UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA, MIAMI DIVISION

MOEEN MEHRI-JAMILI, **CASE NO.: 25-CV-23014-MARTINEZ**
Petitioner,

v.

PAMELA JO BONDI, U.S. Attorney General, et al.,
Respondents. /

REPLY TO RESPONDENTS' RESPONSETO ORDER TO SHOW CAUSE

Petitioner Moeen Mehri-Jamili ("Petitioner" and/or "Mr. Mehri"), through undersigned counsel, respectfully submits this Reply to Respondent's Response (DE 5).

INTRODUCTION AND BACKGROUND

Petitioner has risked his life for the substantial benefit and national security of the United States of America -- including the continued benefit of the Respondents who detain him. *See* DE 1-2, Exh. C, letter from Chief Assistant United States Attorney Douglas Molloy and summary of cooperation. As a direct result of his cooperation with the Federal Bureau of Investigation ("FBI"), the Department of Homeland Security ("DHS"), and the Drug Enforcement Agency ("DEA") against Al Qaeda, etc., on May 29, 2008, the Immigration Judge granted protection under the Convention Against Torture ("CAT"), a decision that was not opposed or appealed by DHS. (DE 5, Exh. 6). His removal was deferred because he may not be removed to Iran. Importantly, he also may not be removed to a third country where he is likely to be tortured. 8 USC §1231(b)(3); 8 C.F.R. §208.17(b)(2). In Mr. Mehri's case, there is no third country where the terrorist operatives against whom he cooperated do not exist and will not find him. After ICE released him pursuant to 8 C.F.R. §241, for the next 17 years, he lived peacefully with his family (USC wife and six USC sons and daughters), working hard to support them and paying his taxes.

Without justification, on June 23, 2025, the day after the United States bombed Iran, Mr. Mehri was picked up at his home and detained by ICE, where he remains today. He was not picked up for any immigration or criminal violation or fault of his own. Almost immediately the FBI arrived at Krome to visit him. He agreed to help them without hesitation. FBI headquarters processed and approved its local agent's request to release Mr. Mehri[1] but ICE refused. When 90 days passed, on September 20, 2025, the FBI reached out again to ICE for his release and again ICE refused. The FBI has confirmed that they continue to want Mr. Mehri's assistance but instead he sits in Krome custody unlawfully.

There was no cause to have detained Mr. Mehri on June 23, 2025, and no justification for continuing to detain him. Moreover, there is no significant likelihood of removal in the reasonably foreseeable future ("SLRRFF") and ICE concedes that no third country has been identified. His detention is not appropriate to enforce a removal order because, by the government's own concession, no country has been identified. This court should grant the instant Petition for Habeas Corpus with instructions to notify the court when and if a third country is identified so Mr. Mehri can seek protection from the yet unidentified third country a s CAT provides.

I. THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 2241

Respondents contend that this Court lacks jurisdiction under 8 U.S.C. § 1252(g) and that ICE lawfully revoked Petitioner's supervision. Both positions are incorrect. Federal district courts retain authority under § 2241 to review the legality of immigration-related detention, and ICE's revocation of supervision violated the mandatory safeguards of 8 C.F.R. § 241.4(l) and the Fifth

---

[1] The FBI vetted Mr. Mehri and determined before submitting the request for his release that he is not a danger to the community or a risk of flight. They reached out to ICE-ERO asking for his release on deferred action status and again at the 90th day release consideration. ICE rejected both requests without reason. This can be verified by the FBI who reached out to Respondents.

