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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF ARIZONA**

Case No.: 2:25-cv-03470-DWL-ESW

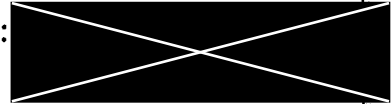
Mehrdad Rowshandel,  
Petitioner,

vs.

**PETITIONER'S REPLY TO  
RESPONDENT'S OPPOSITION TO  
MOTION FOR TEMPORARY  
RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION**

Bondi et al.,  
Respondents.

Agency No.:



**I. INTRODUCTION**

Respondents' opposition and accompanying exhibits only underscore the arbitrary and unconstitutional nature of Mr. Mehrdad Rowshandel's detention. Their filings confirm that ICE acted without lawful authority, factual basis, or procedural safeguards when it re-detained a man who had lived peacefully in the United States for more than two decades.

1 Respondent' new submissions the Declaration of Deportation Officer  
2 Edmundo Galvan Jr. (Exhibit A) and the Decision to Continue Detention (Exhibit  
3 B) do not cure these defects; they compound them.  
4

5 The declaration of Edmundo Galvan Jr. establishes that ICE's entire  
6 justification for Mr. Rowshandel's confinement rests on conclusory assertions and  
7 incomplete records. Officer Galvan concedes that the only grounds cited for denying  
8 parole and continuing detention were because Petitioner "posed a danger to the  
9 community" and presented a "flight risk." He identifies no supporting evidence, no  
10 incident of misconduct, and no change in circumstances since Petitioner's lawful  
11 release from custody more than twenty years ago. The Declaration contains no  
12 contemporaneous findings, no analysis of community ties, employment history, or  
13 rehabilitation, and no acknowledgment that Petitioner has lived free of any criminal  
14 activity for over two decades. By the Government's own admission, the decision to  
15 imprison Mr. Rowshandel was based solely on administrative fiat, not on fact or law.  
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20 The Decision to Continue Detention (Exhibit B) is no better. Dated September  
21 18, 2025, months after Mr. Rowshandel's arrest and weeks after this litigation  
22 commenced, It was written after the fact to cover up an unlawful detention, not as a  
23 real decision based on evidence. It gives no reasons, cites no records, and just repeats  
24 the same vague claims of "flight risk" and "public safety" without any explanation  
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1 or personal review. ICE gave no notice, interview, or hearing, violating 8 C.F.R. §  
2 241.13 and the Fifth Amendment's due-process protections.

3  
4 Combined, these exhibits corroborate Petitioner's central claim: ICE has  
5 deprived him of liberty without process, without evidence, and without lawful  
6 authority. The Government's own documentation proves that this detention is  
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8 arbitrary and that the agency failed to perform even the minimal procedural steps  
9 required before revoking a long-established release.

10  
11 The question before this Court is whether the government can detain a person  
12 who has lived responsibly and lawfully for decades based only on a vague claim of  
13 danger. The answer is clearly no. The Government's own exhibits confirm that Mr.  
14 Rowshandel's detention lacks any legal or factual basis, and he is therefore entitled  
15 to immediate release through injunctive relief.

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18 **II. ARGUMENT**

19 **a. § 1231 does not support indefinite preventive detention.**

20 Respondents' initial argument rests entirely on the assertion that ICE  
21 possesses authority under 8 U.S.C. § 1231(a)(6) to detain individuals with final  
22 removal orders. But that statute permits only *limited* detention "for a period  
23 reasonably necessary to bring about removal." It does not confer unlimited discretion  
24 to incarcerate individuals indefinitely or to re-arrest long-released residents absent a  
25 new and lawful purpose.  
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1 Respondents claim that Petitioner's detention is authorized under 8 U.S.C. §  
2 1231(a)(6) because he is subject to a final order of removal and ICE is entitled to  
3 hold him as a flight risk and danger while travel documents are obtained misstates  
4 both fact and law.  
5

