

No. 25-6177

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

Bekham Bahadorani,
Petitioner-Appellant

v.

Pamela Bondi, U.S. Attorney General, et al.,
Respondents-Appellees

APPEAL FROM DISTRICT COURT ORDER DENYING PETITION FOR
WRIT OF HABEAS CORPUS

IN THE WESTERN DISTRICT OF OKLAHOMA

IN DISTRICT COURT CASE NO.: 25-CV-1091

BEFORE THE HONORABLE PATRICK R. WYRICK

**PETITIONER'S MOTION FOR IMMEDIATE RELEASE
UNDER FED. R. APP. P. 23(b)**

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RELATED CASES

The undersigned counsel is aware of no prior or related appeals.

INTRODUCTION

Petitioner, Mr. Bekham Bahadorani, moves the Court to order his release from custody without surety pursuant to Fed. R. App. P. 23(b)(3). Alternatively, Petitioner moves the Court to order his release from imprisonment subject to lesser forms of custody such as GPS monitoring and/or home confinement pursuant to Fed. R. App. P. 23(b)(2).

Good cause justifies granting Petitioner's motion. The district court erred in denying Petitioner's petition for a writ of habeas corpus. Petitioner is detained in violation of the Constitution and the laws of the United States. Every day of further unlawful detention constitutes irreparable injury. Petitioner is likely to succeed on the merits of his appeal. Petitioner does not present a present or future danger to persons or property, nor does he present a present or future flight risk.

The government opposes this request.

ARGUMENT

I. Standard of Review

This Court reviews the district court's denial of habeas corpus under 28 U.S.C. § 2241 *de novo*, accepting district court's the factual conclusions unless clearly erroneous. *Riley v. I.N.S.*, 310 F.3d 1253, 1255 (10th Cir. 2002); *Sierra v. INS*, 258 F.3d 1213, 1218 (10th Cir. 2001); *Castleberry v. Alford*, 666 F.2d 1338, 1342 n.2 (10th Cir. 1981). Because Petitioner challenges his

detention under 28 U.S.C. § 2241 pursuant to federal process, he does not require a certificate of appealability to proceed. *Aguilera v. Kirkpatrick*, 241 F.3d 1286, 1292 (10th Cir. 2001).

The Supreme Court established a four-factor framework for evaluating motions for release pending appeal in habeas cases. *Hilton v. Braunskill*, 481 U.S. 770, 777 (1987). Those four factors are those “factors traditionally considered in deciding whether to stay a judgment in a civil case,” noting “[t]here is a presumption in favor of enlargement of the petitioner with or without surety, but it may be overcome if the traditional stay factors tip the balance against it.” *Id.* at 777. The four factors traditionally governing stays in civil cases are: (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Id.* at 776.

The Court added that other considerations must also be taken into consideration, including: (1) possibility of flight; (2) whether the government has established “that there is a risk that the prisoner will pose a danger to the public if released”; and (3) the government’s interest in “continuing custody and rehabilitation pending a final determination of the case on appeal,” noting

that this last factor “will be the strongest where the remaining portion of the sentence to be served is long, and weakest where there is little of the sentence remaining to be served.” *Id.* at 777.

The *Hilton* Court stated that “[t]he interest of the habeas petitioner in release pending appeal, always substantial, will be strongest where the [three] factors mentioned in the preceding paragraph are weakest.” *Id.* at 777-78.

The balance may depend to a large extent upon determination of the State’s prospects of success in its appeal. Where the State establishes that it has a strong likelihood of success on appeal, or where, failing that, it can nonetheless demonstrate a substantial case on the merits, continued custody is permissible if the second and fourth factors in the traditional stay analysis militate against release.

Hilton, 481 U.S. at 778.

II. Traditional Stay Factors Favor Granting This Motion.

The four factors traditionally governing stays in civil cases are: (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Hilton*, 481 U.S. at 776. Each factor favors Petitioner.