Amendment. Congress has expressly authorized review of unlawful detention through 28 U.S.C. § 2241. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

Respondents' assertion that 8 U.S.C. § 1252(g) and 8 U.S.C. § 1252(b)(9) strips this Court of jurisdiction is contrary to precedent and has been expressly rejected in this District. The U.S. Supreme Court has routinely heard habeas petitions filed by individuals who are in the removal process. *See generally Jennings v. Rodriguez,* 583 U.S. 281 (2018); *Zadvydas v. Davis,* 533 U.S. 678 (2001). Petitioner is not challenging the decision by ICE to execute his removal order or the validity of the final order of removal but is rather challenging the manner in which ICE is executing the removal order and the underlying legal bases of the decision and actions to detain him. Previous courts have found jurisdiction to review the improper revocation of an individual's order of supervision. *Ceesay v. Kurzdorfer,* 781 F.Supp. 3d 137 (W.D.N.Y. May 2, 2025); *Grigorian v. Bondi,* 2025 WL 2604573 (S.D. Fla. Sep. 9, 2025); *Ahmed v. Freden,* 744 F. Supp. 3d 259 (W.D.N.Y. 2024); *Madu v. U.S. Atty. Gen.*, 470 F.3d 1362 (11th Cir. 2006).

The Supreme Court has continuously given § 1252(g) a narrow reading and emphasized that it does not impose a "general jurisdictional limitation" or prevent all claims arising from deportation proceedings. *Reno v. Am.–Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482–87 (1999); *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018); *Camarena v. Dir., ICE*, 988 F.3d 1268, 1272 (11th Cir. 2021). The Supreme Court is clear that the § 1252(g) bar applies only to the three delineated actions: actions to 1) commence proceedings 2) adjudicate cases, and 3) execute removal orders. It does not apply to all claims that can technically be said to arise from the listed actions as Respondents would have the Court find. *Jennings v. Rodriguez,* 583 U.S. 281 (2018).

Despite Respondents' preposterous allegations, Petitioner is not challenging the legality of the removal order or the execution of the removal order but is rather challenging the improper

revocation of his Order of Supervision ("OSUP") and the legality of his detention. This is the exact purpose of habeas corpus and a basic right afforded to Mr. Mehri under the U.S. Constitution. *Zavydas* makes explicitly clear that habeas petitions are the appropriate forum to challenge post removal period detention. *Zadvydas,* 533 U.S. at 688.

Although Respondents cite *Westley v. Harper*, No. 2:25-cv-00229,2025 WL 592788 (E.D. La. Feb. 24, 2025),[2] this case is not binding on this Court and overextends the scope of § 1252(g), conflicting with longstanding Supreme Court decisions, such as *Jennings* and *Zadvydas.* Moreover, the Eleventh Circuit has distinguished between claims directly attacking a decision to commence, adjudicate, or execute removal, and claims challenging the underlying legal bases of those actions. *Madu*, 470 F.3d at 1368. (11th Cir. 2006); *accord Kong v. United States*, 62 F.4th 608, 617 (1st Cir. 2023) (finding that § 1252(g) does not bar "judicial consideration of collateral challenges to the legality of a petitioner's detention"). Here, Petitioner challenges ICE's failure to comply with the statutory and regulatory prerequisites governing revocation of an OSUP under § 241.4(l)(2) and the resulting unlawful detention. Such a claim targets the "underlying legal bases" of ICE's actions and thus fall squarely within the subject matter jurisdiction of this Court

II. ICE VIOLATED 8 C.F.R. § 241.4(l)

ICE's revocation of Petitioner's OSUP violated both the letter and the spirit of 8 C.F.R. § 241.4(l)(2). Respondents assert that Petitioner's OSUP was only revoked to enforce the removal order against him under § 241.4(l)(2). (DE 5, pg. 6). Respondents stipulate that no third country has been identified to effectuate his removal, yet re-detained Mr. Mehri to enforce his removal.

---

[2] Moreover, this case is factually distinct from *Westley* where the petitioner's removal was substantially likely in the reasonably foreseeable future given the reinstatement of his prior order of removal and the absence of any protection under CAT. Here, Mr. Mehri's removal is not reasonably foreseeable or achievable given he is protected under CAT and no third country has been identified, much less can one be identified where he will be protected from the reach of Al Qaeda.