6 Factually, ICE has taken no action toward actual removal. Officer Galvan's  
7 declaration confirms that since Mr. Rowshandel's arrest on June 24, 2025, ICE has  
8 merely transferred him to Eloy and denied his parole; nowhere does it indicate that  
9 ICE has sought travel documents or initiated coordination with Iranian authorities.  
10 Without a concrete, ongoing removal effort, detention cannot be justified as  
11 "reasonably necessary to effect removal." *Zadvydas* explicitly forbids this: once  
12 removal is not reasonably foreseeable, continued detention serves no statutory  
13 purpose and violates the Due Process Clause.  
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17 Respondents interpret § 1231(a)(6) far beyond its intended scope. Congress  
18 enacted that provision to permit short-term detention while the government  
19 completes the practical steps necessary to carry out removal; not to authorize open-  
20 ended confinement based on speculation that removal might one day occur. As the  
21 Supreme Court explained in *Zadvydas*, the statute must be read consistently with  
22 constitutional limits on executive detention. It therefore allows custody only when  
23 removal is realistically attainable within the near future.  
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1 Here, ICE has not satisfied that standard. Without any concrete evidence that  
2 removal will in fact occur, detention under § 1231 is no longer “reasonably  
3 necessary” to achieve its purpose. It functions instead as preventive custody, an  
4 indefinite imprisonment that is unlawful.  
5

6 Mr. Rowshandel’s detention therefore fails both prongs of § 1231: there are  
7 no changed facts supporting re-arrest, and there is no foreseeable removal justifying  
8 continued confinement. The statute, as construed in *Zadvydas*, does not, and cannot  
9 authorize indefinite preventive detention based on speculation.  
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12  
13 **b. There is no change in circumstance that justifies Petitioner’s re-arrest,**  
14 **and Petitioner should be provided a hearing before his arrest.**

15 Respondents cite 8 C.F.R. § 241.13 which states that ICE “may revoke an  
16 alien’s release under this section and return the alien to custody if, on account of  
17 changed circumstances, the Service determines that there is a significant likelihood  
18 that the alien may be removed in the reasonably foreseeable future.” But that  
19 language defeats their position. The regulation expressly conditions re-detention on  
20 changed circumstances and on a significant likelihood of removal in the reasonably  
21 foreseeable future. The Government’s own evidence, including the Galvan  
22 Declaration and the Decision to Continue Detention, shows that neither requirement  
23 is met here.  
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1 First, there are no changed circumstances that justify re-arrest. Mr.  
2 Rowshandel's situation today is materially identical to what it was when he was  
3 released over twenty years ago. He has remained law-abiding, maintained  
4 community ties, and presented no danger or flight risk. The only "change" is ICE's  
5 unilateral decision to revisit an old file, not a factual development. That is precisely  
6 the type of arbitrary action condemned in *Matter of Sugay*, 17 I. & N. Dec. 637 (BIA  
7 1981), where the Board held that liberty once granted cannot be revoked absent new  
8 facts that make release inconsistent with its original purpose. *Id.* at 640. ICE has not  
9 alleged, let alone proven, such facts here.  
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13 Second, the Government also fails the second requirement under § 241.13:  
14 showing that removal is "significantly likely... in the reasonably foreseeable future."  
15 That standard requires more than speculation; it demands tangible, present evidence  
16 that removal will in fact occur. Nothing in this record satisfies that requirement.  
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19 Even assuming arguendo that ICE believed a change in circumstances existed,  
20 the agency was required to provide Petitioner with notice and an opportunity to be  
21 heard before revoking his release. The law does not allow ICE to simply arrest a  
22 person who has lived lawfully in the community for decades without first affording  
23 basic procedural safeguards.  
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26 Both the regulation itself and fundamental principles of due process require  
27 that a noncitizen receive an individualized review before his conditional liberty is  
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1 taken away. 8 C.F.R. § 241.13 states that the agency's authority to revoke release is  
2 tied to the existence of new facts showing a significant likelihood of removal. That  
3 determination must be made after a review, not before. When ICE acts first and  
4 evaluates later as it did here, the deprivation of liberty occurs without process and is  
5 unconstitutional.  
6

