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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Hugo Gil Candido-Bolanos,

Petitioner,

v.

John Mattos, Todd M. Lyons, and Kristi
Noem,

Respondents.

Case No. 2:25-cv-1359-RFB-EJY

**Response to Petition for Writ of Habeas
Corpus, and Motion to Dismiss or Stay**

I. Introduction

Respondents, John Mattos, Warden of the Nevada Southern Detention Facility; Kristi Noem, Secretary of the U.S. Department of Homeland Security; and Todd M. Lyons, U.S. Immigration and Customs Enforcement (ICE), through counsel, Sigal Chattah, Acting United States Attorney for the District of Nevada, and Summer A. Johnson, Assistant United States Attorney, hereby file this response to the Petition for Writ of Habeas Corpus and Motion to Dismiss or Stay filed by Hugo Gil Candido-Bolanos ("Petitioner"). As explained herein, Petitioner's continued detention is lawful under statutory authority and Supreme Court precedent, which allow for such detention after a final order of removal. Respondents move to dismiss the petition, or alternatively, request that the Court stay this matter pending further proceedings in furtherance of Petitioner's removal.

II. Factual Background

Petitioner is subject to a final order of removal.

Petitioner Hugo Candido Bolanos is a native and citizen of El Salvador. ECF No. 1 at ¶1, 29. He is currently detained at the Nevada Southern Detention Center. *Id.* In 2005, Petitioner pled guilty to a charge of Improper Entry by an Alien and was sentenced to six months imprisonment on August 26, 2005. *See* Exhibit A. Following his imprisonment, Petitioner entered removal proceedings. *Id.* at ¶31. On February 8, 2008, an Immigration Judge ordered that Petitioner “be removed to El Salvador with an alternate order granting Deferral of Removal pursuant to the Convention Against Torture as ordered by the BIA on August 23, 2007.” *See* Exhibit B. Petitioner was released from ICE custody on April 22, 2008. ECF No. 1 at ¶32. In 2013, Petitioner pleaded guilty to a violation of 18 U.S.C. §1962(d): Racketeer Influenced and Corrupt Organizations Conspiracy. *See* Exhibit C. Petitioner was sentenced to 86 months imprisonment followed by five years of supervised release. *Id.* at 1. On September 18, 2015, Petitioner was released from BOP custody.¹

On July 22, 2025, Petitioner was detained and was served with a Notice of Revocation of OSUP Release dated July 21, 2025. *Id.* at ¶33; *see* Exhibit D. The notice erroneously stated that Petitioner would be removed to El Salvador. *Id.* On July 26, 2025, a corrected Notice of Revocation of Release was issued to Petitioner. *See* Exhibit E. The Notice of Revocation of Release includes the instruction that Petitioner was to remain in ICE custody pursuant to 8 C.F.R. § 241.4 and that he would “promptly be afforded an informal interview” to respond to the “reasons for the revocation.” *Id.* It further provides that, if Petitioner is not released after the informal interview, he “will receive notification of a new review, which will occur within approximately three months of the date of this notice.” *Id.*

Petitioner filed this action on July 25, 2025, including a Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order. *See* ECF Nos. 1, 2. On July 28, 2025, the Court entered an order denying Petitioner’s Motion for Temporary Restraining Order

¹ <https://www.bop.gov/inmateloc/> (last accessed August 6, 2025)

1 but ordered Respondents to respond to the Petition to address Petitioner's due process claim
2 concerning Petitioner's on-going detention. ECF No. 11. Respondents were ordered to
3 respond by August 10, 2025. *Id.*

4 **III. Argument**

5 **A. ICE is Authorized to Detain and Deport Petitioner**

6 ICE can lawfully detain Petitioner because he is subject to a final order of removal
7 and can be detained under 8 U.S.C. § 1231(a)(6). Second, following Supreme Court
8 precedent, any claim that his detention violates the Due Process Clause is not cognizable or
9 well-founded at this early point in his detention.

