NITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO: 25-23014-CIV-MARTINEZ

MOEEN MEHRI-JAMILL,

Petitioner,

v.

PAMELA BONDI, U.S. Attorney General,
et al.,

Respondents.
_____/

RESPONSE TO ORDER TO SHOW CAUSE

Pursuant to the Court's Order (DE 4), Respondents Pamela Bondi, United States Attorney General, *et al.*, show cause why the Court should deny Moeen Mehri-Jamill's Petition for Habeas Corpus (including the incorporated request for temporary injunctive relief).

INTRODUCTION AND BACKGROUND

Petitioner Moeen Mehri-Jamili is a native and citizen of Iran who was admitted to the United States as a conditional permanent resident in April 1987. *See* Exhibit A (Declaration of Deportation Officer Jason Clarke (Clarke Dec.)), ¶¶4-5. In April 1989, the conditions were removed, and Petitioner became a legal permanent resident. *Id.* ¶4-10; Exhibit B (2008 Form I-213).

On February 11, 2008, Petitioner was convicted in the U.S. District Court for the Middle District of Florida of possessing with intent to distribute opium (and conspiring to do so), in violation of 21 U.S.C. §§ 841(a)(1)(C), 846. (*United States v. Moeen Mehri*, Case No. 2:06-cr-00030-JES-SPC (M.D. Fla. 2008)). *See* Exhibit C (Indictment). The Court sentenced Petitioner to five years of probation. *See* Exhibit D (Judgment).

In late February 2008, U.S. Immigration and Customs Enforcement (ICE) determined that Petitioner was subject to removal from the United States based on his federal drug trafficking conviction pursuant to INA §§ 237(a)(2)(A)(iii) and 237(a)(2)(B)(i). *See* Exhibit B (2008 Form I-213). ICE issued Petitioner a Notice to Appear and placed him in removal proceedings. *See* Exhibit E (2008 Notice to Appear).

After an immigration hearing on May 29, 2008, the immigration judge ordered that Petitioner be removed to his native Iran. *See* Exhibit F (Order of Removal). The judge, however, deferred Petitioner's removal to Iran pursuant to the Convention Against Torture. *Id.* The Order of Removal did not identify any third country other than Iran to which Petitioner could be removed. *Id.* Neither party reserved appeal.

On May 30, 2008, ICE released Petitioner on an Order of Supervision (OSUP). This OSUP allowed him to stay out of ICE detention following his removal order. *See* Exhibit G (Order of Supervision). While Petitioner was not in physical ICE detention, he remained under ICE supervision. *Id.*

On June 23, 2025, ICE moved forward on executing the 2008 removal order against Petitioner by taking Petitioner into custody. *See* Exhibit A (Clarke Dec. ¶15); *See* Exhibit H (2025 I-213).

On June 25, 2025, the Petitioner filed with the immigration court an untimely motion to reopen his removal case and a motion for stay of removal. *See* Exhibit A (Clarke Dec. ¶16).

On June 25, 2025, the immigration court granted Petitioner's motion to stay his removal until the resolution of the motion to reopen. *See* Exhibit I (Order Staying Removal).

On July 22, 2025, Petitioner filed a motion to hold in abeyance his motion to reopen his removal case. *See* Exhibit A (Clarke Dec. ¶17).

Petitioner's motion to reopen removal proceedings and motion to hold in abeyance remain pending in immigration court. *Id.*

On September 9, 2025, ICE ERO served Petitioner a Notice of Revocation of Release, signed by a Supervisory Detention and Deportation Officer. Exhibit J (Order of OSUP Revocation). The Notice explained that ICE revoked Petitioner's OSUP pursuant to 8 C.F.R. § 241.4 to affect his removal from the United States to a third country. *Id.* The Notice advised that ICE had made Petitioner's case a priority and referred to Petitioner's federal drug trafficking conviction. *Id.*

The September 9th Notice explained that ICE would afford Petitioner an informal interview during which he could address the Notice of Revocation. It also explained that if he were not released following the informal interview, he would receive notification of a new review to occur within about three months of the Notice.

