

District Judge Ricardo S. Martinez
Magistrate Judge Brian A. Tsuchida

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UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

LLIMMY RODRIGUEZ JIMINEZ,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

Case No. 2:25-cv-02167-RSM-BAT

FEDERAL RESPONDENTS' ¹
RETURN

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") has lawfully detained Petitioner Llimmy Rodriguez Jiminez, a citizen of Cuba who is subject to a final removal order, to facilitate his removal to Cuba. Petitioner's detention is lawful. He is a noncitizen subject to an administratively final order of removal, and he is lawfully detained under Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. His detention is not indefinite under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), as ICE has obtained a travel document to

¹ Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

1 execute his removal to Cuba. Accordingly, this Court should deny Petitioner’s habeas petition
2 without an evidentiary hearing.

3 **II. FACTUAL AND PROCEDURAL BACKGROUND**

4 **A. Detention Authorities and Removal Procedures**

5 The INA governs the detention and release of noncitizens during and following their
6 removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The general
7 detention periods are generally referred to as “pre-order” (meaning before the entry of a final
8 order of removal) and, relevant here, “post-order” (meaning after the entry of a final order of
9 removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing
10 post-order detention).

11 When a final order of removal has been entered, a noncitizen enters a 90-day “removal
12 period.” 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security
13 “shall remove the [noncitizen] from the United States.” *Id.* To ensure a noncitizen’s presence for
14 removal and to protect the community from noncitizens who may present a danger, Congress has
15 mandated detention while removal is being effectuated. 8 U.S.C. § 1231(a)(2).

16 Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration
17 of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention
18 and does not place any temporal limit on the length of detention under that provision:

19 [A noncitizen] ordered removed who is inadmissible under section 1182,
20 removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or
21 who has been determined by the [the Secretary of Homeland Security] to be a risk
22 to the community or unlikely to comply with the order of removal, *may* be detained
23 *beyond the removal period* and, if released, shall be subject to the terms of
24 supervision in paragraph (3).

8 U.S.C. § 1231(a)(6) (emphasis added).

1 During the removal period, ICE² is charged with attempting to effect removal of a
2 noncitizen from the United States. 8 U.S.C. § 1231(a)(1). Although there is no statutory time limit
3 on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may
4 be detained only “for a period reasonably necessary to bring about that [noncitizen’s] removal
5 from the United States.” *Zadvydas*, 533 U.S. at 689. The Supreme Court has further identified six
6 months as a presumptively reasonable time to bring about a noncitizen’s removal. *Id.* at 701.

7 Once it is determined that there is no significant likelihood of removal in the reasonably
8 foreseeable future, noncitizens may be released on an Order of Supervision (“OSUP”). 8 C.F.R.
9 § 241.13(h). ICE may revoke a noncitizen’s OSUP and return the noncitizen to custody when, on
10 account of changed circumstances, there becomes a significant likelihood of the noncitizen’s
11 removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2).

12 Here, Petitioner is the subject of an administrative order of removal that was entered on
13 October 6, 1998, and became final on or about November 6, 1998 (when the 30-day appeal
14 deadline expired and Petitioner did not file a timely notice of appeal). 8 C.F.R. § 1241.1. ICE
15 released Petitioner on an OSUP on March 13, 2003. Thus, the “presumptively reasonable” six-
16 month custody period has expired. *Zadvydas*, 533 U.S. at 701. ICE recently revoked the OSUP
17 due to changed circumstances in that Cuba recently issued a travel document for his return to
18 Cuba. *See* Declaration of Kristin B. Johnson (“Johnson Decl.”), Ex. A. These changed
19 circumstances support Petitioner’s current detention as his removal will occur once travel
20 arrangements to Cuba have been finalized. ICE is currently in the process of scheduling
21 Petitioner’s removal. Thus, his removal is now likely in the reasonably foreseeable future.

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² Under 8 C.F.R. § 241.2(b), ICE deportation officers are delegated the Secretary of Homeland Security’s authority to execute removal orders.

1 **B. Petitioner Llimmy Rodriguez Jimenez**

2 The facts pertaining to Petitioner’s immigration history and current detention are set forth
3 in the Declaration of Deportation Officer Daniel R. Strzelczyk, filed concurrently herewith.

