THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA

ZHE MIN JIN,	)	
	)	
Petitioner	)	
	)	
v.	)	**Case No. CIV-25-1232-JD**
	)	
PAMELA BONDI et al.,	)	
	)	
Respondents.	)	

REPORT AND RECOMMENDATION

Petitioner seeks habeas corpus relief under 28 U.S.C. § 2241. (ECF No. 1). Petitioner also requests a temporary restraining order and preliminary injunction "enjoining Respondents . . . [from] continuing to infringe on [his] constitutional rights," "an emergency preliminary order requiring Respondents to give [him] due process prior to removing him to an allegedly safe third country in the form of a full merits hearing for asylum, withholding of removal, and [Deferral of Removal under the Convention Against Torture (DCAT)] before an immigration judge . . . with a right to an administrative appeal to the Board of Immigration Appeals." (ECF No. 5:1-2).[1] Respondents filed a Response in Opposition to Petitioner's Petition for Writ of Habeas Corpus. (ECF No. 13). Petitioner filed a Reply. (ECF No. 15). Respondents filed a Motion to Strike Petitioner's Reply. (ECF No.

[1] Petitioner also asks the Court "to order Respondents to provide 72-hour notice of any intended movement of [his person] pending the adjudication of [his] habeas corpus petition." (ECF No. 5:2). Petitioner's request is moot as the Court ordered Respondents to provide 72-hour "advance notice of any scheduled removal or transfer of Petitioner" in its order directing Respondents to respond to the Petition. (ECF No. 11:2).

16). Petitioner filed a Response in Opposition to Respondent' Motion Strike. (ECF No. 17).[2]

United States District Judge Jodi Dishman referred the matter to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C). Respondents filed a Response and Petitioner replied. (ECF Nos. 13 & 15). For the reasons set forth below, the undersigned recommends that the Court **GRANT** habeas relief to Petitioner and release him from custody immediately.

I. FACTUAL BACKGROUND

Petitioner is a citizen of China who was admitted to the United States on August 4, 2003, as a Lawful Permanent Resident. (ECF No. 13-2:1). Mr. Jin was ordered removed from the United States on July 8, 2019. (ECF Nos. 1:1; 13-1:2). Petitioner did not appeal his order of removal, rendering it final on August 7, 2019, or alternatively, on July 8, 2019 if he waived the appeal. (ECF No. 1:1). Petitioner remained in detention for "an unknown period of time believed to be in excess of six months." (ECF No. 1:2). Petitioner was eventually released on an Order of Supervision (OOS) on November 14, 2019. (ECF Nos. 1:2 & 13-1). Petitioner complied with the OOS's requirements to appear for routine check-ins with Immigration and Customs Enforcement (ICE) and updated his address, as required, whenever he relocated. (ECF No. 1:2).

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[2] Respondents' Motion to Strike Petitioner's Reply **(ECF No. 16)** is **DENIED**. Petitioner's counsel is reminded of his obligation to comply with LCvR7.1 regarding the length of briefs and requests for leave to file oversized briefs.

In March of 2025, ICE officials detained Petitioner following his posting of bond in a criminal case filed against him in Oklahoma County District Court. *See* ECF Nos. 1:2-3, 13-1:3, State Court Docket Sheet, *State of Oklahoma v. Jin*, Case No. CF-2025-1090 (Okla. Co. Dist. Ct.). Prior to or at the time of his re-detention, Mr. Jin alleges that he was never served with a proper Notice of Revocation of Release ("Notice") providing an explanation of why his OOS was being revoked, nor was he afforded any opportunity to challenge any Notice. (ECF No. 1:13). Petitioner contends that his detention is "designed to send a message to other individuals with final orders of removal that they need to leave the United States or they will be jailed indefinitely and without any process and/or to punish him for his pending criminal case for which he has posted bond and is presumed innocent." (ECF No. 1:3-4). Petitioner alleges he cannot return to China because he does not have a valid travel document and China will not issue one to him. (ECF No. 1:3-4). Mr. Jin states that he has applied for travel documents before, but his applications have been denied or ignored. (ECF No. 1:3). Petitioner alleges that "to the best of [his] knowledge" no attempts at removal to a third country have been attempted since being detained. (ECF No. 1:3). Petitioner states that he does not recall having been asked to apply for a travel document for any country, including but not limited to China, since being detained. (ECF No. 1:3). Respondents, however, submit an affidavit from Michael Thompson, ICE deportation officer, who states that on April 17, 2025, Petitioner completed the travel document application, which included his expired passport, and Enforcement and Removal Operations (ERO) sent a travel document request to Headquarters Removal International Operations ("HQRIO") for review and approval. (ECF