A. Petitioner has made a strong showing that he is likely to succeed on the merits.

Petitioner has already filed his Opening Brief and Appendix. *See App.*

Docs. 17, 18. Petitioner incorporates by reference the contents of his Opening Brief and submits that he has made a strong showing that he is likely to succeed on the merits. *See* App. Doc. 17. Petitioner identified a number of important and dispositive errors made by the district court and has demonstrated that he is likely to prevail on the merits of the appeal and obtain full reversal. Petitioner’s Opening Brief demonstrates a substantial likelihood that the result of this appeal will be an Order granting Petitioner’s habeas petition or otherwise remanding to the district court with instructions to grant Petitioner’s habeas petition and immediately release Petitioner. Further argument on this issue is omitted as unnecessarily duplicative.

B. Petitioner will be irreparably injured if this motion is not granted.

“Federal courts have long recognized that the infringement of a constitutional right is an irreparable injury.” *Arostegui-Maldonado v. Baltazar*, --- F. Supp. 3d ---, 2025 WL 2280357, at *9 (D. Colo. Aug. 8, 2025); *see also Elrod v. Burns*, 427 U.S. 347, 373 (1976) (“The loss of First Amendment freedoms, even for minimal periods of time, unquestionably constitutes irreparable injury.”); *Free the Nipple—Fort Collins v. City of Fort Collins, Colorado*, 916 F.3d 792, 805 (10th Cir. 2019) (“Most courts consider the infringement of a constitutional right enough and require no further showing of irreparable injury.”); *Awad v. Ziriya*, 670 F.3d 1111, 1131 (10th

Cir. 2012) (“[w]hen an alleged constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary”); *Matacua v. Frank*, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (loss of liberty is paradigmatic irreparable harm).

Petitioner’s habeas petition persuasively claims that he is being incarcerated in violation of the Constitution and laws of the United States and, despite the district court’s erroneous Order, the government has not persuasively shown otherwise. *See* App. Docs. 17, 18. Petitioner was detained in violation of the government’s binding regulations that act as required and necessary prerequisites to re-detention that were adopted to implement the Supreme Court’s rules regarding the constitutional guarantee of due process as set forth in *Zadyvdas v. Davis*, 533 U.S. 679 (2001). *See, e.g., Momennia v. Bondi*, No. 25-CV-1067-J, 2025 WL 3011896, at *3 n.7 (W.D. Okla. Oct. 15, 2025) (Report and Recommendation), *report and recommendation adopted*, 2025 WL 3006045 (W.D. Okla. Oct. 27, 2025); 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.”).

Nearly every other court that has considered the issues presented by people similarly situated to Petitioner has ruled in favor of the noncitizen and ordered release.¹ The overwhelming weight of these authorities demonstrates

¹ *Accord, e.g., Roble v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2443453 (D. Minn. Aug. 25, 2025) (granting habeas and ordering release based on less egregious regulatory violations); *Sarail A. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2533673 (D. Minn. Sept. 3, 2025) (same); *Yee S. v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2879479 (D. Minn. Oct. 9, 2025) (same); *Constantinovici v. Bondi*, --- F. Supp. 3d ---, 2025 WL 2898985 (S.D. Cal. Oct. 10, 2025) (same); *Rokhfirooz v. Larose*, No. 25-CV-2053-RSH-VET, 2025 WL 2646165, at *4 (S.D. Cal. Sept. 15, 2025) (granting habeas and ordering release); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner was likely to succeed on unlawful redetention claim because “there is no indication that an informal interview was provided”); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387-88 (D. Mass. 2017) (holding that ICE’s failures to follow regulatory revocation procedures rendered detention unlawful); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 164 (W.D.N.Y. 2025) (“because ICE did not follow its own regulations in deciding to redetain [the petitioner], his due process rights were violated, and he is entitled to release”); *Momennia v. Bondi*, No. 25-CV-1067-J, 2025 WL 3011896 (W.D. Okla. Oct. 15, 2025), *report and recommendation adopted*, 2025 WL 3006045 (W.D. Okla. Oct. 27, 2025) (recommending habeas relief based on a variety of regulatory violations similar to those presented by Petitioner); *Pham v. Bondi*, No. 25-CV-1157-SLP (W.D. Okla. Oct. 30, 2025) (recommending habeas relief based on a variety of regulatory violations similar to those presented by Petitioner); *Phan v. Noem*, No. 25-CV-2422-RBM-MSB, 2025 WL 2898977, at *5 (S.D. Cal. Oct. 10, 2025) (“**The Court’s research indicates that every district court, except one, to**

