IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 25-cv-03242-PAB

VENG VANG,

Petitioner,

v.

JUAN BALTAZAR, Warden of the Denver Contract Detention Facility, Aurora, Colorado, in his official capacity,
ROBERT GAUDIAN, Field Office Director, Denver Field Office, U.S. Immigration and Customs Enforcement, in his official capacity,
KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity,
TODD LYONS, Acting Director of Immigration and Customs Enforcement, in his official capacity, and
PAM BONDI, Attorney General, U.S. Department of Justice, in her official capacity,

Respondents.

RESPONSE TO MOTION FOR TEMPORARY RESTRAINING ORDER AND/OR PRELIMINARY INJUNCTION (ECF No. 3)

Petitioner's Motion for Temporary Restraining Order and/or Preliminary Injunction (ECF No. 3, the Motion) should be denied. Petitioner claims that his detention is unconstitutional under *Zadvydas v. Davis*, 533 U.S. 678 (2001), arguing that his removal is not significantly likely in the reasonably foreseeable future. But Petitioner's removal is significantly likely, because he has a travel document and is scheduled for a deportation flight in less than a week. Petitioner also contends that the revocation of his supervised release did not follow processes established by agency regulations. But Respondents processed Petitioner into custody the same day he was detained. And even if that

procedure was insufficient, the proper remedy would be to provide Petitioner the process contemplated by the regulations, not to release him. Moreover, in the unique circumstances of this case, the surest way to ensure Petitioner is not exposed to further detention would simply be to permit his imminent removal to proceed.

BACKGROUND

A. Legal Background

The Immigration and Nationality Act (INA) authorizes the detention of noncitizens who are subject to removal orders. In general, the Department of Homeland Security (DHS) must remove noncitizens who have been ordered removed "within a period of 90 days," also known as the "removal period." 8 U.S.C. § 1231(a)(1)(A). During this removal period, detention of the noncitizen is mandatory until removal occurs. *Id.* § 1231(a)(2). But there are various reasons why a noncitizen may not be removed within the removal period. For example, sometimes DHS is not able to secure travel documents or otherwise arrange for removal during the removal period despite diligent efforts.

Congress has thus authorized the detention of certain aliens beyond the statutory removal period. For example, once the initial 90-day removal period is up, DHS may continue to detain aliens, like Petitioner, who are removable because they have committed an aggravated felony or a drug-related offense. 8 U.S.C. §§ 1227(a)(2)(A)(iii), (B)(i) (identifying such aliens as deportable), 1231(a)(6) (permitting the detention of aliens deportable for these reasons beyond the 90-day removal period); ECF No. 3-1; *see also Zadvydas*, 533 U.S. at 689 (interpreting § 1231(a)(6)); *Johnson v. Guzman Chavez*, 594 U.S. 523, 141 S.Ct. 2271, 2281 (a noncitizen may be detained longer than 90 days

pending removal if he is removable due to violations of criminal law).

DHS regulations further govern the release, and revocation of release, for an alien with a final order of removal. *See* 8 C.F.R. §§ 241.14, 241.13. Specifically, 8 C.F.R. § 241.4 is entitled "Continued detention of inadmissible, criminal, and other aliens [noncitizens] beyond the removal period" and relates to the release (and the revocation of release) of such aliens. Generally, the applicable regulations grant authority to designated officials with U.S. Immigration and Customs Enforcement (ICE) (formerly the Immigration and Naturalization Service) to grant release or parole to an alien, or to continue a noncitizen's custody. 8 C.F.R. § 241.4(a).

DHS has also enacted special regulations for noncitizens who have "provided good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed . . . in the reasonably foreseeable future." 8 C.F.R. § 241.13(a). Even if a noncitizen is initially released in these circumstances, § 241.13 provides for the revocation of release. ICE may re-detain the alien if they violate a condition of release, and it may continue the alien's detention "for an additional six months in order to effect the alien's removal, if possible." *Id.* § 241.13(i)(1). ICE may also revoke release if it determines, "on account of changed circumstances," that "there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). The regulations provide that the alien "will be notified of the reasons for revocation of his or her release" and will receive "an initial informal interview promptly after his or her return to. . . custody to afford the alien an opportunity to respond to the reasons for revocation." *Id.* § 241.13(i)(3).