7  
8 Mr. Rowshandel's arrest on June 24, 2025, occurred without any prior notice,  
9 interview, or review. There was no written explanation of the alleged change in  
10 circumstances, no opportunity to contest the basis for re-detention, and no chance to  
11 present information in support of continued release. ICE agents arrived unannounced  
12 and took him into custody without any pre-arrest procedures.  
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15 This lack of process violates the Due Process Clause of the Fifth Amendment,  
16 which requires that individuals be given notice and a meaningful opportunity to be  
17 heard before being deprived of liberty. Courts have long held that when the  
18 government seeks to revoke a form of conditional liberty, whether parole, probation,  
19 or post-order supervision, it must first provide a neutral review process. ICE's total  
20 failure to do so here demonstrates that its actions were arbitrary and unlawful.  
21 *Morrissey v. Brewer*, 408 U.S. 471 (1972). *Gagnon v. Scarpelli*, 411 U.S. 778  
22 (1973).  
23  
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25

26 The Government cannot excuse this omission by relying on the Decision to  
27 Continue Detention from dated September 18, 2025. That document was created  
28

1 months after the arrest and only after litigation commenced. It does not retroactively  
2 cure ICE's violation. A pre-arrest hearing is the minimum process required by law;  
3 it cannot be substituted with an after-the-fact justification.  
4

5 ICE's decision to detain Mr. Rowshandel without providing any form of prior  
6 notice or hearing thus violates both 8 C.F.R. § 241.13 and the Due Process Clause.  
7  
8 The agency's own actions confirm that this was not an evidence-based review but  
9 an arbitrary seizure inconsistent with constitutional standards.  
10

11 **c. The Court Has Jurisdiction to Enjoin Petitioner's Removal**

12 Respondents' claim that this Court lacks jurisdiction to enjoin Mr.  
13 Rowshandel's removal misstates both the nature of the relief sought and the scope  
14 of the jurisdictional bar under 8 U.S.C. § 1252(g). Petitioner does not ask this Court  
15 to review or reopen the underlying removal order, nor does he challenge the  
16 execution of the order. He challenges only his unlawful detention and the  
17 government's failure to follow required process in revoking his release. Those  
18 claims fall squarely within this Court's traditional habeas and equitable jurisdiction.  
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21 Section 1252(g) limits judicial review over three specific discretionary acts  
22 "the decision or action by the Attorney General to commence proceedings,  
23 adjudicate cases, or execute removal orders." None of those actions are at issue here.  
24  
25 ICE's decision to re-detain a person who has lived lawfully in the community for  
26 decades is not part of executing a removal order; it is a separate, collateral act of  
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1 detention. Courts have consistently held that § 1252(g) does not bar review of such  
2 collateral challenges to unlawful custody.

3  
4 Moreover, Respondents' position collapses the distinction between  
5 challenging removal and challenging detention. Enjoining the government from  
6 removing Mr. Rowshandel pending judicial review of his detention is not the same  
7 as vacating or invalidating his removal order. Federal courts retain inherent authority  
8 to issue injunctive relief to preserve their jurisdiction and prevent irreparable harm  
9 while a case is pending. Without such authority, judicial review would be rendered  
10 meaningless, as the government could simply remove a petitioner before the Court  
11 could rule on the lawfulness of the custody itself.

12  
13 Here, the requested injunction does not seek to halt removal indefinitely; it  
14 seeks to maintain the status quo while this Court determines whether ICE acted  
15 within its lawful authority when it re-arrested and detained Mr. Rowshandel without  
16 notice or hearing. That limited relief is well within the Court's equitable power and  
17 essential to ensure that its review remains effective.

18  
19 Finally, habeas jurisdiction under 28 U.S.C. § 2241 provides an independent  
20 basis for relief. The Supreme Court has long recognized that habeas extends to any  
21 claim that an individual "is in custody in violation of the Constitution or laws or  
22 treaties of the United States." Mr. Rowshandel's petition alleges precisely that  
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1 continued confinement in violation of due process and regulatory safeguards.  
2 Nothing in § 1252(g) repeals or limits that fundamental grant of jurisdiction.  
3

4 For these reasons, Respondents' jurisdictional argument fails. This Court  
5 retains authority to enjoin removal temporarily, to review the legality of Petitioner's  
6 detention, and to order his release if it finds that ICE acted beyond its statutory and  
7 constitutional bounds.  
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9  
10 **d. Respondent was required to be given notice and a hearing before**  
11 **revoking his liberty.**

