UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Mahamed Abdi Roble,

Petitioner

v.

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Peter Berg, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Ryan Shea, Freeborn County Sheriff.

Respondents.

Case No.: 25-CV-03196-LMP-LIB

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO THE ORDER TO SHOW CAUSE

EXPEDITED HANDLING REQUESTED

INTRODUCTION

Petitioner, Mahamed Abdi Roble, filed a petition for a writ of habeas corpus and concurrently filed a motion for a temporary restraining order ("TRO") and preliminary injunction ("PI") on August 11, 2025 alleging that he is being detained in violation of law. ECF Nos. 1-4. That same day, the Court issued an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention by August 18, 2025. ECF No. 6. On August 18, 2025, Respondents submitted documents explaining, in their view, why Petitioner is lawfully detained. *See* ECF Nos. 8-10. Notwithstanding Respondents'

contentions, a preponderance of the evidence demonstrates that Petitioner is being held in violation of the laws or constitution of the United States. Consequently, the Court must order Petitioner's immediate release.

PROCEDURAL & FACTUAL HISTORY

Roble is a citizen and national of Somalia. ECF No. 8, ¶ 4. Roble entered the United States as a refugee on September 1, 1995. *Id.*, ¶ 5. Roble became a lawful permanent resident on January 27, 1997. *Id.*, ¶ 6. He was ordered removed from the United States by an immigration judge on May 18, 2018. *Id.*, ¶ 13. The removal order became administratively final on June 19, 2018. ECF No. 1, ¶¶ 2-3. After his removal order issued, Roble was stuck in immigration detention from May 18, 2018 until October 21, 2019 (a total of 520 days). *Id.*, ¶¶ 3-11. Roble filed a habeas corpus petition on June 7, 2019 to challenge his post-removal-order detention. *Roble v. Barr*, No. 19-CV-1505 (JNE/KMM) (D. Minn.), ECF No. 1; ECF No. 8, ¶ 18. Respondents (or their agency predecessors) initially contested the petition before releasing Roble from custody and placed him on an Order of Supervision ("OOS") on October 19, 2019 under 8 U.S.C. § 1231(a)(3) and 8 C.F.R. § 241.4. *Cf.* ECF No. 8, ¶ 21.

In releasing Roble from custody and placing him on an OOS, Respondents necessarily concluded, among other things, that: (1) "[t]ravel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest;" (2) "[t]he detainee is presently a non-violent person;" (3) "[t]he detainee is likely to remain nonviolent if released;" (4) "[t]he detainee is not likely to pose a threat to the community following release;" (5) "[t]he

detainee is not likely to violate the conditions of release;" and (6) "[t]he detainee does not pose a significant flight risk if released." *See* 8 C.F.R. § 241.4(e)(1)-(6).

On August 18, 2025 Respondents submitted a declaration from ICE Deportation Officer John. D. Ligon. ECF No. 8. Ligon sets forth his professional background clearly and does not claim to be an attorney or to have any legal training. *See id.* ¶¶ 2-3. Ligon's affidavit claims that Roble's removal order "became administratively final on" July 22, 2019. *Id.*, ¶ 20. Ligon's testimony is conclusory and seeks to answer a legal question reserved for this Court; Respondents have not demonstrated that Ligon has the credentials or training to provide credible or persuasive legal opinions. Ligon does not explain why he believes the removal order became administratively final on July 22, 2019 instead of on June 19, 2018, as alleged by Roble in his petition. There is consequently a material dispute (a pure question of law applied to settled facts) before the Court as to when the removal order became administratively final.

The Ligon declaration also claims that, on July 18, 2025, ICE: (1) served Roble with a Notice of Revocation of Release ("Notice"); (2) conducted an informal interview that allegedly afforded Roble "an opportunity to respond to the reasons for revocation of his order of supervision;" and (3) "requested third country removal assistance from ERO HQ." ECF No. 8, ¶¶ 22-25.

