

1 ADAM GORDON
United States Attorney
2 KIM A. C. GREGG
Assistant U.S. Attorney
3 California Bar No. 318764
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-8437
Facsimile: (619) 546-7751
6 Email: Kim.Gregg@usdoj.gov

7 Attorneys for Respondents

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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 ADBALKARIM AL KHATIB,
12
13 Petitioner,
14 v.
15 KRISTI NOEM, Secretary of the
Department of Homeland Security; et al.,
16
17 Respondents.

Case No.: 25-cv-02978-LL-VET
**RESPONSE IN OPPOSITION TO
PETITIONER'S HABEAS
PETITION AND APPLICATION
FOR TEMPORARY RESTRAINING
ORDER**

28

1 I. INTRODUCTION

2 Petitioner has filed a habeas petition and a motion for temporary restraining
3 order. As the petition and motion assert the same claims and relief, Respondents herein
4 respond to both for the sake of judicial efficiency. For the reasons set forth below,
5 Respondents ask the Court to deny Petitioner’s habeas petition and request for interim
6 relief.

7 II. FACTUAL AND PROCEDURAL BACKGROUND

8 Petitioner is a Palestinian, born in the West Bank in 1975. *See* Declaration of
9 Marcus Vera (Vera Decl.) at ¶ 4. He was admitted to the United States as a conditional
10 resident based on his marriage to his U.S. citizen spouse on June 12, 1997. *Id.* On April
11 2, 2002, Petitioner was convicted of Aggravated Assault with a Deadly Weapon, as well
12 as Tampering or Threatening a Witness. *Id.* at ¶ 5.

13 On July 28, 2004, an Immigration Judge (IJ) ordered Petitioner removed to the
14 West Bank. *Id.* at ¶ 6. Petitioner did not appeal the IJ’s decision, so the order became
15 administratively final on August 30, 2004.¹ *Id.* On December 21, 2004, Immigration
16 and Customs Enforcement (ICE) released Petitioner from custody on an order of
17 supervision because it was unable to remove him to the West Bank. *Id.* at ¶ 7.

18 On June 18, 2025, ICE re-detained Petitioner for purposes of executing his
19 removal order. *See* Vera Decl. at ¶ 8. On October 28, 2025, ICE served Petitioner a
20 Notice of Revocation of Release, informing him that his order of supervision was
21 revoked based on ICE’s determination that he can be expeditiously removed from the
22 United States, and a Notice to Alien of Interview for Review of Custody Status. *See*
23 Exh. 1.

24 Since Petitioner’s re-detention, ICE has worked to effectuate his removal to the
25 West Bank as expeditiously as possible. *See* Vera Decl. at ¶¶ 8–10. To that end, ICE

26
27 ¹ To the extent Petitioner seeks review of his removal order to the West Bank, he may
28 file a motion to reopen his removal proceedings along with a new fear-based application
for relief for the Immigration Judge’s consideration.

1 requested Petitioner to complete travel forms, and upon completion, sent the requests
2 and paperwork to Palestinian authorities and to Israel to arrange for Petitioner’s travel
3 document and air transport, respectively, on September 11, 2025. *See id.* at ¶¶ 9–10.

4 At this time, ICE has not received a response from the Palestinians or Israel. *Id.*
5 at ¶ 11. According to the declaring officer, “based on [his] experience, ICE’s ability to
6 secure travel arrangements for other Palestinians for removal to the West Bank, and
7 knowledge of this case, there is a significant likelihood of Petitioner’s removal in the
8 reasonably foreseeable future.” *Id.* at ¶ 14.