This is contradictory and nonsensical. Mr. Mehri cannot have his release revoked to enforce a removal order when he cannot be removed to Iran and no third country has been identified. Indicative of Respondents' bad faith, for more than 116 days, ICE has failed to identify a third country to which Mr. Mehri can be removed. Notably, no third country can ever be identified as Mr. Mehri's CAT grant and likelihood of torture stems from his cooperation against Al Qaeda. Al Qaeda's reach is worldwide and extensively intertwined with governments across the world. (DE 1-2, Exh. D). There is no third country that could protect Mr. Mehri.

While no third country has been identified, Respondents allege that they can remove him without further procedures when diplomatic assurances have been obtained. Mr. Mehri must be notified and has expressed his extreme fear of removal to any third country because of Al Qaeda's known global reach. It is because of the expansive nature of Al Qaeda and the detailed intel Mr. Mehri provided the U.S. government, that the required diplomatic assurances provided in Kristi Noem's memo[3] regarding third country removals are inadequate. These diplomatic assurances are blanket assurances and not case specific. They are not targeted at specific individuals like Mr. Mehri. Further, no assurances protect against third country expulsion to the individual's home country. Mr. Mehri's proven likelihood of torture is extremely specific and relates to the reach of a worldwide terrorist organization that is in every country in the world. These misleading diplomatic assurances are insufficient in Mr. Mehri's case and the lack of due process infringes on Mr. Mehri's right to life and liberty. They are catastrophic and will result in his death.

---

[3]*See DE 5, Exh. 12.* Pursuant to this policy memorandum, ICE has the authority to remove an individual without asking them if they have fear of being removed to that country and without access to due process, if there are so called diplomatic assurances. This is unconstitutional and violates all protections enshrined in statute, regulation, and treaty, as well as international human rights law. Without notice and opportunity to be heard on removal to these countries, an individual cannot ensure they will not be tortured in the country they are removed to. It is impossible to provide Mr. Mehri these blanket assurances given the extensive reach of Al Qaeda.

Moreover, ICE failed to comply with procedural requirements and safeguards. 8 C.F.R. § 241.4(l) explicitly requires that an alien be notified of the reasons for revocation of his release and afforded a prompt initial informal interview after his return to custody. The regulation does not distinguish between subsections (1) and (2) when determining the applicability of the necessary notice requirements and courts have interpreted the notice and informal interview requirement of subsection (1) to apply to subsection (2). *See Grigorian v. Bondi,* 2025 WL 2604573 (S.D. Fla. Sep. 9, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025) (collecting cases); and *Zhu v. Genalo*, No. 1:25-cv-06523 (S.D.N.Y. Aug. 26, 2025). These safeguards ensure that ICE affords individuals an opportunity to contest the basis for detention in a fair and timely manner.

Just like in *Grigorian,* the Court should not be persuaded by *Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485 (S.D. Fla. Aug. 8, 2025), the only case cited by Respondents to support their preposterous assertion that notice and an informal interview are not required under § 241.4(l)(2). The basic notions of statutory interpretation conclude that the safeguards of § 241.4(l)(1) apply to § 241.4(l)(2). The reasons for revocation in subsection (2) encompass the sole reason in subsection (1), suggesting that the safeguards in subsection (1) are a unified set of procedures for all revocations of release. *Grigorian v Bondi*, 2025 WL 2604573 (S.D. Fla. Sep. 9, 2025). Moreover, 8 C.F.R. § 241.4(3) provides for the timing of review when release is revoked and makes no distinction between applicability to subsection (1) and (2). Instead, it explicitly calls for a review process after the informal interview is provided. The statute is thus clear that the notice and informal interview requirements apply to all regardless of the reason for the revocation.