Respondents provided the Court with copies of the Notice and Roble's written statement provided at the informal interview, but declined to provide any documentation regarding the alleged communication with ERO HQ to request third-country removal assistance, forcing this Court to assume the truth of Ligon's statement. Ligon did not state

whether the request for assistance to ERO HQ was made before or after Roble filed his habeas petition, but considering the habeas petition was filed around 7:00 A.M. on August 11, 2025, it is likely that the communication between Ligon and ERO HQ would demonstrate that request for assistance was sought in direct response to the habeas petition after Respondents received notice the petition had been filed. Ligon did not state what communications, if any, were received by ERO HQ in response to the request for assistance made seven days prior to the submission of Ligon's declaration.

Ligon's declaration does not state, or even attempt to state, why Respondents believed that changed circumstances existed prior to Roble being taken into custody. ECF No. 8. Ligon's declaration does not state why Respondents believe they will be able to obtain a third-country travel document, or when such a document might be obtained, or from whom. *Id.* Ligon's declaration does not give this Court any reason to believe that Respondent's removal is imminent or that changed circumstances justifying the cancellation of Roble's OOS existed at the time of redetention. The Notice issued to Roble also fails to answer these questions. ECF No. 8-10. Moreover, the Notice was signed by Allen R. Gill, Acting Deputy Field Office Director at 11:33 A.M. on July 18, 2025, more than four hours after Roble was arrested and detained in the absence of changed circumstances justifying redetention or a belief that removal could be accomplished imminently. *Compare id. with* ECF No. 8-9 at 2 (stop occurred around 6:55 A.M. on July 18, 2025).

Without stating the changed circumstances, or why Ligon or Respondents believe that such changed circumstances exist, both Roble and the Court are left to guess at why

Roble is detained. This has the natural effect of completely impairing Roble's ability to respond to the reasons for the revocation of his OOS during any informal interview that allegedly occurred. Even if an informal interview occurred, it was not done in a setting that allowed Roble to actually contest the reasons for the revocation of his OOS.

ARGUMENT

This case turns on two questions. First, when did Roble's removal order become administratively final? Second, have Respondents established that changed circumstances existed which justified rescinding Roble's OOS pursuant to 8 C.F.R. § 241.13(i)(2)? The answer to these questions, for the reasons explained below, are: (1) June 19, 2018, and (2) a resounding "no."

I. Roble's Removal Order Became Administratively Final On June 19, 2018.

Roble claims his removal order became administratively final on June 19, 2018, and Respondents claim the removal order became administratively final on July 22, 2019. Respondents claim July 22, 2019 is the correct date because that is the date that the immigration judge issued an opinion granting Roble deferral of removal under the Convention Against Torture ("DCAT"). *See* ECF No. 10 at 5.

Respondents attempt to explain why they believe the final action date is the relevant date. *See* ECF No. 10 at 14-15. Respondents rely on Roble's factual allegations in his 2019 habeas petition and on 8 C.F.R. § 1241.1. Neither argument is persuasive.

First, Respondents' contention that bifurcating "a single IJ order into multiple sub-orders[] contradicts the language of § 1241.1, which speaks of a singular order 'made by

the immigration judge'" is contradicted by binding precedent. On June 26, 2025, before Respondents redetained Petitioner, the Supreme Court issued *Riley v. Bondi*, 145 S. Ct. 2190 (2025). *Riley* explicitly held, "[a]n order denying relief under the CAT is not a final order of removal and does not affect the validity of a previously issued order of removal or render that order non-final." 145 S. Ct. at 2199. This holding followed an analysis of other precedents that explicitly approved of the bifurcated system Respondents now claim is unworkable, noting that the first final order of removal controls timing-related questions throughout the rest of the case regardless of whether future decisions seek to address relief from that first final order. *See id.* at 2198-2200. The Supreme Court's holdings in *Riley* preclude the Court from adopting Respondents' proposed reading of 8 C.F.R. § 1241.1 and squarely demonstrate that Roble's order of removal became administratively final once the 30-day period to appeal the removal order elapsed. *See, e.g., id.*; 8 C.F.R. § 1241.1(c); ECF No. 8-4 (BIA Opinion noting that only DHS appealed the grant of withholding of removal, not the underlying order of removal).

Second, this Court is in no way bound by the incorrect jurisdictional contentions of Roble's prior counsel that were included in Roble's first postconviction proceeding relating to whether Roble was detained under § 1226(c) or § 1231. The fact that those conclusions were incorrect is plainly demonstrated by the recent *Riley* decision. 145 S. Ct. 2190.

