supreme Court held that “an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

Thus, to state a valid claim under *Zadvydas*, a detained alien must show (1) “post-removal order detention in excess of six months” and (2) “a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002). Plaintiff here has not made such a showing.

As of this writing, Grigorian has been detained in ICE’s custody fewer than 10 days – a period far shorter than the 180-day period held presumptively reasonable under *Zadvydas*. Accordingly, Grigorian’s challenge to his detention is premature. *See Gonzalez v. Barr*, Case No. 20-10130-CV-KING, 2020 WL 7294570 (S.D.Fla. Dec. 10, 2020) (King, J.) (“the 180 days in post-order custody must have expired before an individual can challenge custody under 8 U.S.C. § 1231”); *Salpagarova v. Immigration and Naturalization Service*, Case No. 20-61739-CV-SINGHAL, 2020 WL 13550204 (S.D.Fla. Oct. 20, 2020) (Sighal, J.) (“Petitioner is not entitled to relief because she has not been detained for more than six months after being subject to a final order of removal”); *Louis v. U.S. Atty. Gen’l*, Case No. 2:20-cv-135-FtM-38NPM, 2020 WL 1049169 (M.D. Fla. Mar. 4, 2020) (“when he filed the Petition, Petitioner had been in custody only 92 days, much less than the 180-day presumptive reasonable period. The Court dismisses the Petition without prejudice as premature”).

Even setting aside the brevity of his detention, Grigorian's speculation that "[n]o alternative country has been identified by the government because no acceptable, alternative country can be identified" (Petition at ¶ 37) is not a "good reason to believe that there is no significant likelihood of removal in the foreseeable future." *Akinwale*, 287 F.3d at 1052.

### **III. Grigorian has not established his entitlement to a temporary restraining order.**

To obtain a temporary restraining order, a party must demonstrate "(1) a substantial likelihood of success on the merits; (2) that irreparable injury will be suffered if the relief is not granted; (3) that the threatened injury outweighs the harm the relief would inflict on the non-movant; and (4) that the entry of the relief would serve the public interest." *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005) (per curiam) (citations omitted). As explained above, Grigorian is unlikely to succeed on the merits of his habeas petition. ICE lawfully revoked Grigorian's supervised release and the Court lacks jurisdiction to review the matter. And Grigorian's continued detention pending removal is lawful under *Zadvydas*.

As for whether irreparable injury would be suffered if the relief is not granted, Defendants note that Grigorian has an opportunity to respond to the revocation of his release, as explained in the Notice that was issued to him (Exhibit B hereto). When a third country is designated for the purpose of Grigorian's removal, Grigorian will be provided notice and an opportunity to challenge the removal on the basis that he has a fear of persecution or torture in such third country. If Grigorian is found not to have a credible fear of persecution or torture, he may request that an Immigration Judge review that determination. Thus, Grigorian is not subject to irreparable harm in the absence of a temporary restraining order.

Accordingly, Grigorian is not entitled to a temporary restraining order.

**CONCLUSION**

For the foregoing reasons, Plaintiff's Petition and Motion for a Temporary Restraining Order should be denied.

Respectfully submitted,

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