No. 13-1:3). On May 29, 2025, HQRIO approved the travel document request for submission and sent the request, along with Mr. Jin's expired passport to the Chinese Embassy in Washington D.C. (ECF No. 13-1:3).

On June 4, 2025, ERO served Petitioner with a 90-day post order custody review explaining that ERO intended to keep him in custody based on his immigration and criminal history, and the significant likelihood of removal in the reasonably foreseeable future. (ECF No. 13-1:3). As of October 24, 2025, Petitioner's travel document request was pending identification verification in China. (ECF No. 13-1:3). Petitioner contends that removal is unlikely to occur any time in the reasonably foreseeable future and his "aggregate period of civil immigration confinement exceeds six months and continues to grow." (ECF No. 1:3, 8).

II. PETITIONER'S CLAIMS

Petitioner alleges that "ICE has denied [him] release because: (A) it incorrectly believes [he] is responsible for reestablishing that removal is not substantially likely to occur in the reasonably foreseeable future; (B) ICE seeks to punish [him] for remaining in the United States after previously having been ordered removed; and (C) ICE seeks to punish [him] to send a message to similarly situated persons who have not yet been detained as a way to encourage those similarly situated people to immediately leave the United States to avoid [his] fate." (ECF No. 1:12).

In Count One, Petitioner requests "declaratory judgment pursuant to 28 U.S.C. § 2201 that [he] is detained pursuant to 8 U.S.C. § 1231(a)(1)," "that [he] has previously demonstrated to ICE's satisfaction that there is no significant likelihood of his removal in

the reasonably foreseeable future ("NSLRRFF")," "that ICE did not rebut [his] prior NSLRRFF showing prior to redetaining him," and "that until ICE rebuts [his] prior NSLRRFF showing, [he] may not be redetained." (ECF No. 1:21)

In Count Two, Petitioner contends that his detention by Respondents violates the Immigration and Nationality Act and applicable ICE regulations. (ECF No. 1:21-22).

In Count Three, Petitioner raises two due process claims. He states that his continued detention in excess of six months violates his "Fifth Amendment guarantee of due process" established in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) as Respondents have not rebutted his prior showing of no substantial likelihood of removal in the foreseeable future. (ECF No. 1:22). And he states a separate due process claim based on his allegations that he has been detained "to punish him and to otherwise send a message to similarly situated individuals that they must leave the United States to avoid a similar fate." (ECF No. 1:22-23).

In Count Four, Petitioner alleges that Respondents have violated the Administrative Procedures Act [APA] as "[their] decisions, which represent changes in the agencies' policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the case, and have offered explanations for their decisions that run counter to the evidence before the agencies." (ECF No. 1:23). Petitioner also seeks a temporary restraining order and preliminary injunction preventing Respondents from removing or transferring him outside of the State of Oklahoma pending the disposition of his habeas petition. (ECF No. 5). Respondents are sued in their official capacities. (ECF No. 1:8-10).

III. STANDARD OF REVIEW

To obtain habeas corpus relief, Petitioner must show that he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 224l(c)(3). "[T]he primary federal habeas corpus statute, 28 U.S.C. § 2241, confers jurisdiction upon the federal courts to hear ... challenges to the lawfulness of immigration-related detention." *Zadvydas*, 533 U.S. at 687; *see also Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) ("Challenges to immigration detention are properly brought directly through habeas."); *Head v. Keisler*, No. 07-CIV-402-F, 2007 WL 4208709, at *2 (W.D. Okla. Nov. 26, 2007) (determining that "[t]his Court has subject matter jurisdiction over" unconstitutional detention in immigration-related § 2241 habeas petition).