II. Respondents Have Not Identified Changed Circumstances Justifying Redetention.

Because Petitioner's removal order became administratively final on June 19, 2018,

Petitioner has accrued hundreds of days of post-final-order custody, many hundreds of which have occurred after the 90-day removal period elapsed on September 16, 2018. *See, e.g.*, ECF No. 1, ¶¶ 7-11. All of this was and remains § 1231 detention subject to the holdings of *Zadyvdas v. Davis*, 533 U.S. 678, 699-700 (2001), which held that a person subject to a final order of removal cannot, consistent with the Due Process Clause, be detained indefinitely pending removal. *Zadvydas* also stated:

> After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, **the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink.**

533 U.S. at 701 (emphasis added).

Here, Roble previously and necessarily demonstrated to Respondents' satisfaction that there is no significant likelihood of removal in the reasonably foreseeable future. *See, e.g.*, 8 C.F.R. § 241.4(e); ECF No. 8-8 (OOS). Under both *Zadvydas* and 8 C.F.R. § 241.13(i)(2), Respondents "must respond with evidence sufficient to rebut that showing." Respondents have provided no evidence that demonstrates at all, much less by a preponderance of the evidence, that Roble's removal is likely to occur in the reasonably foreseeable future. As such, his detention is unconstitutional and this Court must order his immediate release.

Respondents' attempts to shift the burden to Roble to demonstrate his removal is not likely to occur must be rejected as flatly inconsistent with both *Zadvydas* and 8 C.F.R. § 241.13(i)(2). *See, e.g.*, *Zadyvdas*, 533 U.S. at 701; *Kong v. United States*, 62 F.4th 608,

619-20 (1st Cir. 2023) ("ICE's decision to re-detain a noncitizen . . . who has been granted supervised release is governed by ICE's own regulation requiring (1) an individualized determination (2) by ICE that, (3) based on changed circumstances, (4) removal has become significantly likely in the reasonably foreseeable future."); *Hernandez Escalante v. Noem*, No. 9:25-cv-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) ("The[] regulations clearly indicate, upon revocation of supervised release, it is [ICE's] burden to show a significant likelihood that the [noncitizen] may be removed."); *Nguyen v. Hyde*, No. 25-cv-11470-MJJ, 2025 WL 1725791, at *3 n.2 (D. Mass. June 20, 2025); *Va V. v. Bondi*, No. 25-CV-2836 (LMP/JFD), *slip op.* at *6-12 (D. Minn. Aug. 11, 2025) (holding that until ICE proved it had a travel document allowing for immediate deportation, it failed to demonstrate changed circumstances justifying redetention of an individual under 8 C.F.R. § 241.13(i)).

Because Respondents have not complied with the plain language of binding regulations or the clear holdings of *Zadvydas* and myriad lower courts by demonstrating changed circumstances justifying redetention, Respondents' detention of Roble is unlawful. Respondents do not have a travel document for Roble, have not identified which country Roble will be deported to, have not identified when Roble will be deported, and have not even speculated how long Roble will remain in detention in the absence of court intervention. Moreover, Respondents arrested Roble despite his OOS and the absence of any intervening circumstances justifying redetention before Respondents had so much as drafted the Notice of Revocation, evidencing a belief that federal regulations are advisory.

Roble reiterates that his detention is punitive in both purpose and effect, rendering

it unconstitutional independent of any issues regarding indefinite delay in removal.

The Court must order Roble's immediate release.

III. Jurisdiction / *D.V.D.* Litigation

Respondents do not appear to assert that any jurisdiction-stripping provisions deprive this Court of jurisdiction over Roble's petition, but they do suggest that the Court "should decline to exercise jurisdiction… as a matter of comity because the District of Massachusetts has certified a class of people that will cover the same claim Petitioner is pursuing in the District of Minnesota," referring to *D.V.D. v. DHS*, 25-10676 (BEM) (D. Mass), ECF Nos. 4, 6, 64. *See* ECF No. 10 at 6-7, 19-22. This portion of Respondents' argument appears confined to Roble's request for injunctive relief preventing deportation to an allegedly safe third-country without adequate process that permits Roble to submit evidence in support of a new fear-based claim for relief from removal to the third-country once identified. *See* ECF No. 10 at 19-22.