12 Respondents' position that no hearing was required before Petitioner's re-  
13 arrest also fails under the three-part balancing test established in *Mathews v.*  
14 *Eldridge*, 424 U.S. 319 (1976). *Mathews* instructs that the process due in any  
15 particular context depends on (1) the private interest affected, (2) the risk of  
16 erroneous deprivation and the probable value of additional safeguards, and (3) the  
17 government's interest and the burdens additional procedures would entail. Each  
18 factor weighs heavily in Petitioner's favor.  
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22 First, the private interest at stake of Mr. Rowshandel's liberty after more than  
23 two decades of peaceful residence is extraordinarily high. For over twenty years,  
24 Petitioner lived, worked, and complied with all supervision requirements. The  
25 sudden deprivation of that liberty, without notice or review, inflicted an immediate  
26 and severe loss that *Mathews* places at the highest end of the due-process scale.  
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1 Second, the risk of erroneous deprivation under ICE's current process is  
2 intolerably high. ICE provided no advance notice, no opportunity to contest the  
3 factual basis for detention, and no neutral review before arresting Petitioner. As a  
4 result, the determination to re-detain him rested entirely on conclusory assertions of  
5 "flight risk" and "danger to the community," unsupported by any evidence. A  
6 minimal procedural safeguard, such as written notice and a brief pre-arrest review  
7 would have exposed the absence of any changed circumstance or removal likelihood.  
8 Under *Mathews*, the absence of even basic safeguards magnifies the risk of error and  
9 renders the deprivation unconstitutional.  
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13 Third, the government's asserted interest in administrative efficiency cannot  
14 outweigh the deprivation of liberty imposed here. Providing a pre-arrest hearing or  
15 notice imposes negligible burden on ICE; the agency routinely conducts custody  
16 reviews and is fully equipped to issue written determinations. The government  
17 identifies no urgent or exceptional circumstance that prevented compliance. Its  
18 claimed interest in "efficient enforcement" cannot justify the total elimination of  
19 process particularly when the arrest did not advance removal and was executed  
20 months before the agency issued any contemporaneous decision.  
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25 Balancing these factors demonstrates that the procedures used by ICE  
26 arresting first and rationalizing later fall far short of constitutional requirements.  
27 *Mathews* requires the government to weigh its interests against the individual's  
28

1 liberty and the risk of erroneous action. Here, the balance is one-sided: Petitioner's  
2 liberty was taken without process, while the government could have achieved any  
3 legitimate enforcement purpose through notice and review. The absence of those  
4 safeguards renders the detention arbitrary and unconstitutional under *Mathews v.*  
5 *Eldridge*.  
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7  
8 **e. Petitioner Satisfies the Requirements for Temporary Injunctive Relief**

9 A temporary restraining order is warranted where the petitioner shows (1) a  
10 likelihood of success on the merits, (2) irreparable harm absent relief, (3) that the  
11 balance of equities favors the petitioner, and (4) that an injunction serves the public  
12 interest. Petitioner satisfies each element.  
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15 For the reasons set forth above, Petitioner is likely to succeed on his due-process  
16 and statutory claims. The continued loss of liberty without legal basis constitutes  
17 irreparable harm. The balance of equities overwhelmingly favors release, as  
18 Petitioner has lived peacefully for decades and poses no danger or flight risk. Finally,  
19 the public interest is always served when the government acts within the law.  
20 Accordingly, temporary injunctive relief restoring Petitioner's release is warranted.  
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24 **III. CONCLUSION**

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26 For over twenty years, Mr. Rowshandel lived peacefully under ICE  
27 supervision, fully compliant with the conditions of his release. The Government's  
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1 own evidence shows that his re-arrest was not based on any new facts, changed  
2 circumstances, or foreseeable removal, but on arbitrary action taken without notice,  
3 hearing, or lawful authority. Because ICE's conduct violates 8 C.F.R. § 241.13, the  
4 Due Process Clause, and the constitutional limits on detention, Petitioner  
5 respectfully requests that this Court grant the motion for temporary restraining order  
6 and order his immediate release.  
7  
8

9  
10 Dated: October 14, 2025

Respectfully submitted,

/s/ Siovhan Ayala

Siovhan Ayala  
Attorney for Petitioner-Plaintiff

# EXHIBIT A

## **INDEX OF EXHIBITS**

*Mehrdad Rowshandel v. John Cantu, et al.*

No. 2:25-cv-03470-DWL--ESW

<b>Exhibit</b>	<b>Description</b>
A	Declaration of Edmundo Galvan, Jr.
B	Decision to Continue Detention

# **EXHIBIT A**

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Mehrdad Rowshandel,  
  
Petitioner,  
  
v.  
  