10 **1. ICE lawfully detained Petitioner pursuant to 8 U.S.C. § 1231(a).**

11 ICE's detention authority stems from 8 U.S.C. § 1231 which provides for the
12 detention and removal of aliens with final orders of removal. Section 1231(a)(1)(A) directs
13 immigration authorities to remove an individual with a final order of removal within a period
14 of 90 days, which is known as the "removal period." During the removal period, ICE must
15 detain the alien. 8 U.S.C. § 1231(a)(2) ("shall detain"). If the removal period expires, ICE
16 can either release an individual pursuant to an Order of Supervision as directed by §
17 1231(a)(3) or may continue detention under § 1231(a)(6). ICE may continue detention
18 beyond the removal period for three categories of individuals: (i) those who are inadmissible
19 to the United States pursuant to 8 U.S.C. § 1182; (ii) those who are subject to certain grounds
20 of removability from the United States pursuant to 8 U.S.C. § 1227; or (iii) those whom
21 immigration authorities have determined to be a risk to the community or "unlikely to
22 comply with the order of removal." 8 U.S.C. § 1231(a)(6)(A).

23 Petitioner is outside the 90-day mandatory removal period. However, he is still
24 eligible for ICE detention as he is an alien with a final order of removal who is present in the
25 country illegally. *See* 8 U.S.C. § 1227(a)(1)(B) ("Any alien who is present in the United States
26 in violation of this chapter or any other law of the United States, or whose nonimmigrant
27 visa (or other documentation authorizing admission into the United States as a
28 nonimmigrant) has been revoked under section 1201(i) of this title, is deportable."). As such,

1 because Petitioner is present in the United States unlawfully, ICE has statutory authority to
2 detain Petitioner to effectuate his removal order from the United States and he is not entitled
3 to a bond hearing or release as § 1231(a)(6) does not require such process. *See Johnson v.*
4 *Arteaga-Martinez*, 596 U.S. 573, 574, 581 (2022) (holding § 1231(a)(6)'s plain text "says
5 nothing about bond hearings before immigration judges or burdens of proof"). Petitioner's
6 detention is therefore lawful under § 1231(a)(6) and this Court should dismiss his Petition.

7
8 **2. Petitioner's claim is premature as he has only been detained for nineteen days.**

9 Petitioner's claim is premature because, as of the time of filing, his detention has
10 lasted only nineteen days. Under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the Supreme
11 Court established that detention for up to six months after a final order of removal is
12 "presumptively reasonable." Given that Petitioner has been detained for far less than six
13 months, his claim that this detention violates the Fifth Amendment is both premature and
14 legally insufficient.

15 As the Court explained in *Zadvydas*, detention beyond the 90-day removal period is
16 only justified when it is "reasonably necessary" to effectuate removal. *Id.* In this case,
17 Petitioner's detention falls far short of the six-month threshold, which the Court has found
18 to be presumptively reasonable. After six months, the burden shifts to the petitioner to show
19 "good reason to believe that there is no significant likelihood of removal in the reasonably
20 foreseeable future" before the burden reverts to the government to rebut that showing *Id.* at
21 701. The Supreme Court has recognized that "detention during deportation proceedings [is]
22 a constitutionally valid aspect of the deportation process." *Demore v. Kim*, 538 U.S. 510, 523
23 (2003). When evaluating "reasonableness" of detention, the touchstone is whether an alien's
24 detention continues to serve "the statute's basic purpose, namely, assuring the alien's
25 presence at the moment of removal." *Zadvydas*, 533 U.S. at 699. To set forth a Constitutional
26 violation for § 1231 detention, an individual must satisfy the *Zadvydas* test. *See Castaneda v.*
27 *Perry*, 95 F.4th 750, 760 (4th Cir. 2024) (explaining that "*Zadvydas*, largely, if not entirely
28

1 forecloses due process challenges to § 1231 detention apart from the framework it
2 established.”).