that Petitioner’s ongoing indefinite civil detention is unlawful, which plainly establishes that he is being irreparably harmed by every day of further unlawful incarceration.

C. Release will not substantially injure the government; the public interest favors release.

The third and fourth traditional stay factors relating to the balance of equities and public interest “merge” when the government is the party opposing the injunction. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

The government will argue that the Supreme Court has recognized that the public interest in the enforcement of the United States’ immigration laws is significant, and will cite to *Nken*, 556 U.S. at 436. “True, there may be a generalized public interest in the enforcement of the country’s immigration laws. But that cannot mean that Respondents enjoy an unfettered right to detain noncitizens in contravention with their Fifth Amendment rights.” *Arostegui-Maldonado v. Baltazar*, --- F. Supp. 3d ---, 2025 WL 2280357, at *10 (D. Colo. Aug. 8, 2025); *see, e.g., Demore v. Kim*, 538 U.S. at 510, 523 (2003) (“It is well established that the Fifth Amendment entitles aliens to due

consider the issue has ‘determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner’s release must be ordered.’”) (emphasis added; footnote and citations omitted).

process of law in deportation proceedings.”) (internal quotation marks omitted); *Free the Nipple—Fort Collins*, 916 F.3d at 806 (where “a constitutional right hangs in the balance,” that right “usually trumps any harm to the defendant”); *Xuyue Zhang v. Barr*, 612 F. Supp. 3d 1005, 1017 (C.D. Cal. 2020) (“the public interest benefits from a preliminary injunction that expedites a bond hearing to ensure that no individual is detained in violation of the Due Process Clause”).

The three additional factors identified by the Supreme Court in *Hilton* support holding that the balance of equities and public interest favor Petitioner.

Petitioner poses no significant flight risk if he is released (especially if the Court mandates release subject to conditions such as GPS monitoring and/or home confinement under Fed. R. App. P. 23(b)(2)). As Petitioner alleged in his habeas corpus petition, he was previously released on an Order of Supervision pursuant to 8 C.F.R. § 241.4(e) and § 241.13(i) “because it was determined there was no significant likelihood of removal in the reasonably foreseeable future. It was necessarily determined at that time that Bahadorani did not present an ongoing danger or a flight risk.” App. Doc. 18 (Appendix or “App.”), App. 8, ¶ 4. The government never refuted or challenged this assertion, thereby admitting it. *See* Fed. R. Civ. P. 8(b)(6); App. 31-100, 109-

129. The government has presented no evidence that Petitioner presents a present or future flight risk if released; Petitioner's verified allegation that he is not a flight risk remains unrebutted, meaning the first *Hilton* factor favors Petitioner.

Petitioner also alleged in his habeas corpus petition that he presents no current or future danger to the public. App. 8, ¶ 4. Again, the government never refuted or challenged this assertion, thereby admitting it. *See* Fed. R. Civ. P. 8(b)(6); App. 31-100, 109-129. While the government did focus heavily on Petitioner's prior convictions, it never alleged that Petitioner was convicted of or arrested for any new criminal activity subsequent to his release on an Order of Supervision in June of 2016, nor did the government rebut Petitioner's claim that he previously satisfied the factors at 8 C.F.R. § 241.4(e)(2)-(4) prior to being released on an Order of Supervision. *See* App. 8, ¶ 4; App. 31-100, 109-129. The government has not established any meaningful risk to the public which might justify denying Petitioner preliminary release pending the outcome of his appeal. The second *Hilton* factor thus favors Petitioner.