IV. ANALYSIS

In Count Two, Petitioner alleges that Respondents failed to comply with the Immigration and Nationality Act and ICE's applicable regulations "prior to redetaining [him] after [his] release on an OOS." (ECF No. 1:21). Respondents argue "[p]ursuant to the 1996 Illegal Immigration Reform and Immigrant Responsibility Act and the 2005 REAL ID Act, this Court is deprived of jurisdiction over [Count Two] under [8 U.S.C.] § 1252(g)" "which strips district courts of jurisdiction over 'any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien under this chapter.' " (ECF No. 13:24). The Court should assume jurisdiction over the matter, find that ICE violated its own regulations in revoking Petitioner's OOS, and order his immediate release.

A. Jurisdiction

Federal courts possess jurisdiction over a matter only as authorized by the U.S. Constitution and statute. *Gunn v. Minton*, 568 U.S. 251, 256 (2013). Section 2241 of title 28, United States Code, grants district courts the authority to grant writs of habeas corpus, and district courts may entertain petitions pursuant to § 2241 in relation to immigration cases. *Ochieng v. Mukasey*, 520 F.3d 1110, 1115 (10th Cir. 2008) (noting that district courts are the appropriate forum for a noncitizen to bring § 2241 challenges to mandatory detention in the first instance). However, the Tenth Circuit has clarified that district courts' habeas jurisdiction is limited regarding orders of removal. *See Thoung v. United States*, 913 F.3d 999, 1001–02 (10th Cir. 2019) ("[T]he REAL ID Act imposes substantial limitations on judicial review, including habeas review, of final orders of removal."). Habeas petitions challenging an order of removal must be filed in a circuit court of appeals, *id.*, and even then, any challenge is limited to certain grounds enumerated by statute, *see Vaupel v. Ortiz*, 244 F. App'x 892, 894–96 (10th Cir. 2007).

Nonetheless, the Supreme Court has recognized that district courts retain jurisdiction to consider habeas petitions that challenge determinations by an immigration judge other than orders of removal. *See Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (reviewing a habeas petition after clarifying that "respondents are not asking for review of an order of removal; they are not challenging the decision to detain them in the first place or to seek removal; and they are not even challenging any part of the process by which their removability will be determined").

Accordingly, the Tenth Circuit has found that district courts have jurisdiction to hear a noncitizen's challenge to mandatory detention because that determination is distinct from an order of removal. *Ochieng*, 520 F.3d at 1115 ("It appears that subsequently-enacted provisions of the REAL ID Act limiting habeas relief ... do not apply in these circumstances, as [the petitioner] would not be seeking review of an order of removal, but review of his detention."); *see also* 8 C.F.R. § 1003.19(d) (2025) ("Consideration by the Immigration Judge of an application or request of a respondent regarding custody or bond ... shall be separate and apart from, and shall form no part of, any deportation or removal hearing or proceeding.").

Indeed, several courts in this circuit, like district courts across the country, have found subject matter jurisdiction over petitions challenging determinations that a petitioner was statutorily ineligible for bond under § 1226(a). *See* ECF No. 11, *Perez v. Holt, et al.*, No. 25-1151-SLP (W.D. Okla. Nov. 5, 2025) (granting petitioner a writ of habeas corpus challenging petitioner's classification under § 1225 instead of § 1226(a)); *Pastrana-Saigado v. Lyons*, No. 2:25-cv-00950-MLG-LF, Doc. 24 at 1–2 (D.N.M. Oct. 24, 2025) (holding—"[l]ike the overwhelming majority of courts"—that § 1226(a) governed the petitioner's detention and that the petitioner was entitled to a bond hearing); *Garcia Domingo v. Castro*, No. 1:25-cv-00979-DHU-GJF, — F. Supp. 3d —, 2025 WL 2941217, at *4–5 (D.N.M. Oct. 15, 2025) (finding that the petitioner had established a substantial likelihood of success on the merits of his claim that he had been erroneously classified as an "applicant for admission" subject to § 1225); *see also, e.g.*, *Bolante v. Achim*, 457 F. Supp. 2d 898, 902 (E.D. Wis. 2006) ("Although Congress has stripped district courts of

habeas jurisdiction to consider most immigration issues, district courts retain jurisdiction to review detention unrelated to a removal proceeding, and therefore not subject to circuit court review under INA § 242."); *Martinez-Elvir v. Olson*, No. 3:25-CV-589-CHB, — F. Supp. 3d —, 2025 WL 3006772, at *3 (W.D. Ky. 2025) ("[T]he Supreme Court has recognized that district courts retain jurisdiction to hear habeas petitions concerning issues that are collateral or ancillary to removal proceedings.").