3 Courts routinely deny habeas petitions that are filed with less than six months of
4 detention. *See, e.g., Kamara v. Warden*, No. 1:21-CV-4, 2021 U.S. Dist. LEXIS 94222, at *27-
5 28 (M.D. Pa. Apr. 12, 2021)(Habeas petition denied as Petitioner’s “current post-removal
6 detention falls well within the 6-month presumptively reasonable time frame defined by the
7 Supreme Court in *Zadvydas*.”); *Lule-Arredondo v. Holder*, No. C14-987-RSL-JPD, 2014 U.S.
8 Dist. LEXIS 176932 (W.D. Wash. Nov. 17, 2014) (“Should petitioner’s detention continue
9 past the six-month presumptively reasonable period, he may file a new habeas petition and
10 obtain review.”); *Farah v. U.S. Att’y Gen.*, 12 F.4th 1312, 1332-33 (11th Cir. 2021) (“If after
11 six months he is still in custody and has not been removed from the United States, then he
12 can challenge his detention under section 1231(a). But until then, his detention is
13 presumptively reasonable under *Zadvydas*.”), *overruled on other grounds by Santos-Zacaria v.*
14 *Garland*, 598 U.S. 411, 419-23 & n.2 (2023).

15 Here, Petitioner’s Due Process challenge fails on two fronts. First, he has only been
16 detained for nineteen days (as of this filing), making his detention presumptively reasonable.
17 Second, there is no non-speculative indication in the record that his removal is not reasonably
18 foreseeable. Because confinement for less than six months is presumptively reasonable, the
19 Petition fails on the merits and should be denied.

20 **B. ICE’s revocation of release comports with regulation and the Constitution.**

21 Even if Petitioner’s detention claim were not premature, his argument regarding the
22 revocation of his release also fails to establish any constitutional violation. As discussed
23 below, ICE’s actions in revoking Petitioner’s release were fully in accordance with the
24 applicable regulations. In his Petition, Petitioner raises no issues concerning ICE’s decision
25 to revoke his Order of Supervised Release, except for arguments related to his removal to
26 El Salvador. Notably, in a corrected Notice of Revocation of Release, dated July 26, 2025,
27 ICE exercised its discretionary authority to revoke Petitioner’s Order of Supervised
28 Release.

1 **1. The Post-Order Custody Regulations provide for revocation of release**
2 **at ICE's discretion to effectuate a removal order.**

3 As noted above, the authority of ICE to detain noncitizens under federal law derives
4 from 8 U.S.C. § 1231, which directs the Attorney General of the United States to affect the
5 removal of any noncitizen from this country within 90 days of any order of removal. 8 U.S.C.
6 §1231(a)(1). However, once that time passes and after "removal is no longer reasonably
7 foreseeable, continued detention is no longer authorized by statute" and the noncitizen must
8 be released. *Zadvydas*, 533 U.S. at 699.

9 Upon release, a noncitizen subject to a final order of removal must comply with
10 certain conditions of release. 8 U.S.C. § 1231(a)(3), (6). The revocation of that release is
11 governed by 8 C.F.R. § 241.13(i), which authorizes ICE to revoke a noncitizen's release for
12 purposes of removal. Specifically, a noncitizen's release may be revoked "if, on account of
13 changed circumstances," it is determined that "there is a significant likelihood that the
14 [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).
15 Upon such a determination:

16 [T]he alien will be notified of the reasons for revocation of his or her release. []
17 [ICE] will conduct an initial informal interview promptly after his or her return
18 to [ICE] custody to afford the alien an opportunity to respond to the reasons
19 for revocation stated in the notification. The alien may submit any evidence or
20 information that he or she believes shows there is no significant likelihood he
21 or she be removed in the reasonably foreseeable future, or that he or she has
22 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.

23 *Id.* at § 241.13(i)(3). If the noncitizen is not released from custody following the
24 informal interview, continued detention is governed by 8 C.F.R. § 241.4. *Id.* at § 241.13(i)(2).

25 When ICE revokes release of an individual under 8 C.F.R. § 241.4(l), ICE must
26 conduct an "informal interview" to advise the individual of the basis for revocation and must
27 also serve the individual with a written notice of revocation. *Id.* If ICE determines revocation
28 remains appropriate after conducting the informal interview, then ICE will provide notice to

1 the individual of a further custody review that “will ordinarily be expected to occur within
2 approximately three months after release is revoked.” 8 C.F.R. § 241.4(l)(3).