4 **III. LEGAL STANDARD**

5 It is axiomatic that “[t]he district courts of the United States . . . are courts of limited
6 jurisdiction. They possess only that power authorized by Constitution and statute.” *Exxon Mobil*
7 *Corp. v. Allopath Servs., Inc.*, 545 U.S. 546, 552 (2005) (internal quotations omitted). “[T]he
8 scope of habeas has been tightly regulated by statute, from the Judiciary Act of 1789 to the present
9 day.” *Dep’t of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1974 n.20 (2020). Title 28
10 U.S.C. § 2241 provides district courts the authority to grant habeas relief “within their respective
11 jurisdictions.” To warrant a grant of habeas corpus, the burden is on the petitioner to prove that
12 his or her custody is in violation of the Constitution, laws, or treaties of the United States. *See*
13 28 U.S.C. § 2241(c)(3); *Lambert v. Blodgett*, 393 F.3d 943, 969 n.16 (9th Cir. 2004).

14 **IV. ARGUMENT**

15 **A. Petitioner is lawfully detained.**

16 Petitioner contends that his redetention violates the Due Process Clause and 8 U.S.C.
17 § 1231(a), 8 C.F.R. § 241.13 because Federal Respondents revoked his OSUP without affording
18 him an individual determination and a notice and opportunity to respond. Dkt. 1, pg. 10. Because
19 Petitioner is subject to a final order of removal and ICE revoked his OSUP, any protected liberty
20 interest that Petitioner may have in remaining in the community on supervision is addressed by
21 8 C.F.R. § 241.13. *See Ahmad v. Whitaker*, No. 18-cv-287-JLR-BAT, 2018 WL 6928540, at *5
22 (W.D. Wash. Dec. 4, 2018), *report and recommendation adopted*, 2019 WL 95571 (W.D. Wash.
23 Jan. 3, 2019).

1 The regulation states:

2 (i) Revocation of release—

3 (1) Violation of conditions of release. Any alien who has been released under
4 an order of supervision under this section who violates any of the
5 conditions of release may be returned to custody and is subject to the
6 penalties described in section 243(b) of the Act. In suitable cases, the
7 HQPDU shall refer the case to the appropriate U.S. Attorney for criminal
8 prosecution. The alien may be continued in detention for an additional six
9 months in order to effect the alien's removal, if possible, and to effect the
10 conditions under which the alien had been released.

11 (2) Revocation for removal. The Service may revoke an alien's release under
12 this section and return the alien to custody if, on account of changed
13 circumstances, the Service determines that there is a significant likelihood
14 that the alien may be removed in the reasonably foreseeable future.
15 Thereafter, if the alien is not released from custody following the informal
16 interview provided for in paragraph (h)(3) of this section, the provisions of
17 § 241.4 shall govern the alien's continued detention pending removal.

18 (3) Revocation procedures. Upon revocation, the alien will be notified of the
19 reasons for revocation of his or her release. The Service will conduct an
20 initial informal interview promptly after his or her return to Service
21 custody to afford the alien an opportunity to respond to the reasons for
22 revocation stated in the notification. The alien may submit any evidence or
23 information that he or she believes shows there is no significant likelihood
24 he or she be removed in the reasonably foreseeable future, or that he or she
has not violated the order of supervision. The revocation custody review
will include an evaluation of any contested facts relevant to the revocation
and a determination whether the facts as determined warrant revocation
and further denial of release.

18 8 C.F.R. § 241.13.

19 Here, there has been a change in circumstances which indicate Petitioner's removal to
20 Cuba is likely in the reasonably foreseeable future. While ICE had been unable to obtain a travel
21 document to conduct Petitioner's removal to Cuba for decades, ICE now has a travel document.
22 See Johnson Decl. at Ex. A. Petitioner also received notification of the reason for the OSUP
23 revocation. *Id.*

1 At this time, Federal Respondents are unable to confirm whether Petitioner received an
2 informal interview pursuant to 8 C.F.R. § 241.13(i)(3). However, Petitioner cannot demonstrate
3 that the facts here support an actionable injury even if an informal interview was not conducted
4 given that ICE has obtained a travel document for his removal to Cuba. The informal interview
5 is required so a noncitizen may present information showing that there is no significant likelihood
6 of removal in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(3). As Cuba issued the travel
7 document approximately before Petitioner's redetention, it is unclear how Petitioner could
8 provide any such information. "Thus, there is no apparent reason that ICE's failure to provide an
9 informal interview should result in [Petitioner's] release." *Ahmad*, 2018 WL 6928540, at *5.

