

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Mohammad Momennia,

Case No.: 25-CV-1067-J

Petitioner

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

v.

Pamela Bondi, Attorney General; et al.,

**EXPEDITED HANDLING
REQUESTED**

Respondents.

INTRODUCTION

Petitioner, Mohammad Momennia, 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 September 15, 2025 alleging that he is being detained in violation of law. ECF Nos. 1-5. On September 17, 2025, the Court issued an Order to Show Cause ordering Respondents to state the true cause of Petitioner’s detention by October 1, 2025. ECF No. 9. Respondents failed to comply with this deadline, though Petitioner acknowledges that the federal government closed (in part) due to a lapse of appropriations on October 1, 2025. On October 2, 2025, Petitioner filed a motion for a summary decision granting his petition. ECF No. 11. On October 3, 2025, the Court issued an Order extending Respondents’ deadline to respond to the petition until October 10, 2025. *Id.* Respondents then filed their response in opposition to the habeas petition on October 6, 2025, explaining, in their view, why Petitioner is lawfully detained. *See* ECF Nos. 14, 14-1, 14-2, 14-3, 14-4. 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

Momennia incorporates by reference the facts alleged in his verified habeas corpus petition and his memorandum in support of his emergency motions. *See* ECF No. 1; ECF No. 5 at 5. The declarations submitted by Respondents confirm the truth of Petitioner's allegations. *See Legg Decl.*, ECF No. 14-2; *Hodges Decl.*, ECF No. 14-4. For example, Legg confirms that Iran will not accept Petitioner. *Legg Decl.*, ¶ 7. Similarly, Hodges confirms he is "not aware of a third country's acceptance of Momennia." *Hodges Decl.*, ¶ 4. Neither declaration indicates what, if any, third countries have been contacted or when.

ARGUMENT

Respondents argue Momennia's petition should be dismissed because: (1) Momennia has failed to meet his burden of demonstrating no significant likelihood of removal in the reasonably foreseeable future ("NSLRRFF"); and (2) the 6-month period for *Zadvydas* automatically resets every single time someone is redetained after being released on an Order of Supervision ("OOS").

Respondents' error lies in failing to recognize that because Momennia has already been released on an Order of Supervision pursuant to 8 C.F.R. § 241.4(e)(1)-(6) and 8 C.F.R. § 241.13, *after having previously established NSLRRFF*, it is Respondents who bear the initial burden of establishing "changed circumstances" to redetain under both federal regulation and *Zadvydas*. *Zadvydas v. Davis*, 533 U.S. 678, 699-700 (2001) ("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**) (emphasis added); 8 C.F.R. § 241.13(i)(2) (“The Service may revoke an alien's release under this section and return the alien to custody **if, on account of changed circumstances**, the Service determines that **there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.**”) (emphasis added).

Nothing in Respondents’ responses or supporting declarations rebuts the prior finding of NSLRRFF or otherwise demonstrates changed circumstances regarding NSLRRFF. Therefore, Petitioner’s detention is unlawful, in excess of statutory and regulatory authority, and is unconstitutional.

None of the government’s citations change this analysis. Each case the government relies upon regarding a failure to establish NSLRRFF is a failure to establish NSLRRFF in the first instance prior to release on an OOS. Some of those cases also deal with an entirely different detention authority, referencing 8 U.S.C. § 1226 rather than 8 U.S.C. § 1231, which is the statute governing Petitioner’s detention and redetention. The cases that are much more on point are those that have recently granted habeas petitions to persons that are identically (or less favorably) situated to Petitioner. *Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (ordering release based on violation of 8 C.F.R. § 241.13(i)); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (ordering release based on violation of 8 C.F.R. § 241.13(i)); *Sonam T. v. Bondi*, No. 25-CV-2834, *slip op.*, ECF No. 19 (D. Minn. Sept. 16, 2025) (R&R recommending order of release based on violation of 8 C.F.R. § 241.13(i)); *see also Sonam*

T. v. Bondi, No. 25-CV-2834, ECF No. 25 (D. Minn. Sept. 19, 2025) (ordering release); *Mehran S. v. Bondi*, No. 25-CV-3724, ECF No. 11 (D. Minn. Sept. 29, 2025) (ordering release); *Omar J. v. Bondi*, No. 25-CV-3719 (D. Minn. Sept. 29, 2025), ECF No. 11 (ordering release); *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)).

To state it as clearly as possible, the Court realistically need not reach the question of whether Petitioner’s constitutional rights were violated. All the other courts to decide these issues favorably for detainees have left the constitutional questions alone, ruling that relief is warranted based on the regulatory violation standing alone. And in this case, the regulatory violations are plain and obvious. There was zero compliance with 8 C.F.R. § 241.13(i)(2)-(3), and that is enough to render the detention unlawful.

Moreover, while it is not Petitioner’s burden to demonstrate NSLRRFF due to his

prior un rebutted showing of NSLRRFF, it nonetheless is worth noting that the Legg and Hodges declarations combine to demonstrate NSLRRFF by admitting that Petitioner cannot be deported to Iran and that no third country has yet been identified that is likely to accept Petitioner for removal. Thus, even if the government were right that Petitioner bears the burden of demonstrating NSLRRFF, he has done so through the Legg and Hodges declarations.

CONCLUSION

Respondents' position would convert § 241.13(i)'s "changed-circumstances" safeguard into a nullity, permitting ICE to reset the *Zadvydas* clock indefinitely and repeatedly. The law and Constitution both forbid that result.¹

DATED: October 8, 2025

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

Nico Ratkowski (Atty. No.: 0400413)
332 Minnesota Street, Suite W1610
Saint Paul, MN 55101
P: (651) 755-5150
E: nico@ratkowskilaw.com

Attorney for Petitioner

¹ Respondents note that the undersigned incorrectly listed Peter Berg on the face of the verified petition. The correct Respondent who was intended to be listed in place of Mr. Berg was Mark Siegel, who is the Field Office Director for the Oklahoma City Field Office for ICE within DHS. Siegel, rather than Berg, has supervisory authority over the ICE agents responsible for detaining Petitioner. Petitioner submits that this typographic error is irrelevant, especially considering Mr. Siegel's superiors are also named as Respondents in the petition. *See* Fed. R. Civ. P. 25(d) ("any misnomer not affecting the parties' substantial rights must be disregarded").