John Cantu, et al.,  
  
Respondents.


No. 2:25-CV-03470-DWL--ESW


**DECLARATION OF EDMUNDO  
GALVAN JR.**

I, Edmundo Galvan, Jr., hereby declare under the penalty of perjury:

1. I am currently employed as a with U.S. Department of Homeland Security (DHS), U.S. Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO). I am authorized to search records relating to detainees.

2. I am a Deportation Officer assigned to the Eloy Detention Center in Eloy, Arizona. I make this declaration based on my knowledge and review of Mr. Rowshandel's file that contains electronic data including case records. The below facts were obtained by my review of the file.

3. In relation to , I reviewed the Petition which provides the names and other personal information concerning the individuals identified therein. This Declaration sets forth a true and correct summary of the information available in the field.

4. Mehrdad Rowshandel ("Petitioner") is a native and citizen of Iran, born on 

5. On August 18, 1998, the Petitioner entered the United States on a visa. He subsequently applied for status with the United States Citizenship and Immigration Services.

6. On September 22, 2000, USCIS granted the Petitioner's application for status.

7. On July 18, 2002, the Petitioner was convicted of Attempted Sexual Assault.

1           8. On July 9, 2003, the Petitioner was served with a Notice to Appear that charged  
2 the Petitioner as removable under section 237(a)(2)(A)(iii) of the Immigration and  
3 nationality Act for the aggravated felony conviction for an attempted rape. The petitioner  
4 was also charged with removability under 237(a)(2)(A)(i) of the INA for a crime involving  
5 moral turpitude committed within five years.

6           9. On November 7, 2003, the petitioner was denied relief under section 241(b)(3) of  
7 the INA. The Petitioner was ordered removed to Iran, and granted deferral of removal to  
8 Iran under Article III of the Convention Against Torture.

9           10. On April 6, 2010, the Petitioner attempted to enter the United States at the San  
10 Ysidro, California Port of Entry. The Petitioner was detained by DHS because of the  
11 Petitioner's 2003 removal order.

12           11. On June 24, 2025, the Petitioner was arrested and brought into DHS custody.  
13 The petitioner was charged with violating section 212(a)(6)(A)(I) of the INA.

14           12. On June 26, 2025, the Petitioner was transferred to Eloy, Arizona.

15           13. On July 16, 2025, the Petitioner requested Parole.

16           14. On August 1, 2025, the Petitioner's request for Parole was reviewed and  
17 forwarded to the DFOD for a determination.

18           15. On August 6, 2025, the Petitioner's Parole request was denied by the DFOD on  
19 the ground that Petitioner posed a danger to the community.

20           16. On August 7, 2025, a letter regarding that decision was served on the Petitioner  
21 and his attorney of record.

22           17. On September 17, 2025, the Petitioner requested a Parole review.

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18. On September 18, 2025, DFOD Ciliberti sent Petitioner a letter informing him of the Decision to Continue Detention due to significant flight risk and threat to public safety concerns.

I declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that the foregoing is true and correct to the best of my knowledge.

October 9, 2025

**EDMUNDO  
GALVAN**

Digitally signed by  
EDMUNDO GALVAN  
Date: 2025.10.09 13:10:54  
-0700

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Edmundo Galvan Jr.  
Deportation Officer

U.S. Department of Homeland Security  
U.S. Immigration and Customs Enforcement

# **EXHIBIT B**

*Enforcement and Removal Operations*

U.S. Department of Homeland Security  
1705 E. Hanna Road  
Eloy, Arizona 85131



**U.S. Immigration  
and Customs  
Enforcement**

**ROWSHANDEZ, Mehdrad**

**c/o Eloy Detention Center  
1705 E. Hanna Road  
Eloy, AZ 85131**

### **Decision to Continue Detention**

This letter is to inform you that your custody status has been reviewed, and it has been determined that you will not be released from the custody of United States Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file, consideration of the information you submitted to ICE's reviewing officials, and upon review of the factors for consideration set forth at 8 C.F.R. § 241.4(e), (f), and (g).