9 III. ARGUMENT

10 The Immigration and Nationality Act provides that an alien ordered removed
11 must be detained for 90 days pending the government’s efforts to secure the alien’s
12 removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the
13 Attorney General “shall detain” the alien during the 90-day removal period under
14 subsection (a)(1)). Additionally, 8 U.S.C. § 1231(a)(6) “authorizes further detention if
15 the Government fails to remove the alien during those 90 days.” *Zadvydas v. Davis*, 533
16 U.S. 678, 682 (2001). The statute, however, is limited to “a period reasonably necessary
17 to bring about the alien’s removal from the United States” and “does not permit
18 indefinite detention.” *Id.* at 689. The Supreme Court has held that a six-month period
19 of post-removal detention constitutes a “presumptively reasonable period of detention.”
20 *Id.* at 701. Release is not mandated after the expiration of the six-month period unless
21 “there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

22 Here, ICE re-detained Petitioner for purposes of executing his removal order and
23 believes his continued detention is for a period reasonably necessary to bring about his
24 removal from the United States. *See Vera Decl.* at ¶¶ 8, 14. As explained in his Notice
25 of Revocation of Release, ICE determined that it can expeditiously remove him to the
26 West Bank. *See Exh. 1.* While detained, Petitioner completed travel forms at ICE’s
27 request. *See Vera Decl.* at ¶ 9. Then, on September 11, 2025, ICE sent the travel
28 paperwork to Palestinian authorities, requesting it to issue a travel document for

1 Petitioner, and to the government of Israel, requesting it to allow Petitioner to fly into
2 its airport and be transported to the West Bank. *See id.* at ¶ 10.

3 ICE has not yet received a response from the Palestinians or Israel. *See id.* at ¶
4 11. But removal remains reasonably foreseeable as evidenced by ICE’s recent success
5 securing travel arrangements to effectuate the removal of five Palestinians to the West
6 Bank. *See id.* at ¶ 12. Their removal is scheduled for November 23, 2025. *See id.* Once
7 ICE receives a travel document for Petitioner and Israel’s approval for his transit,
8 Petitioner’s removal to the West Bank can be effectuated promptly. *See id.* at ¶ 13.
9 Based on its ability to secure the removal of other Palestinians to the West Bank, ICE
10 attests there is a significant likelihood of Petitioner’s removal in the reasonably
11 foreseeable future.² *See id.* at ¶ 14.

12 Additionally, Petitioner claims that the agency failed to comply with its
13 regulations for revoking his order of supervision. On October 28, 2025, Petitioner was
14 served a Notice of Revocation of Release and a Notice to Alien of Interview for Review
15 of Custody Status. *See* Exh. 1.

16 Even assuming the agency’s compliance with the regulations fell short, Petitioner
17 has not established prejudice nor a constitutional violation. *See Brown v. Holder*, 763
18 F.3d 1141, 1148–50 (9th Cir. 2014) (“The mere failure of an agency to follow its
19 regulations is not a violation of due process.”); *United States v. Tatoyan*, 474 F.3d 1174,
20 1178 (9th Cir.2007) (“Compliance with . . . internal [customs] agency regulations is not
21 mandated by the Constitution”) (internal quotation marks omitted); *United States v.*
22 *Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978) (holding that even assuming that

23
24 ² ICE is not presently seeking to remove Petitioner to a third country. But in any event,
25 Petitioner’s claim that he may be removed to a third country without adequate notice
26 and an opportunity to be heard is subject to ongoing litigation, with the Supreme Court
27 staying an injunction imposed by a district court ordering the government to provide
28 notice and an opportunity to be heard like that requested here. *See Dep’t of Homeland*
Sec. v. D.V.D., 145 S. Ct. 2153 (2025). Given the Supreme Court’s reversal of that
injunction, Respondents’ position is that imposition of a similar injunction would be
reversed here.

1 the judge had violated the rule by failing to inquire into the alien's background, any
2 error was harmless because there was no showing that the petitioner was qualified for
3 relief from deportation).

4 **V. CONCLUSION**

5 For the reasons stated herein, Respondents respectfully request that the Court
6 deny the habeas petition and motion for temporary restraining order.

7 DATED: November 13, 2025

8 ADAM GORDON
United States Attorney

9 s/ Kim A. C. Gregg.
10 KIM A. C. GREGG
Assistant United States Attorney

11 Attorneys for Respondents
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