B. Factual Background

Petitioner is a citizen of Thailand and a national of the Lao People's Democratic Republic (Laos). Ex. 1, Decl. of Eliasib Luna (Oct. 17, 2025) ¶ 4. He was admitted to the United States in 1994 as a refugee. *Id.* ¶ 5. While in the United States, Petitioner was convicted of several crimes, including for possession of a controlled substance, attempted escape, and felony menacing. *Id.* ¶ 6.

Due to these convictions, in May 2012, ICE detained Petitioner and charged him with being removable under 8 U.S.C. §§ 1227(a)(2)(A)(iii) and (B)(i), which permit the removal of aliens convicted of an aggravated felony and a drug-related offense, respectively. *Id.* ¶ 8. Petitioner admitted these charges, waived his right to appeal, and was ordered removed on June 14, 2012. *Id.* ¶ 9.

After his removal order was entered, ICE made several unsuccessful attempts to secure a travel document for Petitioner from the Thai Consulate. *Id.* ¶¶ 11-12. In September 2012, despite Petitioner's felony record, ICE determined under 8 C.F.R. § 241.13 that there was no significant likelihood of removal in the reasonably foreseeable future and released Petitioner on an order of supervision. *Id.* ¶ 13.

The order of supervision placed several conditions on Petitioner. *Id.* The most relevant is that it prohibited him from committing any crimes or engaging in any criminal activity or behavior. *Id.* The order further notified Petitioner that any violations of these conditions could result in his return to ICE custody. *Id.*

Petitioner violated these conditions at least twice. First, in March 2016, he was convicted of driving with ability impaired. *Id.* ¶ 14. Then, on April 23, 2025, Petitioner was

again convicted of driving with ability impaired. *Id.* ¶ 15.

ICE learned of this most recent conviction and elected to revoke Petitioner's supervised release for violating the condition to refrain from committing any crimes. *Id.* ¶ 16. On July 8, 2025, ICE revoked Petitioner's supervised release and detained him pursuant to his final order of removal. *Id.* ¶ 17.

When an alien's release is revoked, they are processed into ICE custody. That procedure entails notifying the alien of why their release has been revoked, at which time the alien has an opportunity to discuss those reasons with ICE officials. *See id.* ¶ 18. ICE records indicate that Petitioner was processed into ICE custody, and at that time, ICE officials went over with him his country of citizenship, his nationality, how he entered the United States, his criminal history, whether he had any active warrants, and his family ties and connections to the United States. *Id.* ¶ 19. He was advised of his right to speak with the consulate of his country of citizenship and afforded an opportunity to do so, was given a free telephone call, and was provided a list of free or low-cost attorneys. *Id.*

On August 6, 2025, ICE secured a travel document from the Embassy of Laos. *Id.* ¶ 22. It is valid until November 4, 2025. *Id.* On September 17, 2025, ICE nominated Petitioner to be placed on the next available deportation flight. *Id.* ¶ 23. Petitioner is scheduled to be removed to Laos on Wednesday, October 22, 2025, on a deportation flight departing from outside the State of Colorado. *Id.* ¶ 24. Petitioner is currently scheduled to be transferred from the State of Colorado to the departure location of his deportation flight on Sunday, October 19, 2025. *Id.* ¶ 25.

ARGUMENT

II. Legal standard

A court may enter such emergency injunctive relief only after the moving party proves: "(1) that she's substantially likely to succeed on the merits, (2) that she'll suffer irreparable injury if the court denies the injunction, (3) that her threatened injury (without the injunction) outweighs the opposing party's under the injunction, and (4) that the injunction isn't adverse to the public interest." *Free the Nipple-Fort Collins v. City of Fort Collins*, 916 F.3d 792, 797 (10th Cir. 2019) (internal quotation marks omitted).