Based on the forgoing, the Court should find it has subject matter jurisdiction over the petition. *See Ochoa v. Noem*, et. al, 2025 WL 3125846, at *4 (D.N.M. Nov. 7, 2025) (finding subject matter jurisdiction over Petitioner's Section 2241 challenge to his detention, rejecting similar argument).

B. Applicable Legal Framework

Title 8, Section 1231(a)(2)(A) of the United States Code mandates that "the Attorney General shall detain" an alien who is ordered to be removed from the country. However, the length of detention cannot be indefinite: in general, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." § 1231(a)(1)(A). This is known as the "removal period," and begins at the latest of (1) "[t]he date the order of removal becomes administratively final," (2) "the date of the court's final order" when a removal order is judicially reviewed, or (3) "the date the alien is released from detention or confinement" if the alien is detained according to a non-immigration process (e.g., imprisonment for a crime). *Id.* *See Zadvydas*, 533 U.S. at 682 ("When an alien has been found to be unlawfully present in the United States and a final order of removal has been entered, the Government

ordinarily secures the alien's removal during a subsequent 90–day statutory 'removal period,' during which time the alien normally is held in custody.").

"If the alien does not leave or is not removed within the removal period, the alien, pending removal, shall [ordinarily] be subject to supervision." 8 U.S.C. § 1231(a)(3). However, an exception exists for certain aliens, including aliens who have violated criminal law, who "may be detained beyond the removal period." § 1231(a)(6); *see Zadvydas*, 553 U.S. at 682 ("A special statute authorizes further detention if the Government fails to remove the alien during those 90 days.") (citing § 1231(a)(6)); *Head v. Keisler*, No. 07 CIV-402-F, 2007 WL 4208709, at *2 (W.D. Okla. Nov. 26, 2007) ("If an alien is not deported during the 90-day removal period, certain classes of aliens, including inadmissible aliens and criminal aliens, may continue to be subject to detention if they have not yet been removed."). "Related [ICE] regulations add that [ICE] will initially review the alien's records to decide whether further detention or release under supervision is warranted after the 90–day removal period expires." *Zadvydas*, 553 U.S. at 683 (explaining various provisions of 8 C.F.R. § 241.4).

Section 1231(a)(6) does not specify how long criminal aliens may be detained beyond the removal period. However, the *Zadvydas* Court held that § 1231(a)(6), "read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States. It does not permit indefinite detention." 533 U.S. at 689. The Court further specified that detention is presumptively reasonable for only six months beyond the original 90-day removal period. *Id.* at 701. "After this 6–month period, 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." *Id.*

Following the Supreme Court's holding, the *Zadvydas* challenge to continued detention was codified into the immigration regulations governing the detention review process with amendments to 8 C.F.R. § 241.4 and the addition of 8 C.F.R. § 241.13.[3] The new regulations were in place at the time of Mr. Jin's release in November 2019 and his re-detention in March 2025.

C. Habeas Relief is Warranted Due to ICE's Failure to Comply with its Regulations

In Count Two, Petitioner alleges that Respondents failed to comply with the Immigration and Nationality Act and ICE's applicable regulations "prior to redetaining [him] after [his] release on an OOS." (ECF No. 1:21). " 'It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings." *Trump v. JG. G.*, 604 U.S. 670, 673 (2025) (per curiam) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). The Due Process Clause is also implicated where "an

[3] *See* Continued Detention of Aliens Subject to Final Orders of Removal, 66 Fed. Reg. 56967-01, 56968, 2001 WL 1408247 (F.R.) (Nov. 14, 2001) (to be codified at 8 C.F.R. Parts 3 and 241) ("In light of the Supreme Court's decision in *Zadvydas*, this rule revises the Department's regulations by adding a new 8 CFR 241.13, governing certain aspects of the custody determination of a detained alien after the expiration of the removal period. Specifically, the rule provides a process for the Service to make a determination as to whether there is a significant likelihood that the alien will be removed in the reasonably foreseeable future. Except as provided in this new § 241.13, the existing detention standards in § 241.4 will continue to govern the detention or release of aliens who are subject to a final order of removal. Thus, aliens who are determined not to be a danger to the community or a flight risk may be released under § 241.4 regardless of whether there is a significant likelihood of removal.").

individual has reasonably relied on agency regulations promulgated for his guidance or benefit and has suffered substantially because of their violation by the agency." *United States v. Caceres*, 440 U.S. 741, 752-53 (1979).

