

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

Behkam Bahadorani,

Case No.: 25-CV-01091-PRW

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, Behkam Bahadorani, 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 21, 2025 alleging that he is being detained in violation of law. ECF Nos. 1, 5, 8-9. On October 2, 2025, the Court issued an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention by October 14, 2025. ECF No. 12, 13. Respondents filed their opposition response to the habeas petition on October 14, 2025, explaining why, in their view, Petitioner is lawfully detained. *See* ECF Nos. 15, 15-1, 15-2, 15-3, 15-4, 15-5. 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

Bahadorani 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. 9 at 5.

Respondents have provided two deportation officer declarations. ECF No. 15-4 (DO Aaron Nation); ECF No. 15-5 (DO Arthur Hawthorne, III).

Nation's declaration admits that Respondents have been unable to deport Petitioner to Iran since at least August 13, 2015. ECF No. 15-4, ¶ 5. Nation's declaration admits that although Petitioner provided Respondents with an original Iranian birth certificate, that birth certificate was lost or destroyed in a manner that was not Petitioner's fault. *Id.* Nation's declaration indicates that the last time a travel document request was attempted, Iran appears to have destroyed a key document, demonstrating a lack of willingness to issue a travel document to Petitioner. *See id.* Nation's declaration concedes that, historically, it has been Iran's policy to deny travel document requests for persons who do not have an original Iranian birth certificate. *Id.* Nation claims that, on August 5, 2025, he sent a travel document request to ERO Headquarters to provide to the Iranian government. *Id.*, ¶ 6. Nation does not address whether or when, if at all, the travel document request was sent from ERO HQ to Iran. *See* ECF No. 15-4.

Hawthorne's declaration also fails to state whether or when, if at all, the travel document request was sent from ERO HQ to Iran. *See* ECF No. 15-5. Hawthorne's declaration claims that the "Iranian Interest Section has started accepting copies of documents such as passports and birth certificates to establish Iranian citizenship, and they have issued travel documents based on copies when previously they required original documents." *Id.*, ¶ 4. Hawthorne does not state when this shift occurred, or whether Iran is

presently accepting copies in lieu of originals despite recent tensions between the United States and Iran that culminated in the United States bombing Iran's nuclear facilities in Operation Midnight Hammer on June 22, 2025. *See id.*; David Vergun, *Defense Agency Contributed Toward Operation Midnight Hammer Success*, U.S. DEPT. OF WAR (July 10, 2025)¹ ("On June 22, 2025, about 125 U.S. military aircraft, including seven B-2 Spirit stealth bombers carrying 14 30,000-pound GBU-57 massive ordnance penetrator bombs and a guided-missile submarine firing Tomahawk missiles, participated in Operation Midnight Hammer, which significantly damaged Iran's three nuclear sites.")² Hawthorne also fails to state whether Iran has accepted any deportee flights since June 22, 2025. *See* ECF No. 15-5.

Assuming *arguendo* that ERO HQ timely sent the travel document request for Petitioner to Iran, that request would have been sent on or around August 5, 2025, or roughly two weeks after the United States bombed Iran's strategic nuclear sites. It is exceedingly unlikely, under those circumstances, that Iran is going to assist Respondents in deporting Petitioner by providing Iranian travel documents for Petitioner.

None of the declarations submitted by Respondents address the likelihood of obtaining a travel document, nor when such a document might be expected. The documents are silent as to whether third country deportation is being attempted, indicating that there

¹ Available at: <https://www.war.gov/News/News-Stories/Article/Article/4240876/defense-agency-contributed-toward-operation-midnight-hammer-success/>.

² The Court may judicially notice this article posted on a U.S. government website. Fed. R. Evid. 201(b)(2). Petitioner requests judicial notice to the extent necessary to accord relief.

is no likelihood of removal in the reasonably foreseeable future to either Iran or some other allegedly safe third country. Respondents also fail to state whether Iran has recently denied any travel document requests, or what percentage of travel document requests are actually granted by Iran in recent history.

Respondents emphasize Petitioner's significant criminal history in what appears to be an attempt to justify his present incarceration. This indicates Petitioner's current civil detention is intended to be punitive for past crimes with completed and discharged sentences. Additionally, the nature of Petitioner's criminal history casts serious doubt on Iran's willingness to issue a travel document to this specific Iranian even if Iran is otherwise issuing travel documents for other Iranians with no criminal history and/or less significant criminal history.

Respondents seem to fault Petitioner for pleading that he "may have been served with a Notice of Revocation of Release ('Notice'), revoking his [order of supervision ('OOS')]" and that the Notice "has not been reviewed by Petitioner's counsel." *See* ECF No. 15 at 15. Curiously, however, Respondents do not submit a copy of the Notice, nor do they indicate that such a Notice exists or was served on Petitioner. Respondents' silence is deafening. By failing to provide a copy of the Notice or otherwise allege in an affidavit that such a Notice was issued and served, Respondents essentially admit that Respondents violated 8 C.F.R. § 241.13(i)(2)-(3) by failing to issue the requisite Notice prior to or even after redetaining Petitioner.

ARGUMENT

Respondents argue Bahadorani's petition should be dismissed because: (1)

Bahadorani 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’ other arguments are difficult to follow, irrelevant to the merits of Bahadorani’s petition, and are thus ignored.

Respondents’ primary error lies in failing to recognize that because Bahadorani 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); *see also Roble v. Bondi*, No. 25-cv-3196, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (granting habeas and ordering release based on less egregious regulatory violations); *Sarail A. v. Bondi*, No. 25-CV-2144, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (same); *Yee S. v. Bondi*, No. 25-CV-02782-JMB-DLM, ECF No. 13 (D. Minn. Oct. 9, 2025) (same); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, ECF No. 15 (S.D. Cal. Oct. 10, 2025) (same); *Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025

WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025) (granting habeas and ordering release); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner was likely to succeed on unlawful redetention claim because “there is no indication that an informal interview was provided”); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387-88 (D. Mass. 2017) (holding that ICE’s failures to follow regulatory revocation procedures rendered detention unlawful); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 164 (W.D.N.Y. 2025) (“because ICE did not follow its own regulations in deciding to redetain [the petitioner], his due process rights were violated, and he is entitled to release”).

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*, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (ordering release based on violation of 8 C.F.R. § 241.13(i)); *Sarail A.*, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (ordering release based on violation of 8

C.F.R. § 241.13(i)); *Sonam T.*, 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)); *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 *Zadvydas* questions for another day, 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.

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.

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Respectfully submitted,

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