Here, ICE failed to provide Mr. Mehri with notice and an informal interview. As conceded by Respondents' Mr. Mehri was taken into custody with the revocation of his OSUP on June 23, 2025. However, Mr. Mehri was not provided with notice of the revocation until September 9,

2025, and an alleged informal interview on September 12, 2025.[4] This occurred more than 78 days after Mr. Mehri was taken into custody. For over 81 days (seeing as Mr. Mehri's alleged informal interview is said to have occurred on September 12, 2025), Mr. Mehri was not provided with and has still not been provided with an opportunity to respond to the reasons for the revocation of his OSUP. *See* Exhibit A, e-mails with ICE. This is unconstitutional and a violation of Mr. Mehri's rights to due process. As stated in *Grigorian,* "The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the heart of what due process demands".[5] *Grigorian v Bondi*, 2025 WL 2604573 (S.D. Fla. Sep. 9, 2025).

This notice requirement established by regulation and mandated by the Fifth Amendment of the U.S. Constitution is further exemplified in ICE's own memorandum[6] which specifies that a re-detained individual will receive upon arrest and promptly following detention written notification of the reason for his or her detention. This is to occur within two (2) days of the arrest. Mr. Mehri had to wait over 78 days. This is unconstitutional and a violation of Mr. Mehri's due process rights. Due process protections, regardless of the regulatory requirements, independently require an individual to be heard within a prompt time frame because their liberty is at stake. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025). This was not afforded to Mr. Mehri and he must be released. No reason exists to hold him under § 241.4(l), interview or not.

Furthermore, pursuant to § 241.4(l)(2), only the Executive Associate Commissioner has the authority to revoke release. A Field Office Director may only do so upon a finding that the revocation is in the public interest and that the circumstances do not reasonably permit referral of

---

[4] Mr. Mehri contests any informal interview was conducted despite counsel's request. *See* Exhibit A.

[5] It is no coincidence and extremely telling of the bad faith and violations of Mr. Mehri's due process rights, that ICE only provided Mr. Mehri with a notice of revocation and an alleged informal interview after this district's decision in *Grigorian v. Bondi.*

[6] Nick Miroff and Maria Sacchetti, Trump Seeks to Fast-Track Deportations of Hundreds of Thousands, The Washington Post (Feb. 28, 2025) (citing Feb. 18, 2025 memorandum, available at https://perma.cc/VKT4- ZB2G).

the case to the Executive Associate Commissioner. Where such findings are not made, revocation of release is not proper and the individual is entitled to release on that basis alone. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137 (W.D.N.Y. 2025). It is evident in Mr. Mehri's notice of revocation that no such findings were ever made and that Mr. Mehri's revocation of release was not in the public interest or that the circumstances did not permit referral to the Executive Associate Commissioner. In fact, immediately upon his detention Mr. Mehri was visited by the FBI for his cooperation. Because Mr. Mehri was not a flight risk nor a danger to the community and because his detention was against public interest, the FBI immediately began working on coordinating his release. However, the FBI has been unable to obtain such release due to unlawful and unwarranted roadblocks by ICE. *See* Exhibit B, e-mails from the FBI. Because ICE has failed to follow its own regulations, Mr. Mehri's re-detention and revocation of OSUP was unlawful. He must be released.

III. RESPONDENT'S ALLEGATION THAT PETITIONER IS CONTRIBUTING TO HIS OWN DETENTION IS UNCONSCIONABLE AND MERITS SANCTIONS

Perhaps most shocking to the conscious is Respondents absurd and unconscionable proposition that Mr. Mehri is contributing to his alleged removal delay by exercising his constitutional rights and availing himself to statutory and regulatory protections. Mr. Mehri's filing of a motion to stay his removal with the immigration court is not a ploy to delay his removal. It is protection mechanism to ensure he is safe and his constitutional right to due process is not violated throughout the pending litigation, especially given Respondents' actions in removing individuals who have been granted protection under CAT without the exercise of due process. To punish Mr. Mehri for availing himself to these constitutional protections is unconscionable.