3 **2. ICE complied with the POCR Regulations to arrest Petitioner.**

4 Here, ICE’s Assistant Field Office Director Nathan A. Cardoza issued Petitioner a
5 written revocation notice on or about July 26, 2025 explaining that ICE was revoking his
6 release pursuant to 8 C.F.R. § 241.13. *See* Ex. E. Per the revocation notice, “it has been
7 determined that you will be kept in the custody of the U. S. Immigration and Customs
8 Enforcement (ICE) at this time.” *Id.* The notice also provided the regulatory basis for
9 detention (8 C.F.R. § 241.13) and notified Petitioner of the post-order custody review
10 processes afforded him. *Id.* The Notice explained that Petitioner would be given an interview
11 at which he could “respond to the reasons for the revocation” of supervised release “and to
12 provide evidence to demonstrate that your removal is unlikely.” *Id.* It explained that “[i]f
13 you are not released following the informal interview, you will receive notification of a new
14 review, which will occur within approximately three months from the date of this notice.

15 In making this determination, ICE determined that revocation was in the public
16 interest to effectuate a removal order. *See Nken v. Holder*, 556 U.S. 418, 435 (2009)
17 (Explaining that “[t]here is always a public interest in prompt execution of removal orders
18 ...”). In revoking release, ICE complied with the regulation that allows revocation when
19 ICE determines that “there is a significant likelihood that the alien may be removed in the
20 reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). Petitioner has not received a Post
21 Order Custody Review (“POCR”) at this point because he has not been in custody for 90
22 days.

23 Courts routinely conclude that compliance with the POCR regulations protect
24 individual’s Constitutional rights while detained. *See e.g., Alawad v. Figueroa*, No. 3:16-CV-
25 2227-JAH-BLM, 2021 U.S. Dist. LEXIS 61213 (S.D. Cal. Mar. 30, 2021)(quoting *Moses v.*
26 *Lynch*, No. 15-cv-4168, 2016 WL 2636352, at *4 (D. Minn. Apr. 12, 2016) (“When
27 immigration officials reach continued-custody decisions for aliens who have been ordered
28 removed according to the custody-review procedures established in the Code of Federal

Regulations, such aliens receive the process that is constitutionally required.”); *Portillo v. Decker*, No. 21 CIV. 9506 (PAE), 2022 WL 826941, at *6 (S.D.N.Y. Mar. 18, 2022) (Collecting cases supporting conclusion that the POCR framework has routinely been deemed constitutional and noting that petitioner had not “cite[d] legal authority in support of his generalized laments about the administrative process.”).

Because Petitioner does not allege that ICE violated any specific procedures under the applicable regulation, procedures which are not owed at this current moment given his short detention, his petition should be denied. *See, e.g., Doe*, 2018 WL 4696748, at *7 (dismissing habeas claim where “there was no regulatory violation” in connection with custody reviews); *Perez v. Berg*, No. 24-CV-3251 (PAM/SGE), 2025 WL 566884, at *7 (D. Minn. Jan. 6, 2025), *report and recommendation adopted*, No. CV 24-3251 (PAM/ECW), 2025 WL 566321 (D. Minn. Feb. 20, 2025) (Finding no due process violation “[a]bsent an indication that ICE failed to comply with its regulatory obligations in some more specific way”).

As such, any such claim that ICE’s arrest and detention of Petitioner violated statute and regulation fails as ICE properly exercised its ample discretion in revoking Petitioner’s release.

IV. Conclusion

For the foregoing reasons, Respondents respectfully request that the Court deny Petitioner’s Petition for Writ for Habeas Corpus and dismiss the Petition, as Petitioner’s detention is lawful under 8 U.S.C. § 1231 and Supreme Court precedent. *See Rawahna v. AG of the United States*, No. 1:18-cv-175, 2018 U.S. Dist. LEXIS 101634, at *12 (S.D. Ohio June 18, 2018)(“Therefore, the instant petition should be dismissed without prejudice to petitioner’s ability to apply for future relief if circumstances change.”) In the alternative,

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1 Respondents request that the Court stay this matter pending further proceedings in
2 furtherance of Petitioner's removal.

3 Respectfully submitted this 10th day of August, 2025.

4 SIGAL CHATTAH
5 Acting United States Attorney

6 /s/ Summer A. Johnson
7 SUMMER A. JOHNSON
8 Assistant United States Attorney
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