For the same reasons that Petitioner challenged his detention via a petition for a writ of habeas corpus, it is true here that the government's interest in continuing Petitioner's custody pending a final determination of the

case on appeal is extremely weak, and rehabilitation interests are nonexistent. The government detained Petitioner based on nothing more than bald speculation about and blind faith in its future ability to obtain travel documents for Petitioner in the reasonably foreseeable future. As Petitioner noted in his Opening Brief, “Petitioner had already been detained in post-order confinement for an aggregate period of 513 days at the time of the district court’s decision denying habeas, a period significantly longer than the presumptively reasonable six-month period.” App. Doc. 17 at 24. Considering *Zadvydas*’ rule that “for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink,” it follows that the third *Hilton* factor favors Petitioner the most where, as here, the period that counts as the “reasonably foreseeable future” has shrunk significantly. *See Hilton*, 481 U.S. at 777; *Zadvydas*, 533 U.S. at 701.

Thus, the third and fourth traditional stay factors, as well as all three of the *Hilton* factors, favor granting this motion and ordering Petitioner’s immediate release either on his personal recognizance without surety, or at least subject to less restrictive and harmful custodial conditions such as GPS monitoring and/or home confinement.

CONCLUSION

Petitioner has demonstrated that all four traditional stay factors, as well as the three supplemental *Hilton* factors, favor Petitioner, providing good cause and substantial justification to exercise discretion favorably and grant this motion for immediate release under Federal Rule of Appellate Procedure 23(b). Petitioner requests an order for release on his personal recognizance without surety. Alternatively, Petitioner requests an order compelling Petitioner's release subject to more reasonable and less intrusive custodial conditions such as GPS monitoring and/or home confinement.

Respectfully submitted,

Dated: November 17, 2025

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CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2) because this brief contains 2,405 words, excluding parts of the brief exempted by Rule 27(a)(2)(B). This brief also complies with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6) because it has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

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Fast forward to 2025, and ICE arrested and detained Petitioner on June 11, intending to finally effect his removal from the United States. Petitioner now asserts that his detention is unlawful because: (1) it is punitive and in violation of the Fifth Amendment, (2) the government failed to comply with the procedural requirements of 8 C.F.R. § 241.13(i)(2)–(3), (3) the government can’t demonstrate that Petitioner will likely be removed, (4) he’s complied with his conditions of release, and (4) the government’s alleged violation of the “arbitrary and capricious” standard in 5 U.S.C. § 706(2)(A). Petitioner asks this Court to grant a writ of habeas corpus ordering his immediate release from detention and to grant a declaratory judgment finding that Petitioner is detained pursuant to 8 U.S.C. § 1231(a)(1) and that Petitioner has previously demonstrated to the government’s satisfaction that he is not significantly likely to be removed in the reasonably foreseeable future. Further, Petitioner seeks a declaratory judgment finding both that the government has failed to rebut Petitioner’s showing prior to his re-detention and that he may not be detained again until the government properly rebuts such showing. Petitioner also asks this Court to enjoin the government from deporting and re-detaining Petitioner upon release unless a variety of conditions are met.

Legal Standard

Pursuant to 8 C.F.R. § 241.13(i)(2):

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

Additionally, 8 C.F.R. § 241.13(i)(3) states:

Upon revocation, the alien will be notified of the reasons for revocation of his or her release. The Service will conduct 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. The alien may submit any evidence or information that he or she believes shows there is no significant likelihood 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.

