IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

ZHULIANG YE, Petitioner,	)	
v.	)	Case No. CIV-25-1230-D
PAMELA BONDI, ET AL., Respondents.	)	

RESPONDENTS' OBJECTION TO REPORT AND RECOMMENDATION

NOW COME Respondents Attorney General Pamela Bondi, Acting Executive Associate Director of Enforcement and Removal Operations (ERO) Marcos Charles, Acting Director of Immigration and Customs Enforcement (ICE) Todd M. Lyons, Secretary of Homeland Security Kristi Noem, and Director of the Oklahoma City ICE Field Office Douglas M. Goodwater (collectively the "Federal Respondents"), who object to Magistrate Judge Amanda L. Maxfield's Report and Recommendation (R&R) [Doc. 19] insofar as it recommends that the Court rule in Petitioner Zhuliang Ye's favor on Count I of the Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief (Petition) [Doc. 1], issue a writ of habeas corpus, and order Mr. Ye's immediate release from custody. The Federal Respondents do not object to Magistrate Judge Maxfield's decision not to address Petitioner's Counts II through V, Petitioner's request for declaratory judgment, Petitioner's request for permanent injunctive relief, and Petitioner's request for emergency relief. *See* R&R [Doc. 19] at 14, part VI ("Because the undersigned recommends habeas relief based on Petitioner's Count One, the undersigned does not address Petitioner's remaining arguments....").

The Federal Respondents expressly re-assert and adopt by reference the arguments they set forth in their Response in Opposition [Doc. 16], and in support of this objection the Federal Respondents respectfully submit the following:

Brief in Support of Objection

1. **Purported failure by ICE to comply with 8 C.F.R. § 241.13(i)(3) is, at most, harmless error.**

"In Count One, Petitioner alleges that Respondents failed to comply with 8 C.F.R. § 241.13(i)(3)," R&R [Doc. 19] at 7, and the R&R "finds that Respondents have failed to show that ICE abided by its own regulations in making the decision to revoke Petitioner's [Order of Supervision], making the revocation unlawful." *Id.* at 12. "Based on ICE's violation of its own regulations," the R&R "concludes that Petitioner's detention is unlawful and that his release is appropriate under 28 U.S.C. § 2241(c)(3)." *Id.* (citing cases).

"The harmless error standard applies in deportation and administrative cases. Accordingly, it is Petitioner's burden to show that the government's failure to abide by its own regulations prejudiced him." *Bahadorani v. Bondi*, No. CIV-25-1091-PRW, 2025 WL 3048932, at *2 (W.D. Okla. Oct. 31, 2025) (internal footnotes with citations omitted).

In *Bahadorani*, the immigration detainee alleged that DHS/ICE failed to comply with 8 C.F.R. § 241.13(i)(2)-(3). DHS/ICE could not verify that it provided the petitioner a Notice of Revocation of Release, as required by 8 C.F.R. § 241.13(i)(3). *Id.*, *compare with* 8 C.F.R. § 241.13(i)(3) ("Upon revocation, the alien will be notified of the reasons for revocation of his or her release."). Nevertheless, the Court found that such error was a

harmless error, and even then, the error was mitigated by the government's substantial compliance and cured by the petitioner's opportunities to contest his detention, both before ICE and the Court. *Id.*

Throughout the litigation of the matter before the District Court, the petitioner had been represented by counsel, had been provided notice of the basis for his detention, and had been heard by both the Court and the federal immigration authorities concerning his arguments opposing his detention. The Court in *Bahadorani* found, "This process has effectively cured any administrative deficiencies stemming from the government's failures to comply with 8 C.F.R. § 241.13(i)(2)," which requires that an immigration detainee be notified of the reasons behind the revocation of his release, be given an informal interview, and be given the opportunity to respond to the reasons for revocation and to present evidence in rebuttal. *Id.* at *3. Even if the government failed to comply with 8 C.F.R. § 241.13(i)(2)-(3), such failure had not prejudiced the petitioner. *Id.*