10 Accordingly, Petitioner was lawfully redetained following the revocation of his OSUP
11 due to changed circumstances. This Court should deny Petitioner's request for release from
12 immigration detention pending his removal because his removal is likely in the reasonably
13 foreseeable future.

14 **B. This Court lacks jurisdiction to enjoin Petitioner's redetention and removal to Cuba.**

15 In the exercise of its constitutional power to define federal court jurisdiction, in 1996,
16 Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"),
17 which repealed the existing scheme for judicial review of final orders of deportation, and replaced
18 it with a more restrictive scheme. *See Reno v. American-Arab Anti-Discrimination Comm.*
19 (*"AADAC"*), 525 U.S. 471, 474 (1999). Among the IIRIRA amendments to the INA, Congress
20 provided in the newly-enacted Section 1252(g) that reads as follows:

21 Except as provided in this section and notwithstanding any other provision of law,
22 no court shall have jurisdiction to hear any cause or claim by or on behalf of any
23 alien arising from the decision or action by the Attorney General to commence
24 proceedings, adjudicate cases, or execute removal orders against any alien under
this Act.

1 8 U.S.C. § 1252(g) (1996). In the 2005 REAL ID Act, Congress amended Section 1252(g) to
2 clarify that the statute’s proscription against jurisdiction does in fact apply to habeas actions, such
3 as the one Petitioner now brings before this Court. *See* REAL ID Act of 2005, Pub. L. No. 109-13,
4 119 Stat. 231, 310-11 (amending 8 U.S.C. § 1252(g)). As amended by the REAL ID Act, Section
5 1252(g), now provides that:

6 Except as provided in this section and notwithstanding any other provision of law,
7 *(statutory or nonstatutory), including section 2241 of Title 28, or any other habeas*
8 *corpus provision, and sections 1361 and 1651 of such title,* no court shall have
9 jurisdiction to hear any cause or claim by or on behalf of any alien arising from
10 the decision or action by the Attorney General to commence proceedings,
11 adjudicate cases, or execute removal orders against any alien under this chapter.

12 8 U.S.C. § 1252(g) (2017) (emphasis added).

13 In addition to the bar to jurisdiction at Section 1252(g), the IIRIRA and REAL ID Act
14 amendments to the INA also reflect Congress’s desire to “streamline immigration proceedings”
15 and to “effectively limit all aliens to one bite of the apple with regard to challenging an order of
16 removal.” *Singh v. Gonzales*, 499 F.3d 969, 976-77 (9th Cir. 2007) (quoting *Bonhometre v.*
17 *Gonzales*, 414 F.3d 442, 446 (3d Cir. 2005)). Under these amendments, individuals who seek to
18 challenge an order of removal may do so, but only as part of a petition for review in the
19 appropriate court of appeals, as provided under Section 1252. In particular, Section 1252(b)(9)
20 provides that:

21 Judicial review of all questions of law and fact, including interpretation and
22 application of constitutional and statutory provisions, arising from any action
23 taken or proceeding brought to remove an alien from the United States under this
24 subchapter *shall be available only in judicial review of a final order under this*
25 *section. Except as otherwise provided in this section, no court shall have*
26 *jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas*
27 *corpus provision, by section 1361 or 1651 of such title, or by any other provision*
28 of law (statutory or nonstatutory), to review such an order or such questions of law
29 or fact.

1 8 U.S.C. § 1252(b)(9) (emphasis added); *see also* 8 U.S.C. § 1252(a)(5) (“Notwithstanding any
2 other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other
3 habeas corpus provision, and sections 1361 and 1651 of such title, a petition for review filed with
4 an appropriate court of appeals in accordance with this section shall be the sole and exclusive
5 means for judicial review of an order of removal . . .”).

6 Thus, this Court lacks jurisdiction to enjoin ICE from revoking Petitioner’s OSUP,
7 redetaining him, and executing his final order of removal by removing him to Cuba.

8 **V. CONCLUSION**

9 For the foregoing reasons, Petitioner’s habeas petition should be denied and dismissed
10 without an evidentiary hearing.

11 DATED this 17th day of November, 2025.

12 Respectfully submitted,

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I certify that this memorandum contains 2,171 words,
in compliance with the Local Civil Rules.