When a movant seeks a "disfavored injunction," they must meet a heightened standard. *Id.* at 797. An injunction is disfavored when "(1) it mandates action (rather than prohibiting it), (2) it changes the status quo, or (3) it grants all the relief that the moving party could expect from a trial win." *Id.* When seeking a disfavored preliminary injunction, the moving party must make a "strong showing" as to the likelihood-of-success-on-the-merits and the balance-of-harms factors. *Id.*

Petitioner seeks a disfavored injunction. Petitioner requests that the Court order Respondents to immediately release him from detention—a request to change the status quo. Thus, Petitioner must make a strong showing on both the likelihood-of-success and balance-of-harms factors.[1]

III. Petitioner is unlikely to succeed on the merits.

Petitioner urges that the INA, the Constitution, and DHS regulations require his

[1] Petitioner also requests that he not be transferred from the District of Colorado. That request is not subject to the heightened standard.

release. ECF No. 3 at 5-17.[2] He also argues that the Court must prohibit his transfer "outside of the Court's jurisdiction while it considers his case" to preserve its ability to hear his claims. *See id.* at 2. He is incorrect.

A. The plain text of the statute permits Respondents to detain Petitioner.

As set forth above, § 1231 governs detention after entry of a final order of removal. While the statutory removal period generally runs for 90 days, 8 U.S.C. § 1231(a)(1)(A), (B)(i), an alien may nonetheless be detained "beyond the removal period" if they are "removable under section. . . 1227(a)(2)." *Id.* § 1231(a)(6). An alien is removable under § 1227(a)(2) if, among other things, they have been "convicted of an aggravated felony" or have been "convicted of a violation of. . . any law or regulation of a State, the United States, or a foreign country relating to a controlled substance." § 1227(a)(2)(A)(iii), (B)(i).

Here, Petitioner was convicted of an aggravated felony and of offenses relating to a controlled substance. Ex. 1 ¶ 6; ECF No. 3-1 (charging Petitioner with being removable for these reasons). The statute thus authorizes his detention beyond the 90-day removal period. While Petitioner argues that the statute does not authorize his continued detention in the absence of an assessment that he is a flight risk or a danger to the community, ECF No. 3 at 2, those conditions do not apply to an alien like Petitioner. *See* 8 U.S.C. § 1231(a)(6) (permitting detention beyond the removal period if the alien is "removable under section. . . 1227(a)(2). . . *or* has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal") (emphasis added). Petitioner is thus properly detained under the INA.

[2] Respondents' pincites refer to the ECF pagination in the header of Petitioner's filings.

B. Petitioner has no constitutional claim because his removal is significantly likely in the reasonably foreseeable future.

Nor does Petitioner have a claim for any procedural due process violation. In *Zadvydas*, the Supreme Court interpreted 8 U.S.C. § 1231(a)(6) to limit a noncitizen's detention beyond the removal period to the period "reasonably necessary to bring about that alien's removal from the United States." 533 U.S. 678, 689 (2001). In doing so, the Court reasoned that "a serious constitutional problem" would arise under the Fifth Amendment's Due Process Clause if § 1231 were to permit "indefinite detention of an alien." 533 U.S. at 690. To avoid that due-process problem, the Court applied the canon of constitutional avoidance and held that "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by" § 1231. *Id.* at 689, 699.

The Court held that a detention period of six months is presumptively reasonable. *Id.* at 701. But it also cautioned that the "presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*; *see also Soberanes v. Comfort*, 388 F.3d 1305, 1311 (10th Cir. 2004) (explaining that "in considering whether an alien's continued detention after issuance of a final order of removal is permissible, 'the habeas court must ask whether the detention in question exceeds a period reasonably necessary to secure removal'") (quoting *Zadvydas*, 533 U.S. at 699). Thus, under *Zadvydas*, an alien detained for longer than six months must provide "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," after which "the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701. If

the Government does so, the detention is authorized under § 1231 and avoids the "serious constitutional problem" that motivated the *Zadvydas* Court.

Here, Petitioner has been detained for only 101 days, and so his detention is presumptively reasonable. *See* Ex. 1 ¶ 17 (explaining that Petitioner was detained on July 8, 2025). But even if Petitioner had been held longer than six months, he has a travel document and is scheduled to board a deportation flight in five days. *Id.* ¶¶ 22, 24. His removal is therefore significantly likely in the reasonably foreseeable future, and his detention is permissible under the statute and the Constitution.[3]

C. DHS regulations do not require Petitioner's release.

Petitioner's other argument on the merits is that he should be released because Respondents failed to comply with the regulations governing revocation of supervised release. 8 C.F.R. §§ 241,4(l), 241.13(i)(2); ECF No. 3 at 12-15. But when Respondents processed Petitioner into custody, they reviewed with him his criminal history and several other topics. And even if that were insufficient, release is still not appropriate.