In the case at bar, when Mr. Ye was detained, he was "informed of the reason for his revocation and was given the opportunity to respond" during an informal interview conducted in accordance with 8 C.F.R. § 241.13(i)(3). Resp. Att. 4 (Guzman Decl.) [Doc. 16-4] at 2, ¶ 7. The R&R relies on cases from the Western District of Washington, the Southern District of California, the Southern District of Iowa, and elsewhere (*see* R&R [Doc. 19] at 12-13), none of which are binding on this Court. The R&R does not address the holding by the Western District of Oklahoma in *Bahadorani* that even if the government failed to comply with § 241.13(i)(2)-(3), there was no prejudice to the petitioner. Thus, he was not entitled to habeas corpus relief.

2. Even if the Federal Respondents did not comply with immigration regulations, and if such noncompliance were prejudicial, a writ of habeas corpus would not be an appropriate remedy.

The R&R recommends that the Court order Petitioner's immediate release from custody, "subject to an appropriate Order of Supervision." R&R [Doc. 19] at 14. However, mere failure to comply with immigration regulations does not support the grant of a writ of habeas corpus.

The writ of habeas corpus, "while essential to our political system, is a drastic remedy." *Basri v. Barr*, 469 F. Supp. 3d 1063, 1066 (D. Colo. 2020).[1] "Habeas relief is reserved for errors constitutional in scale." *Bahadorani*, 2025 WL 3048932, at *4 (citing *Sunal v. Large*, 332 U.S. 174, 179 (1947)).

The writ of habeas corpus "is available to correct the denial of fundamental constitutional rights, but it may not be used to correct mere irregularities or errors of law." *Wooten v. Bomar*, 267 F.2d 900, 901 (6th Cir. 1959). Failure of officials to follow their own policies, without more, does not constitute a due process violation, making a writ of habeas corpus generally unavailable for policy shortcomings. "Habeas is an exceptional writ reserved for errors which result from fundamental defects that result in a complete miscarriage of justice or an omission inconsistent with the rudimentary demands for fair procedure." *Nguyen v. Noem*, No. 6:25-CV-057-H, 2025 WL 2737803, at *6 (N.D. Tex.

[1] *See also Shinn v. Ramirez*, 596 U.S. 366, 377 (2022) ("The writ of habeas corpus is an extraordinary remedy that guards only against extreme malfunctions in the state criminal justice systems.") (internal quotation marks and citation omitted); *Gomez-Arias v. U.S. Immigr. & Customs Enf't*, No. 20-CV-00857-MV-KK, 2020 WL 6384209, at *2 (D.N.M. Oct. 30, 2020) ("As release from custody is an extreme remedy, Congress has circumscribed its use by the courts.").

Aug. 10, 2025) (citing *Hill v. United States*, 368 U.S. 424, 428 (1962), and *United States v. Reyna*, 358 F.3d 344, 349 (5th Cir. 2004)). To obtain relief, a § 2241 petitioner has the burden of alleging and establishing that he is in custody in violation of the Constitution and the laws of the United States. *Bradin v. U.S. Prob. & Pretrial Servs.*, No. 22-3032-JWL, 2022 WL 1154622, at *3 (D. Kan. Apr. 19, 2022) (compiling cases).

Neither Petitioner nor the R&R makes the case that the appropriate remedy for ICE's regulatory violations is a writ of habeas corpus. Mr. Ye, like the petitioner in *Bahadorani*, "has now been adequately provided notice as to the reason for his revocation and detention, he has been provided a forum to rebut the reasons for his detention, and it is still the case that Petitioner is statutorily removable." 2025 WL 3048932, at *4.

Prayer for Relief

WHEREFORE, the Federal Respondents respectfully pray for an order or orders of this Honorable Court refusing to adopt the Report and Recommendation [Doc. 19], denying Petitioner's Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief [Doc. 1], and dismissing the action without prejudice to refiling.

Respectfully submitted this 25th day of November, 2025.

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