As explained below, after such review, ICE has determined to maintain your custody because:

- Pose a significant risk of flight pending your removal from the United States.
- Pose a significant threat to public safety
- ICE has the necessary means to obtain a travel document to effectuate your removal, and removal is practicable, likely to occur in the reasonably foreseeable future, and in the public interest.

ICE has made such determination based upon: Your illegal entries into the United States show a disregard to laws and indicate that you are a flight risk. ICE has the means to obtain a travel document to effectuate your removal and removal is likely and reasonably foreseeable.

Based on the above, you are to remain in ICE custody pending your removal from the United States as ICE is unable to conclude that the factors set forth at 8 C.F.R. § 241.4(e) have been satisfied. You are advised that you must demonstrate that you are making reasonable efforts to comply with the order of removal and that you are cooperating with ICE's efforts to remove you by taking whatever actions ICE requests to affect your removal. You are also advised that any willful failure or refusal on your part to make timely application in good faith for travel or other documents necessary for your departure, or any conspiracy or actions to prevent your removal or obstruct the issuance of a travel document, may subject you to criminal prosecution under 8 U.S.C. § 1253(a).

**Decision to Continue Detention**

ROWSHANDEZ, Mehdrad, 

Page 2

If you have not been released or removed from the United States at the expiration of the three-month period after this 90-day review, jurisdiction of the custody decision in your case will be transferred to the ICE Headquarters (ERO Removal Division), Potomac Center North, 500 12<sup>th</sup> Street SW, Washington, DC 20536. The ERO Removal Division will thereafter conduct a custody review and will make a determination regarding whether you will continue to be detained pending removal or may be released.

To assist in the ERO Removal Division custody review, you will be afforded a personal interview. You and your representative who has filed a Form G-28, Notice of Entry of Appearance, if any, will be notified of the date and time of the interview approximately 30 days prior to the scheduled interview date. This interview may be in person or through a video teleconference. If ERO needs to change the date of the interview, ERO will provide notice to you and your representative who has filed a Form G-28, Notice of Entry of Appearance, if any.

You may be accompanied during the interview by a person of your choice, subject to security requirements at the detention facility, as long as this person is able to attend the interview at the scheduled time.

You may submit any additional documentation in English you wish to be considered in support of your release at the time of the interview or via mail service up to five business days prior to the scheduled time of your interview to the following address:

**U.S. Immigration and Customs Enforcement  
POCR Unit  
1705 E. Hanna Road  
Eloy, AZ 82131**

Such documentation should contain a cover letter indicating that the material is submitted in support of your Post Order Custody Review personal interview. An attorney or other person may submit materials on your behalf.

You are required to complete the below information.

I do  do not  want a personal interview.

**If you do want an interview, please check the appropriate box(es) below:**

Check this box if you need an interpreter for your interview.  
Language/Dialect: Farsi/Iranian Farsi

I will be assisted at this interview by a representative of my own choosing.

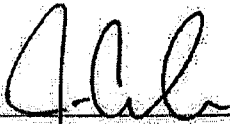
Name: Siorhan S. Ayala

**Decision to Continue ~~\_\_\_\_\_~~ention**

ROWSHANDEZ, Mehdrad, ~~\_\_\_\_\_~~  
Page 3

If your representative has not filed a G-28, Notice of Entry of Appearance, on your behalf, you are responsible for notifying any other person you have selected to assist you of the date, time, and location of the interview. The representative must be at least 18 years of age. You will be sent a separate Notice to Alien of Interview for Review of Custody Status approximately 30 days before the interview is scheduled. If you wish to request additional time to prepare for the interview, you must notify your deportation officer within five business days of receipt of the Notice of Interview. If ERO agrees to postpone the interview at your request, you will be deemed to have waived its completion prior to jurisdiction over your case transferring to the ERO Removal Division.

You will be notified of the decision in your case when the custody review has been concluded by the ERO Removal Division.



\_\_\_\_\_  
Jason A. Ciliberti  
Deputy Field Office Director  
Eloy, AZ

SEP 18 2025

Date