1) Respondents properly revoked Petitioner's supervised release.

Petitioner contends that Respondents are required to follow their own regulations, and that their failure to do so violates due process. ECF No. 3 at 14-15. In *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954), the Supreme Court established a doctrine—now known as the "*Accardi* doctrine"—that generally requires an agency to

[3] Petitioner nonetheless argues that his detention is unconstitutional under the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *Mathews*, however, does not apply where the alien's detention comports with *Zadvydas*. The *Zadvydas* Court did not cite to or apply *Mathews*, because it avoided any "serious constitutional problem" by construing the statute to steer past such an issue. *Zadvydas*, 533 U.S. at 690.

follow its regulations.[4] The *Accardi* doctrine "is not an independent cause of action; rather, it is merely a doctrine upon which to base a due process claim." *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880, at *4 (D. Colo. Sept. 16, 2025) (citation modified).

Here, Petitioner's argument is unavailing because Respondents properly revoked Petitioner's supervised release. DHS regulations permit ICE to revoke release when, among other things, the alien has violated the terms of their supervised release, when revocation is "appropriate to enforce a removal order," or when, if the alien was previously released due to a finding that their removal was not significantly likely under *Zadvydas*, "changed circumstances" cause ICE to determine that such a significant likelihood now exists. 8 C.F.R. §§ 241.4(l)(1), (2)(iii), 241.13(i)(1), (2). Petitioner does not appear to contest that Respondents had a permissible reason to revoke his release, but rather that they did not follow the right process to do so.

Because Petitioner was previously released after a determination that, at that time, his removal was not significantly likely in the reasonably foreseeable future, the revocation of his release is governed by 8 C.F.R. § 241.13(i). That provision offers no pre-revocation process. Instead, it requires ICE to do two things. First, "*upon* revocation," ICE must notify the alien of the reasons for revocation. *Id.* § 241.13(i)(3) (emphasis added). Second, "promptly *after*" the alien's return to custody, ICE must conduct an

[4] It is not clear whether Petitioner intends to make his argument under the *Accardi* doctrine, the Administrative Procedure Act (APA), or both. As explained below, *Accardi* does not create an independent cause of action. Thus, to the extent Petitioner intends to bring an independent *Accardi* claim, it has no merit. Nonetheless, the analysis is generally the same under either the APA or *Accardi*.

"informal interview. . . to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* (emphasis added).

Here, as Deportation Officer Luna explains, in the ordinary course of bringing an alien into custody, the alien is told the reasons why they are being detained, and in that conversation, the alien may discuss those reasons with ICE officials. *See* Ex. 1 ¶ 18. ICE records further indicate that ICE officials processed Petitioner into custody. *Id.* ¶ 19. When they did, they covered several topics with Petitioner, including his criminal history, his ability to make a free telephone call, and the contact information for free or low-cost legal assistance. Ex. 1 ¶ 19. Thus, Petitioner was afforded process when his supervised release was revoked.

2) Even if there were a violation, the Court should not order release.

The proper remedy for lack of procedural due process is additional process, not immediate release. A procedural-due-process claim concerns the procedures that are required by the Constitution, not the substance of an individual's detention. Indeed, in *Accardi* itself, the Supreme Court did not order substantive relief (there, the suspension of deportation), but rather ordered the agency to afford the process provided in its regulations. *See Accardi*, 347 U.S. at 268 (ruling that if the petitioner were to succeed in proving BIA's failure to comply with its regulations, "he should receive a new hearing before the Board"); *Jay v. Boyd*, 351 U.S. 345, 354 (1956) (noting that under *Accardi*, an alien has "a right to a discretionary determination on an application of suspension" but that "a grant thereof is manifestly not a matter of right under any circumstances"). Thus, under *Accardi*, Petitioner should at most be given exactly what the text of the regulation

requires—notice of the reasons for his revocation and an opportunity to contest them in an informal interview.