“Any alien who is convicted of an aggravated felony at any time after admission is deportable.”¹ Further, an individual convicted of rape or sexual abuse of a minor is considered to have committed an “aggravated felony[.]”²

Under normal circumstances, the government needs to remove an alien within 90 days of the issuance of a final order of removal.³ Upon failure to remove within 90 days, the alien is subject to supervision,⁴ but is still removable and “may be detained beyond the removal period.”⁵ While detainees may not be detained indefinitely, the government may hold them until detention becomes unreasonable, “measur[ing] reasonableness primarily in terms of the statute’s basic purpose, namely, assuring the alien’s presence at the moment of removal.”⁶ Further, this Court will “give expert agencies decisionmaking leeway in

¹ 8 U.S.C. § 1227(a)(2)(A)(iii).

² 8 U.S.C. § 1101(a)(43)(A).

³ 8 U.S.C. § 1231(a)(1)(A).

⁴ 8 U.S.C. § 1231(a)(3).

⁵ 8 U.S.C. § 1231(a)(6).

⁶ *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001).

matters that invoke their expertise.”⁷ This Court will “listen with care when the Government’s foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue[.]”⁸

Analysis

I. Failure to comply with 8 C.F.R. § 241.13(i)(2)–(3) is at most harmless error.

The harmless error standard applies in deportation⁹ and administrative cases.¹⁰ Accordingly, it is Petitioner’s burden to show that the government’s failure to abide by its own regulations prejudiced him.¹¹ The Court finds that Petitioner has failed to carry that burden.

Petitioner claims “there was zero compliance with 8 C.F.R. § 241.13(i)(2)–(3)[.]”¹² In its Sur-reply (Dkt. 18), the government states that it is unable to verify that Petitioner received a Notice of Revocation of Release, as required by 8 C.F.R. § 241.13(i)(3). Respondents do represent, though, that on the same day that Petitioner was detained, he was interviewed, provided the reasons for his detention, and was told that if he is not able to be removed to Iran, the government is considering the possibility of removing him to a

⁷ *Id.* at 700.

⁸ *Id.*

⁹ *Nazaraghaie v. I.N.S.*, 102 F.3d 460, 465 (10th Cir. 1996) (citations omitted).

¹⁰ *WildEarth Guardians v. Bureau of Land Management*, 870 F.3d 1222, 1238–39 (citations omitted).

¹¹ *See Bar MK Ranches v. Yuetter*, 994 F.2d 735, 740 (10th Cir. 1993) (holding that errors in administrative proceedings do not call for reversal without plaintiffs demonstrating that such errors produced prejudice).

¹² *Reply*, (Dkt. 16), at 7.

third country.¹³ Further, on June 30, 2025, less than three weeks after he was detained, Petitioner sat for an interview related to a review of his detention where he was able to submit information concerning his custody.¹⁴ At this hearing, he did not provide any argument or evidence about his custody and potential removal.¹⁵ The Court finds that the government did substantially comply with C.F.R. § 241.13(i)(2)–(3). Petitioner has provided conclusory statements about not recalling the government’s compliance with the regulations, while the government has provided sworn statements of officers and even a copy of Petitioner’s responses to an informal interview conducted after his detention, evidencing substantial compliance with the law.¹⁶ While the government failed to provide a Notice of Revocation of Release to Petitioner, the Court finds for the following reasons that such failure is harmless error, and even then, such error has been mitigated by the government’s substantial compliance with the law and cured by the opportunities Petitioner has had to contest his detention, both in front of ICE and this Court.

Throughout the litigation of the matter in front of the Court sitting in habeas, Petitioner has been represented by counsel, has been provided notice for the basis of his detention, and has been heard by both this Court and the government concerning his arguments about the changed circumstances underlying his detention. This process has effectively cured any administrative deficiencies stemming from the government’s failures

¹³ Sur-reply (Dkt. 18), at .

¹⁴ *Id.*

¹⁵ *Id.* at 3.