IV. PETITIONER'S *ZADVYDAS* CLAIM IS NOT PREMATURE

Respondents' argument that Petitioner's *Zadvydas* claim is premature ignores 17 years of failed removal efforts. Petitioner's 2008 Order of Removal was deferred under CAT, and no viable

third country has ever been identified. According to 8 U.S.C. § 1231(a)(1)(B), the removal period begins the date the order of removal became final, which was May 29, 2008, when the immigration judge granted CAT; or May 30, 2008, when he was released. The government cannot legally or factually state that Mr. Mehri falls within the removal period now or that his *Zadvydas* claim is premature when it has been over 17 years since Mr. Mehri's removal period began.

Notwithstanding the above, *Zadvydas* does not require a rigid 180-day wait when the record clearly shows removal is not reasonably foreseeable. Here, the government admits Plaintiff cannot be removed to Iran due to a CAT deferral and fails to identify any viable third country. That is because none exists. Given there is no good-faith plan to effectuate removal, this is a *Zadvydas* case of "indefinite detention in disguise". *See Clark v. Martinez*, 543 U.S. 371, 384 (2005). ICE's renewed detention absent a viable removal destination exceeds any reasonable period authorized by 8 U.S.C. § 1231(a) and *Zadvydas*. When a non-citizen released pursuant to an OSUP is re-detained for the purposes of removal, the government immediately bears the burden to show a substantial likelihood of removal in the now foreseeable future. 8 C.F.R. § 241.13(i)(2); *Escalante v. Noem*, 2025 WL 2206113 (E.D. Tex. Aug. 2, 2025); *Roble v. Bondi*, No. 25-CV-3196 (LMP/LIB), 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025); *Tadros v. Noem*, 2025 WL 1678501 (D.N.J. June 13, 2025); *Nguyen v. Hyde*, No. 25-cv-11470, 2025 WL 1725791 (D. Mass. June 20, 2025). Respondents have not done so in this case and cannot do so. The reach of Al Qaeda is worldwide and there is no country Mr. Mehri can go to be safe, except for the United States.

V. PETITIONER'S DUE PROCESS RIGHT HAS ALREADY BEEN VIOLATED

Continued detention of a non-removable individual without adequate process constitutes an ongoing due process violation. The revocation of his OSUP without compliance with the regulations and without notice and opportunity to be heard is a due process violation that mandates

immediate release. Furthermore, the lack of a meaningful review process after the alleged commencement of the 90 day removal period constitutes an ongoing due process violation. Respondents' DE 5, Exhibit 11 is patently false and a ruse to continue Mr. Mehri's unlawful detention. Stating Mr. Mehri is a risk of flight and a danger to the community is not truthful, defies his extensive ties to the community and good conduct since release, and directly contradicts the FBI's independent findings that he is not a risk of flight or danger to the community. *See* Exhibit B. 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. 8 C.F.R § 1231(a)(6). Moreover, any attempt to remove him elsewhere is a new and distinct act requiring notice and an opportunity to contest that designation. The "S1 Memo" cannot override the mandatory safeguards and are insufficient to protect Mr. Mehri's constitutional rights to due process as detailed above.

CONCLUSION

For the foregoing reasons stated above and in the original petition, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus, order Mr. Mehri's immediate release from ICE Custody, instruct Respondents to notify this Court if and when a third country is identified and assure the case is referred to the Immigration Judge, if and when a third country is identified, for purposes of a CAT hearing, and issue a TRO compelling Respondents to hold a hearing in compliance with 8 U.S.C. § 1231(b)(3) and CAT prior to removal to any third country. In the alternative, Petitioner requests this Court hold a hearing on Respondents request for a Temporary Restraining Order and Petition for Writ of Habeas Corpus.

Respectfully submitted,
/s/**Linda Osberg-Braun, Esq.**
Counsel for Petitioner