The re-detention of Petitioner is governed by 8 U.S.C. § 1231(a)(3) and its related regulations as Petitioner was released from ICE detention on an OOS on November 14, 2019, following "an unknown period of time believed to be in excess of six months." (ECF No. 1:2 & 13-1). Neither party has presented the Court with a copy of Petitioner's 2019 OOS. Petitioner alleges that "[t]he OOS [was] issued pursuant to 8 C.F.R. § 241.4(e) and 8 C.F.R. § 241.13[4] because it was determined there was no significant likelihood of removal in the reasonably foreseeable future," and "it was necessarily determined at that time that Jin did not present an ongoing danger or a flight risk." (ECF No. 1:2). Respondent argues the OOS was issued under 8 C.F.R. § 241.4, "as is made evident by ICE's recent Decision to Continue Detention, [which states] Petitioner's custody review was conducted under Section 241.4" and insists that the revocation occurred under

[4] 8 C.F.R. § 241.4(e) permits for release of an alien when, *inter alia*, "[t]ravel documents for the alien are not available or, in the opinion of the Service, immediate removal, while proper, is otherwise not practicable or not in the public interest." It does not require ICE to determine the likelihood of removal. 8 C.F.R. § 241.13 specifically requires such a determination. ICE has exceptionally broad authority to revoke release under § 241.4. *See* § 241.4(1)(2) (permitting revocation when in the discretionary opinion of the revoking official "[i]t is appropriate to enforce a removal order" or "[t]he conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate."). However, revocation of release under § 241.4 entitles the alien to certain review procedures that trigger review under § 241.13. *See* § 241.4(i)(7) ("During the custody review process ... if the alien submits, or the record contains, information providing a substantial reason to believe that the removal of a detained alien is not significantly likely in the reasonably foreseeable future, [ICE] shall treat that as a request for review and initiate the review procedures under § 241.13.").

Section 241.4, which "gives ICE broad discretion to revoke release, to include effectuating an order of removal." (ECF No. 13:27).

Regardless of which regulation is controlling, however, both regulations provide that upon revocation of release, the noncitizen "will be notified of the reasons for revocation of his or her release," and will be given "an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(l)(1) & § 241.13(i)(3). Thus, the issue before the Court is whether ICE officials complied with their own regulations upon revoking Petitioner's OOS. The Court should answer this question in the negative.

First, Petitioner insists that no notice was ever provided to him either prior to or at the time of his re-detention, nor was he afforded any opportunity to challenge any notice. (ECF No. 1:13). Although Respondents have not presented the Court with a copy of the 2025 Notice of Revocation of Release, which should have been provided to Petitioner and should state the reasons for revocation of release, they argue that "[Section 241.13(i)(3)] does *not* require a documented notice." (ECF No. 13:27).[5] Again, both regulations require notice, and Petitioner attests that no notice was ever provided to him. *See supra*.

[5] The undersigned finds Respondents' argument perplexing, as Respondents appear to insist that the revocation occurred under Section 241.4 rather than Section 241.13. *See* ECF No. 13:27 ("an Order of Supervision issued under 8 C.F.R. § 241.4 means that revocation of that release occurs under that section as well.").