¹⁶ Not. Alien. (Dkt. 18, Ex. 2), at 1–7.

to comply with 8 C.F.R. § 241.13(i)(2), which requires that Petitioner be notified for the reasons behind the revocation of his release, be given an “initial informal interview” so that Petitioner can “respond to the reasons for revocation stated in the notification[,]” and then be given the opportunity to present evidence rebutting the government’s belief there is a significant likelihood his removal can be effectuated.

Petitioner has in this case been provided an opportunity to present evidence, respond to the government’s arguments, and has submitted a robust written record for the Court to consider. And the Court has conducted a de novo review of the legal questions presented.

Through briefing, it has been made abundantly clear that Petitioner is removable, owing to his myriad sexual crimes.¹⁷ Further, Petitioner never appealed his original order of removal.¹⁸ The government has also provided convincing evidence that potential for removal exceeds the “no significant likelihood” standard that 8 C.F.R. § 241.13(i)(2) requires in order for a detainee to be released following a revocation of an OOS. On this point, the government represents that on August 5, 2025, it sent a request for travel documents to the appropriate Iranian authorities in order to begin the process of removal.¹⁹ The government also represents that Iran is accepting “flights of Iranian citizens who have been ordered removed from the United States.”²⁰ Finally, the government represents that Iran is accepting copies of passports and birth certificates for the purpose of proving Iranian

¹⁷ Resp. Pet. (Dkt. 15), at 2.

¹⁸ Pet. (Dkt. 1), at 1.

¹⁹ Resp. Pet. (Dkt. 15), at 4.

²⁰ *Id.*

citizenship, which has allowed Iran to issue travel documents.²¹ Petitioner’s ICE file contains copies of such documents.²² Accordingly, the government represents that it “believe[s] removal can be effectuated in the reasonably foreseeable future.”²³

Taken together, Petitioner has been fully capable of making robust argument against his detention. Accordingly, the Court finds that even if the government failed to comply with § 241.13(i)(2)–(3), such failure has not prejudiced Petitioner.

II. Even if the government failed to comply with 8 C.F.R. § 241.13(i)(2)–(3), and such noncompliance were prejudicial, the Court would not be able to issue a writ of habeas corpus as an appropriate remedy.

Petitioner has presented the Court a variety of cases purportedly finding that failure to adhere to 8 C.F.R. § 241.13(i)(2) or (3) requires granting a writ of habeas corpus.²⁴ None of these cases are binding upon this Court, nor does the Court find them particularly applicable to this case. In the first case Petitioner cites for this proposition, *Roble v. Bondi*, the court found that “the Government plainly failed to meet its burden to show that, ‘on account of changed circumstances ... there is a significant likelihood that [the alien] may be removed in the foreseeable future[.]’”²⁵ This was a serious substantive defect in the government’s detention of the petitioner in that case, beyond a mere failure to follow the regulation to a T—a substantive defect not present here. Next, Petitioner cites *Sarail A v.*

²¹ Decl. Arthur Hawthorne, III (Dkt. 15, Ex. 5), at 1–2.

²² *Id.* at 1.

²³ *Id.* at 2.

²⁴ *See* Pet.’s Resp. (Dkt. 16), at 5–6.

²⁵ Case No. 25-cv-3196, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025).

Bondi, which found that *in addition to* failing to comply with 8 C.F.R. § 241.13(i)(3), the government failed to consider the factors in § 241.13(f) to make the determination that the alien’s removal would be significantly likely at some point in the reasonably foreseeable future.²⁶ In *Yee S. v. Bondi*, the Court found that the government’s representations as to changed circumstances surrounding the petitioner’s removal were lacking, in that the government did not even indicate from which country it was seeking travel documents.²⁷ This case is distinguishable from *Yee S.* in light of the government here providing far more detail related to its plans for Petitioner’s removal. Petitioner further provides a few cases, starting with *Constantinovici v. Bondi*, that find that ICE’s regulatory violations are equivalent to a Fifth Amendment violation and are prejudicial such that they require release.²⁸ For reasons both previously and subsequently stated, this Court disagrees with such conclusions, and cannot agree that mere failure to comply with such regulations does not support an automatic writ of habeas corpus.²⁹

Habeas relief is reserved for errors constitutional in scale.³⁰ “The Supreme Court [has] made clear that error regarding one’s confinement does not mean that release is the

²⁶ Case No. 25-cv-2144, 2025 WL 2533673, at *3–4 (D. Minn. Sept. 3, 2025).