Consistent with this reasoning, several district courts have declined to grant release to remedy procedural violations of §§ 241.4 and 241.13. For example, in *Medina v. Noem*, No. 25-cv-1768-ABA, 2025 WL 2306274 (D. Md. Aug. 11, 2025), the court ruled that even though the respondents had not yet complied with the informal interview requirement in § 241.4(l),[5] the respondents would first be given an opportunity to do so before the petitioner would be ordered released. *Id.* at *11. In that case, ICE had provided evidence that it intended to remove the petitioner to El Salvador and that the matter was "under review by El Salvador for the issuance of a travel document." *Id.* at *9. The court declined to order release and instead invited the parties to keep it apprised whether ICE complied with the interview requirement in the future. *Id.* at *11. The court further noted that the petitioner did not "point[] to authority showing that the remedy for a violation of this regulation (if such a violation has occurred) is release from detention." *Id.*

Other decisions are in accord. *See Douglas v. Baker*, No. 25-cv-2243-ABA, 2025 WL 2687354, at *6 (D. Md. Sept. 19, 2025) (declining to release the petitioner and instead requiring ICE to provide an informal interview within fourteen days); *Umanzor-Chavez v. Noem*, No. cv SAG-25-01634, 2025 WL 2467640, at *5 (D. Md. Aug. 27, 2025) (declining to order release where there was no informal interview because the regulations do not set a time limit by when the interview must occur); *Tanha v. Warden, Baltimore Det.*

[5] This requirement is substantially similar to the informal interview requirement set forth in § 241.13 that applies to Petitioner.

Facility, No. 25-cv-02121-JRR, 2025 WL 2062181, at *6 (D. Md. July 22, 2025) ("[W]hile the court appreciates that the informal interview has not been done (or scheduled, apparently), release from detention is an overreach and not the appropriate cure."); *I.V.I. v. Baker*, No. cv JKB-25-1572, 2025 WL 1811273, at *3 (D. Md. July 1, 2025) (declining to order petitioner's release where procedural errors like failure to provide a custody review or service of certain documents are "remediable by the provision of any process he may have been denied, rather than by release alone"); *id.* ("[W]hile habeas is a proper vehicle 'to challenge detention that is without statutory authority' or violative of the Constitution, it is not a proper vehicle for vindicating every procedural error the Government may have committed along the way.") (citation omitted); *Doe v. Smith*, No. CV 18-11363-FDS, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018) (failure to provide an informal interview under § 241.13(i)(3) does not require release where the interview, had it been provided, would not have led to release).

Although Petitioner cites to several district court opinions that have ordered release as a remedy for failure to comply with the revocation processes set forth in §§ 241.4 or 241.13, *see* ECF No. 3 at 13-14 (collecting cases), those cases do not recognize that *Accardi* itself merely afforded additional process. Nor do they meaningfully grapple with the lack of any pre-revocation protections in the regulations. And perhaps most important, they are factually different from this case because the petitioners in those cases do not appear to have been scheduled for imminent removal.

Petitioner's imminent removal justifies his continued, temporary detention. Petitioner is scheduled to be removed in five days. Ex. 1 ¶ 24. Indeed, he may be

transferred from the District of Colorado to begin the removal process within 48 hours of this filing, if not earlier. *Id.* ¶ 25. Even assuming Petitioner's detention to date has been unlawful, he does not dispute that he is removable or that his currently scheduled removal is proper. *See generally* ECF No. 1, ECF No. 3. His release could jeopardize his currently scheduled removal and, if that removal falls through, his re-detention would be justified to effectuate his removal at some future date. *See* 8 C.F.R. § 241.4(l)(2) (permitting revocation of release if "[i]t is appropriate to enforce a removal order"); *id.* § 241.13(i)(2) (same "if, on account of changed circumstances, [DHS] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future"). In other words, the release Petitioner requests could paradoxically expose him to *more* prejudice, not less.