On September 12, 2025, the Petitioner was provided with his informal interview regarding the Notice of Revocation. *See* Exhibit A (Clarke Dec. ¶19).

Separate from the informal interview and review procedures set out in the September 9th Notice, on September 17, 2025, ICE ERO Miami conducted a post-order custody review (POCR) of Petitioner's file/case. *See* Exhibit A (Clarke Dec. ¶20). On September 30, 2025, ICE ERO Miami served Petitioner with a Decision to Continue Detention in accordance with 8 C.F.R. § 241.4. *See* Exhibit K (Post-Post Custody Review Decision).

Petitioner is detained at Krome Service Processing Center ("Krome") in Miami, Florida. *See* Exhibit A (Clarke Dec. ¶22). He filed a petition for writ of habeas corpus on July 3, 2025. Petitioner claims—incorrectly—that his detention violates due process because ICE failed to comply with the statutory requirements required to revoke an Order of Supervision outlined in 8

C.F.R. §241.4(l)(2) and because there is no significant likelihood of removal in the reasonably foreseeable future (a *Zadvydas* claim). *See* Petition, ¶¶6-7.

ARGUMENT

The Court should deny the Petition (and incorporated request for temporary restraining order) for at least four reasons. First, the Court lacks jurisdiction to review ICE's decision to revoke Petitioner's OSUP. Second, ICE complied with all regulatory procedures for revoking the OSUP. Third, Petitioner's *Zadvydas* claim is premature, as he has been in ICE custody less than 180 days. Fourth, Petitioner has not been, and will not be, denied due process in connection with his removal to a third country. His arguments to that effect are speculative and unfounded.

I. The Court lacks subject matter jurisdiction to review Petitioner's detention for purposes of executing a removal order.

The Court should deny the Petition for lack of subject matter jurisdiction. "Federal courts are courts of limited jurisdiction. They possess only that power authorized by Constitution and statute . . . which is not to be expanded by judicial decree." *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994) (internal citations omitted). District courts lack jurisdiction over "any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this Act." 8 U.S.C. § 1252(g).

Indeed, the Eleventh Circuit has held that 8 U.S.C. § 1252(g) strips district courts of jurisdiction over habeas claims arising from the execution of removal orders. *Camarena v. Dir., Immigration & Customs Enforcement*, 988 F.3d 1268, 1272 (11th Cir. 2021). Likewise, 8 U.S.C. § 1252(b)(9) bars "[j]udicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States" except by "a petition for review

filed with an appropriate court of appeals." 8 U.S.C. §§ 1252(b)(9), 1252(a)(5). Re-detaining an alien for purposes of removal constitutes an enforcement mechanism of a removal order. *Tazu v. U.S. Att'y Gen.* 975 F.3d 292, 298–99 (3d Cir. 2020) ("Re-detaining [the alien] was simply the enforcement mechanism the Attorney General picked to execute his removal. So § 1252(g) funnels review away from the District Court and this Court.").

The Court lacks jurisdiction to entertain direct attacks on the legality of the removal order. Similarly, the Court lacks jurisdiction to entertain indirect attacks on the execution of the removal order. Here, Petitioner asks the Court to order his release from detention to indirectly prevent the execution of the removal order. Such an indirect attack is barred under 8 U.S.C. § 1252(g) as a challenge to the execution of the removal order. The Court is prohibited from reviewing ICE's decision to revoke Petitioner's supervised release. *See Westley v. Harper*, Case No. 25-229, 2025 WL 592788 (E.D. La. Feb. 24, 2025) (dismissing an alien's habeas petition that challenged the alien's detention following the agency's allegedly unlawful revocation of supervised release for lack of subject matter jurisdiction because 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)).

II. ICE lawfully revoked Petitioner's supervised release.

The Court also should deny the Petition because Petitioner's revocation of release and detention are lawful. Under the governing regulation, 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 Petitioner's release to enforce the final removal order against him. This is a proper basis for revocation. *Id.; see also Tran v. Baker*, No. 1:25-CV-01598-JRR, 2025 WL 2085020, at *4 (D. Md. July 24, 2025), *corrected*, 2025 WL 2087124 (D. Md. July 24, 2025) (noting that § 251.4(l)(2) "permits the Government extraordinarily broad discretion to revoke an OSUP").