²⁷ No. 25-cv-02782-JMB-DLM, ECF No. 13, at *8 (D. Minn. Oct. 9, 2025).

²⁸ No. 25-cv-02405-RBM-AHG, ECF No. 15, at *9 (S. D. Cal. Oct. 10, 2025).

²⁹ *See Nguyen v. Noem*, Case No. 25-CV-057-H, 2025 WL 2737803, at *6 (N. D. Tex. Aug. 10, 2025).

³⁰ *See Sunal v. Large*, 332 U.S. 174, 179 (1947) (“It is plain, however, that the writ is not designed for collateral review of errors of law committed by the trial court—the existence of any evidence to support the conviction, irregularities in the grand jury procedure, departure from a statutory grant of time in which to prepare for trial, and other errors in trial procedure which do not cross the jurisdictional line.”).

appropriate remedy.”³¹ Petitioner has failed to show that the appropriate remedy for ICE’s regulatory violations is a writ of habeas corpus. There is no relief that this Court could offer, since Petitioner 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. Every procedural wrong that Plaintiff could conceivably allege as a result of the government’s violations of 8 C.F.R. § 241.13(i)(2)–(3) has been righted by the very existence of this habeas proceeding. At best, the Court could order Petitioner released from detention for failure to follow 8 C.F.R. § 241.13(i)(2)–(3), but that does not change the fact that Petitioner is still removable and could promptly be served with a notice of revocation, detained, and provided a brief interview. A do-over in this case would be wasteful.

III. Petitioner has not suffered a Fifth Amendment violation.

An individual may not be detained punitively without adequate due process after a criminal proceeding.³² To the extent that Defendant claims habeas relief is an appropriate remedy for his alleged Fifth Amendment injuries, the Court cannot authorize relief, as it is unclear what those injuries are at this point. Petitioner has hinged his unlawful detention argument on this Court finding that Petitioner sufficiently rebutted the government’s contention that he will be removed from the United States in the reasonably foreseeable

³¹ *Nguyen*, 2025 WL 2737803, at *6 (discussing the holding in *Wilkinson v. Dotson*, 544 U.S. 74, 82 (2005), which held that a state’s defective parole system does not require release, but rather renewed review for parole eligibility).

³² *Zadvydas*, 533 U.S. at 690.

future.³³ This is a steep hill for Petitioner to climb, and he has failed to do so. Again, this Court must give deference to the foreign policy judgments of the Executive. While Petitioner claims it is unlikely that Iran will accept removed aliens from the United States in light of kinetic operations against the Islamic Republic in the summer of 2025, a government official has provided a sworn statement to the opposite, based on his reasoned judgment.³⁴ Further, the government also represents that it has taken concrete steps towards attempting to remove Petitioner.³⁵ Again, this Court owes due deference to the Executive's foreign policy considerations and will not substitute its own or another party's analysis of the state of the world for the Executive's in this context.³⁶ If anything, the *government* has shown that there are changed circumstances that have made removal more likely than in the first round of Petitioner's attempted removal in 2015–16. Petitioner has thus failed to meet his burden and cannot demonstrate that his detention is punitive, rather than a lawful attempt to effectuate removal.³⁷

Since this, then, is civil detention without any express intent to punish Petitioner, to prevail on his Fifth Amendment claim, Petitioner must provide a showing to the Court “that

³³ Pet. (Dkt. 1), at 19.

³⁴ Decl. Arthur Hawthorne, III (Dkt. 15, Ex. 5), at 1–2.