Regarding an interview, almost 90 days into the removal period, Petitioner was provided with a "Decision to Continue Detention," wherein Mr. Jin checked a box stating that he wished to have a personal interview regarding his detention. *See* ECF No. 13-3. But both regulations required notice and an "*initial* informal interview" promptly following the revocation. *See supra*. Petitioner alleges he was not afforded an interview, to which Respondent states: "Section 241.4(l)(2) has no requirement that Petitioner receive an interview after his return to custody." (ECF No. 13:28). To this argument, the undersigned concludes that Respondents' argument amounts to nothing more than semantics. Clearly Respondents believe that Mr. Jin's OOS was revoked under 8 C.F.R. § 241.4, and specifically, Section 241.4(l)(2). Section 241.4(l) provides:

> (l) Revocation of release—
>
> (1) Violation of conditions of release. Any alien described in paragraph (a) or (b)(1) of this section who has been released under an order of supervision or other conditions of release who violates the conditions of release may be returned to custody. Any such alien who violates the conditions of an order of supervision is subject to the penalties described in section 243(b) of the Act. Upon revocation, the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.
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> (2) Determination by the Service. The Executive Associate Commissioner shall have authority, in the exercise of discretion, to revoke release and return to Service custody an alien previously approved for release under the procedures in this section. A district director may also revoke release of an alien when, in the district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner. Release may be revoked in the exercise of discretion when, in the opinion of the revoking official:

> (i) The purposes of release have been served;
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> (ii) The alien violates any condition of release;
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> (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
>
> (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

8 C.F.R. § 241.4.

Again, neither party has submitted evidence of the OOS, but if the controlling regulation *was* Section 241.4, and, specifically, subsection (l)(2), Respondent is technically correct that (l)(2) does not provide for an initial interview. *See supra*. However, courts across the nation have "interpreted section 241.4(l) as requiring an informal interview upon the revocation of release regardless of the reason for the revocation"—meaning that the notice and informal interview requirement stated in § 241.4(1)(1) applies to revocation under § 241.4(1)(2). *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 163 (W.D.N.Y. 2025) (collecting cases); *see also Noem v. Abrego Garcia*, 604 U.S. ——, 145 S. Ct. 1017, 1019 (2025) (Sotomayor, J., statement respecting the Court's disposition of the application) (stating that under 8 C.F.R. § 241.4(l), "in order to revoke conditional release the Government must provide adequate notice and 'promptly' arrange an 'initial informal interview ... to afford the alien an opportunity to respond to the reasons for the revocation stated in the notification' "); *Zhu v. Genalo*, No. 1:25-CV-06523 (JLR), 2025 WL 2452352, at *6 (S.D.N.Y. Aug. 26, 2025) ("[P]aragraph (*l*) sets forth a unified set of procedures for the revocation of removal."); *but see Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *6 (S.D. Fla. Aug. 8, 2025) (finding that "it does not appear

that Petitioner was entitled notice or an informal interview" because Petitioner's OSUP was revoked pursuant to § 241.4(l)(2), not § 241.4(l)(1)).

As a matter of text, the undersigned is persuaded that the notice and interview requirements stated in § 241.4(l)(1) applies to revocation under § 241.4(l)(2). "The four reasons for revocation stated in § 241.4(l)(2) are inclusive of the single reason stated in § 241.4(l)(1)—violation of conditions of release." *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *6 (S.D. Fla. Sept. 9, 2025). "This overlap belies the . . . argument that these are two separate processes, and suggests that paragraph (l) sets forth a unified set of procedures for the revocation of removal." *Zhu*, 2025 WL 2452352, at *6. "Indeed, it would be nonsensical if an alien detained for violation of conditions of release would receive notice and an interview under § 241.4(l)(1) but not § 241.4(l)(2) given that both provisions specify that a violation of conditions of release is a basis for revoking an OSUP." *Grigorian v. Bondi*, 2025 WL 2604573, at *6.

Government agencies are required to follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *United States v. Ramos*, 623 F.3d 672, 683 (9th Cir. 2010) ("It is a well-known maxim that agencies must comply with their own regulations.") (quoting *Ramon–Sepulveda v. INS*, 743 F.2d 1307, 1310 (9th Cir. 1984)). In this case, ICE failed in this regard by failing to provide Mr. Jin with proper notice and an initial informal interview upon revocation of his OOS, as required under either 8 C.F.R. § 241.4(l) or 8 C.F.R. § 241.13(i)(3); making the revocation unlawful. *See, e.g., Martinez v. Noem*, 2025 WL 3171738, at *5 (S.D. Cal. Nov. 13, 2025) ("Respondents failed to comply with the procedural safeguards set forth in 8 C.F.R. §§ 241.4 and 241.13,