In addition, even though it was not required to do so, ICE followed regulatory procedure for revoking release.[1] Upon revocation of an OSUP under § 241.4(l), an alien must be "notified of the reasons for revocation." 8 C.F.R. § 241.4(l)(1). "[A]fter his or her return to [ICE] custody" the alien must be "afforded an initial informal interview promptly to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* "If the alien is not released from custody following the informal interview," ICE must then commence "[t]he normal review process . . . with notification to the alien of a records review and scheduling of an interview, which will ordinarily be expected to occur within approximately three months after release is revoked." *Id.* § 241.4(l)(3).

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[1]Here, ICE revoked Petitioner's supervised release under §241.4(l)(2) to effectuate his removal, and not under §241.4(l)(1) (which allows for revocation where the alien violates conditions of release). The notice and informal interview requirements appear in §241.4(1)(1), but not § 241.1(l)(2). Therefore, where—as here—ICE revokes supervised release pursuant to §241.1(l)(2) to execute a removal order, notice and an informal interview are not required. *See Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *6 (S.D. Fla. Aug. 8, 2025) (finding that "it does not appear that Petitioner was entitled notice or an informal interview" because Petitioner's OSUP was revoked pursuant to § 241.4(l)(2), not § 241.4(l)(1)). Even if they are required, ICE complied because it provided Petitioner notice and an informal interview.

ICE notified Petitioner of the reasons for revoking his release. It provided him an initial informal interview where he had an opportunity to respond to the reasons for revocation stated in the notification. And ICE advised the Petitioner in its September 9th Notice that if it did not release him from custody following the informal interview, the agency would schedule a new review within about three months of the date of the Notice. *See* Exhibit I (Order of OSUP Revocation).

In sum, ICE's revocation of Petitioner's supervised release was lawful, undertaken for a purpose permitted by 8 CFR § 241.4(*l*)(2), and in accordance with the regulation's procedures.

III. Petitioner's case is premature.

Petitioner'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 v. Davis*, 533 U.S. 678 (2001). 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." *Id.* 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). Petitioner has not made such a showing.

As of this filing, Petitioner has been in ICE custody for less than six months–the post removal order detention period held presumptively reasonable under *Zadvydas*. Accordingly, Petitioner's challenge to his detention is premature. *See Gonzalez v. Barr*, Case N0. 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").

In addition, Petitioner is contributing to his alleged removal delay. On June 25, 2025, he moved in immigration court to reopen his removal case. Petitioner also moved to stay his removal pending a decision on the motion to reopen. *See* Exhibit A (Clarke Dec. ¶16). The immigration judge stayed Petitioner's removal pursuant to Petitioner's own request. *See* Exhibit

H (Order Staying Removal). What's more, Petitioner then asked the immigration judge to hold the motion to reopen in abeyance—ultimately culminating in Petitioner impeding his removal from the United States indefinitely, since the immigration judge entered a stay of removal while the motion to reopen is pending.

IV. Petitioner's other apparent due process argument remains speculative.

Petitioner appears to argue that because his removal order does not allow him to be deported to Iran and does not specify a third country to which he *can* be deported, any steps taken to execute his removal order violate his due process rights unless he is provided notice and the opportunity to be heard to contest his removal to a third country. *See* Petition at ¶¶6-7. Petitioner thus asks the Court to "[o]rder 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, if one is identified." *Id.* at 18. Petitioner's argument is entirely speculative.

ICE has not yet designated a third country to which Petitioner may be removed. Therefore, Petitioner is arguing that he has been deprived of due process by a decision that has not yet been made in a proceeding that has not yet happened. On this claim, Petitioner has thus failed to allege a case or controversy as required for the Court to exercise its authority under Article III of the Constitution. *See Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 180 (2000). In essence, Petitioner's suit seeks to prevent "a possible future injury," but his allegations do not suffice for Article III standing because he has failed to establish that such injury is imminent.