There is no reason for the Court to conclude that a stayed class action injunction should lead to dismissal of Petitioner's claims for relief from unlawful detention and deportation to a country he has never known without due process. If the stay of the injunction in that case is lifted and the injunction is reinstated, that will protect Roble. But if the stay remains, Roble requires individualized protection. Roble's request for individualized protection from this Court cannot be denied simply because he might eventually gain some other protection through the efforts of third parties thousands of miles away who have no knowledge of or personal interest in Roble. Declining to exercise jurisdiction for the reason requested by Respondents would be an abdication of judicial

duty.

The cases cited by Respondents to support the idea that staying a case or dismissing it without prejudice on the ground of a plaintiff being a member of parallel classes are inapposite to the facts before the Court. It is patently silly, in the context of persons who are currently detained indefinitely under civil authority, to even consider dismissing a habeas petition without prejudice that plainly states a viable claim for relief for an individual who remains detained to allow cross-country litigation to run its course.

Roble asks for greater protections than those temporarily provided for in the *D.V.D.* case. There is no reason this Court is unable to grant Roble greater or more individualized protection than was temporarily granted to the *D.V.D.* class members on a class-wide basis *even if* the *D.V.D.* injunction were to return in full force.

IV. Petitioner Is Entitled To Preliminary Emergency Injunctive Relief.

Respondents submit that Roble is not entitled to preliminary injunctive relief. Because Roble did request a variety of forms of injunctive relief, only some of which were requested as preliminary orders, Roble briefly clarifies his request.

Roble's overarching concern is for his own situation. For purposes of the issue immediately before the Court, Roble seeks release only for himself, understanding that any attempts to obtain a statewide injunction will require further briefing, motion practice, and evidentiary submissions. He thus defers his request for a statewide injunction.

The immediate injunctive relief Roble seeks at this moment is:

A. Return to the status quo by ordering Roble's immediate release until his petition is adjudicated on its merits; and,

B. Order Respondents to provide Roble with due process by allowing him to apply for withholding of removal and/or DCAT before an immigration judge in relation to any allegedly safe third country for which travel documents are received before deporting Roble to that country, and order that if the immigration judge denies Roble's withholding of removal or DCAT applications, his removal may not be executed unless and until either: (i) the Board of Immigration Appeals has affirmed the immigration judge's decision, or (ii) the 30-day time period to appeal to the Board has elapsed.

If the foregoing injunctive relief identified in paragraph A above is denied, Roble alternatively seeks preliminary injunctive relief in the form of:

C. An Order preventing Respondents from moving Roble outside of Minnesota pending the adjudication of his habeas corpus petition; and/or

D. An Order requiring Respondents to, at minimum, provide 72-hour notice to the Court, Roble, and the undersigned counsel of any intended movement of Roble pending the adjudication of Roble's habeas corpus petition.

Roble has clearly met his burden for obtaining the preliminary emergency injunctive relief identified above. He has established he is likely to succeed on the merits of his habeas petition, which is by far the most important *Dataphase* factor. *See Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 113 (8th Cir. 1981) (*en banc*). The remaining three factors all strongly favor Roble, or, at minimum, are neutral. The threat of irreparable harm is plain—Roble cannot sustain an action for damages and he is not going to get his time in detention back, making the harm he is experiencing from unlawful detention

plainly irreparable. The last two factors are either neutral or favor Roble. Though Respondents claim "[t]here is a public and governmental interest in the **efficient** administration of the nation's immigration laws," Respondents' actions are neither efficient nor made according to law. *See generally* ECF No. 10 at 24 (emphasis added). Instead, Respondents have detained an individual without any reason to believe his deportation is imminent, subjected him to mandatory detention for weeks on end at substantial cost to U.S. taxpayers, and these actions are harming Roble's and his U.S. citizen's wife's family unity interests.

Emergency preliminary injunctive relief is warranted.

CONCLUSION

The Court must grant Petitioner's request for emergency preliminary injunctive relief and order Petitioner's immediate release from detention.

DATED: August 20, 2025

Respectfully submitted,

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