This case thus presents unusual circumstances. Where, as here, Petitioner's confinement is set to end in a matter of days via an uncontested removal, the best course to remedy Petitioner's purportedly unlawful detention would be to simply permit his removal to proceed as scheduled.[6]

IV. Petitioner has not identified any irreparable harm he personally will suffer.

Petitioner argues that the fact of his current detention constitutes irreparable harm, citing generalized discussions from other courts about the effects of confinement and

[6] Petitioner further argues, in a single sentence, that he should be released because he relied on a statement in a 2012 letter that he would be given the chance for an "orderly departure." ECF No. 3 at 17. The Court should not consider this undeveloped argument. In any event, no constitutional provision, statute, regulation, or case of which Respondents are aware guarantees such an orderly departure after an alien violates their supervised release by engaging in criminal activity.

public reports about the conditions of ICE detention. ECF No. 3 at 17-19. But that cannot be enough. "To constitute irreparable harm, an injury must be certain, great, actual, and not theoretical." *Heideman v. S. Salt Lake City*, 348 F.3d 1182, 1189 (10th Cir. 2003) (internal quotation marks omitted). If "detention in and of itself constitutes irreparable harm . . . then many if not most habeas petitioners would be entitled to such relief." *Abshir H.A. v. Barr*, 19-cv-1033 (PAM/TNL), 2019 WL 3292058, at *4 (D. Minn. May 6, 2019), *report and recommendation adopted by Abi v. Barr*, 2019 WL 2463036 (D. Minn. June 13, 2019). Petitioner has not said what about his personal circumstances would threaten irreparable harm. That is insufficient to meet his burden.

V. The balancing-of-the-equities and public interest factors weigh in favor of Respondents.

The third and fourth factors—regarding the balance of the equities and whether a preliminary injunction would be in the public interest—"merge when the Government is the opposing party." *Nken v. Holder*, 556 U.S. 418, 435 (2009). The Supreme Court has recognized that the public interest in the enforcement of the United States' immigration laws is significant. *See, e.g., id.* at 436. Here, Respondents have a valid statutory and constitutional basis for detention, *see* 8 U.S.C. § 1231(a)(6); *Zadvydas*, 533 U.S. at 701, and he is being detained for "a period reasonably necessary to secure" his imminent removal next week. *Zadvydas*, 533 U.S. at 699.

Petitioner cites several cases for the proposition that a constitutional violation will ordinarily outweigh any harm to the government. ECF No. 3 at 19-20. But as explained above, Petitioner's detention is lawful. And on the other side of the ledger, as the Supreme Court recently indicated, any time that the Government is "enjoined by a court from

effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Trump v. CASA, Inc.*, 606 U.S. 831, 861 (2025) (citation omitted) (Roberts, C.J., in chambers). Enjoining Respondents from carrying out their statutory obligations would harm the Government and, thus, these factors weigh against the Court granting an injunction.[7]

VI. The Court should not enjoin Petitioner's transfer.

Petitioner also requests that the Court enjoin Respondents from "transferring [him] outside of the Court's jurisdiction." ECF No. 3 at 2. Petitioner is not entitled to this relief. The All Writs Act provides that "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). The "express terms" of the All Writs Act "confine" courts "to issuing process 'in aid of' its existing statutory jurisdiction; the Act does not enlarge that jurisdiction." *Clinton v. Goldsmith*, 526 U.S. 529, 534-35 (1999).

Here, Petitioner filed the Petition in the District of Colorado. This Court would retain jurisdiction even if he was transferred out of this district to another facility in the United States. *See Serna v. Commandant, USDB-Leavenworth*, 608 F. App'x 713, 714 (10th Cir. 2015). Moreover, an order enjoining Petitioner's transfer would prevent Respondents from effectuating his removal which, as explained above, is uncontested and is scheduled

[7] Federal Rule of Civil Procedure 65(c) provides that "[t]he court may issue a preliminary injunction . . . only if the movant gives security in an amount that the court considers proper to pay the costs and damages sustained by any party found to have been wrongfully enjoined or restrained." If the Court grants Petitioner's request for a preliminary injunction, Respondents request that the Court require appropriate security.

to occur in the next five days. The Court should therefore deny Petitioner's request that he not be transferred outside the District of Colorado.

CONCLUSION

For the reasons set forth above, the Motion should be denied.

Dated: October 17, 2025.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on October 17, 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following recipients by e-mail:

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and I certify that on the same date I am causing the foregoing to be delivered to the following non-CM/ECF participants in the manner (mail, email, hand delivery, etc.) indicated by the nonparticipant's name:

none.

s/ V. William Scarpato III
V. William Scarpato III