Moreover, ICE follows the Department of Homeland Security Secretary Kristo Noem's "Guidance Regarding Third Country Removals" (the "S1 Memo"). A copy of the S1 Memo is attached hereto as Exhibit L.

The S1 Memo explains the procedures to be followed in cases of aliens subject to final orders of removal. It provides that, before an alien's removal to a country that had not previously been designated as the country of removal, DHS must determine whether that country has provided diplomatic assurances that aliens removed from the United States will not be persecuted or tortured. If the United States has received such assurances, and if the U.S. Department of State ("DOS") finds those assurances to be credible, the alien may be removed without the need for further procedures. *Id.* at 1-2.

If the United States has not received those assurances, or if the DOS does not find them to be credible, DHS will provide the alien with notice of the third country and an opportunity to assert a fear of return to that third country. If an alien asserts a fear of return to that third country, U.S. Citizenship and Immigration Services ("USCIS") will screen the alien for eligibility for protection under 8 U.S.C. § 1231(b)(3) and the CAT for the country of removal. *Id.* at 2. During the interview, "USCIS will determine whether the alien would more likely than not be persecuted on a statutorily protected ground or tortured in the country of removal." *Id.* "If USCIS determines that the alien has met this standard and the alien was not previously in proceedings before the Immigration Court, USCIS will refer the matter to the Immigration Court in the first instance." *Id.* "In cases where the alien was previously in proceedings before the Immigration Court," the ICE Office of the Principal Legal Advisor "may file a motion to reopen with the Immigration Court or Board of Immigration Appeals, as appropriate, for further proceedings for the sole purpose of determining eligibility for protection under [8 U.S.C. § 1231(b)(3)] and CAT for the country of removal. Alternatively, ICE may choose to designate another country for removal." *Id.*

The S1 Memo ensures that, where a third country that has not provided satisfactory assurances that a removed alien will not be persecuted or tortured is designated as the country to which the alien will be removed, the alien will receive notice of the country of removal and a meaningful opportunity to challenge that country designation. In addition, the S1 Memo clarifies that "DHS will follow existing procedures" for aliens who have an "ongoing proceeding in which to raise a claim under INA § 241(b)(3) or the Convention Against Torture." Ex. D at 1 n.2. The guidance provides the process described above in a manner consistent with Congress's intent to channel all claims related to removal through the administrative process, while preserving DHS's discretion over matters related to the removal process and the implementation of the CAT and satisfying any due process concerns. *See* 8 U.S.C. §§ 1231(h), 1252(a)(4), (a)(5), (b)(9).

Respondents also note that neither the INA nor the regulations require an immigration judge to list some future undefined third country on the removal order. In fact, 8 CFR 241.15(a) provides that DHS "retains discretion to remove an alien to any country described in 241(b) without regard to the nature or existence of a government." [2]

V. Petitioner fails to establish entitlement to a temporary restraining order.

The Court should deny Petitioner's request for a temporary restraining order for the same reasons it should deny the Petition. 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 nonmovant; and (4) that the entry of the relief would serve the public

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[2] While the statute refers to the Attorney General, DHS now handles those functions. *See* 8 U.S. Code § 1231 (b)(1) and (2).

interest." *Schiavo ex. rel Schindler v. Schiavo*, 403 F.3d 1223, 1225–26 (11th Cir. 2005) (per curiam) (citations omitted).

As explained above, Petitioner is unlikely to succeed on the merits of his habeas petition. ICE lawfully revoked Petitioner's supervised release and the Court lacks jurisdiction to review the matter. And Petitioner'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 Petitioner has an opportunity to respond to the revocation of his release, as explained in the Notice that was issued to him (Exhibit B hereto), and an immigration judge has entered a stay of removal. When a third country is designated for the purpose of Petitioner's removal, Petitioner 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 Petitioner is found not to have a credible fear of persecution or torture, he may request that an Immigration Judge review that determination. Thus, Petitioner is not subject to irreparable harm in the absence of a temporary restraining order.

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

CONCLUSION

For these reasons, the Court should deny the Petition.

Respectfully submitted,

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