including the requirements for timely, written notice and a prompt interview following revocation of release. These failures constitute violations of both binding agency regulations and the fundamental due process rights guaranteed by the Fifth Amendment."); *Phan v. Noem*, 2025 WL 2898977, at *5 (S.D. Cal. Oct. 10, 2025) ("ICE's failure to comply with both 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 violated Petitioner's due process rights); *M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 WL 2430267, at *11 (D. Ore. Aug. 21, 2025) ("ICE's failure to provide Petitioner with a timely Notice of Revocation or conduct an informal interview until nearly a month after taking her into custody is a grave violation of Petitioner's due process rights in that they deprived her both of meaningful notice and an opportunity to be heard.").

Based on ICE's violations of its own regulations, the undersigned concludes that Petitioner's detention is unlawful and that his release is appropriate under 28 U.S.C. § 2241(c)(3). *See Rombot v. Souza*, 296 F. Supp. 3d 383, 387–88 (D. Mass. 2017) (ordering the petitioner released where, "[b]ased on ICE's violations of its own regulations, the Court concludes [the petitioner's] detention was unlawful"); *K.E.O. v. Woosley*, Civil Action No. 4:25-cv-74-RGJ, 2025 WL 2553394, at *7 (W.D. Ky. Sept. 4, 2025) (noting "courts across the country have ordered the release of individuals" in ICE custody where ICE "violated their own regulations"); *Grigorian v. Bondi*, CASE NO. 25-cv-22914-RAR, 2025 WL 2604573, at *10 (S.D. Fla. Sept. 9, 2025) ("The failure to provide [the petitioner] with an informal interview promptly after his detention or to otherwise provide a meaningful opportunity to contest the reasons for revocation violates both ICE's own

regulations and the Fifth Amendment Due Process Clause. This compels [the petitioner's] release.").[6]

V. RECOMMENDATION AND NOTICE OF RIGHT TO OBJECT

For the reasons set forth above, the undersigned recommends the Court grant Petitioner's request for habeas relief, and order his immediate release from custody subject to the terms of his unlawfully revoked OOS. The undersigned further recommends that the Court order Respondents to submit a declaration pursuant to 28 U.S.C. § 1746 affirming that Petitioner has been released from custody.[7]

The parties are advised of their right to file an objection to this Report and Recommendation with the Clerk of this Court by **December 1, 2025**, in accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2).[8] Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives the right to

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[6] The undersigned does not address Petitioner's remaining arguments as to how the revocation of his release is otherwise unlawful under the APA or under *Zadvydas*. The undersigned also declines to address Petitioner's request for declaratory judgment as to the legality and nature of his detention under ICE regulations and whether ICE's actions were arbitrary and capricious as his immediate release, if this Report and Recommendation is adopted, will moot these requests.

[7] Adoption of this Report and Recommendation will render moot Petitioner's pending emergency motion for temporary restraining order and preliminary injunction, ECF No. 5.

[8] Given the expedited nature of these proceedings, the undersigned has reduced the typical objection time to this Report and Recommendation to seven days. See Fed. R. Civ. P. 72(b)(2) advisory committee's note to 1983 addition (noting that rule establishing 14-day response time "does not extend to habeas corpus petitions, which are covered by the specific rules relating to proceedings under Sections 2254 and 2255 of Title 28."); *see also Whitmore v. Parker*, 484 F. App'x 227, 231, 231 n.2 (10th Cir. 2012) (noting that "[t]he Rules Governing § 2254 Cases may be applied discretionarily to habeas petitions under § 2241" and that "while the Federal Rules of Civil Procedure may be applied in habeas proceedings, they need not be in every instance – particularly where strict application would undermine the habeas review process").

appellate review of both factual and legal issues contained herein. *Casanova v. Ulibarri*, 595 F.3d 1120, 1123 (10th Cir. 2010).

VI. STATUS OF REFERRAL

This Report and Recommendation terminates the referral by the District Judge in this matter.

ENTERED on November 24, 2025.

Shon T. Erwin

SHON T. ERWIN
UNITED STATES MAGISTRATE JUDGE