³⁵ *Id.* at 1.

³⁶ *Zadvydas*, 533 U.S. at 700.

³⁷ In Petitioner's Reply (Dkt. 16), at 4, Petitioner claims that ICE's admission that Petitioner was re-detained because of his being a sex offender is an admission that his detention is punitive. The Court disagrees, as his past conviction is the statutory basis of his removal on account of a conviction of an aggravated felony. Further, to the extent that Petitioner was singled out because of his past crimes against children, it still does not strike the Court as “punitive” if the government chooses to prioritize the removal of such aliens.

the conditions are not ‘rationally related to a legitimate nonpunitive governmental purpose’ or that the conditions ‘appear excessive in relation to that purpose.’”³⁸ Petitioner has failed to make such a showing. He has stated in passing that Petitioner is currently detained in “a facility designed to punish convicted criminals” and that his “conditions of confinement are indistinguishable from those of convicted criminals.”³⁹ He then cites a document from the Department of Homeland Security, by all accounts unrelated to Petitioner’s particular case, that talks about the unpleasant conditions of prison and urges certain aliens to self-deport.⁴⁰ A sentence about the place of detention and the citation to a random DHS document do not constitute a showing that Petitioner’s detention is either not rationally related to nonpunitive purposes or excessive in relation to whatever purpose it may serve. Without (a lot) more factual development, Petitioner cannot make a showing satisfactory to this Court to demonstrate his Fifth Amendment rights have been injured.

IV. Petitioner has failed to adequately explain any basis upon which this Court may grant declaratory relief.

Petitioner asks for a declaratory injunction on a variety of matters in his Petition, but otherwise fails to explain to the Court in sufficient detail why such relief is warranted or on what basis the Court should grant it. However, it seems apparent already that Petitioner is detained pursuant to 8 U.S.C. § 1231(a)(1), and the government makes no

³⁸ *Betancourt Barco v. Price*, 457 F. Supp. 3d 1088, 1098 (D. N. M. 2020) (citing *Kinglsey v. Hendrickson*, 576 U.S. 389, 398 (2015)).

³⁹ Pet. (Dkt. 1), at 2–3.

⁴⁰ *Id.* at 12–13.

effort to challenge that. That fact does not have any apparent bearing on the outcome of this case, though, since re-detention is still permissible under the statute.

Petitioner then asks this Court to declare that Petitioner has once before demonstrated to the government's satisfaction that there is no significant likelihood that he can be removed in the reasonably foreseeable future and that Respondent's previously failed to rebut that showing. But as previously stated, the Court finds that Respondent has now made a convincing showing that Petitioner can be removed to Iran in the reasonably foreseeable future. A declaratory judgment is thus improper.⁴¹

Conclusion

For the foregoing reasons, Petitioner's Petition (Dkt. 1) is **DENIED**. A separate judgment will follow.

IT IS SO ORDERED this 31st day of October 2025.



PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

⁴¹ *State Farm Mut. Auto. Ins. Co. v. Mid-Continent Cas. Co.*, 518 F.2d 292, 296 (10th Cir. 1975) (“[A] declaratory judgment should not be entered unless it disposes of a controversy and serves a useful purpose.”).

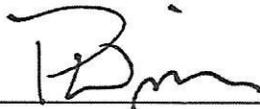
**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BEKHAM BAHADORANI,)	
)	
Petitioner,)	
v.)	Case No. CIV-25-1091-PRW
)	
PAMELA BONDI, In Her Official)	
Capacity as Attorney General, <i>et al.</i> ,)	
)	
Respondents.)	

JUDGMENT

In accordance with the Court's Order entered this date, the Petition for Writ of Habeas Corpus is **DENIED**. This judgment fully and finally resolves all claims and terminates this civil action.

ENTERED this 31st day of October 2025.



PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I, Nico Ratkowski, hereby certify that all other parties to this litigation are represented by attorneys.

Respectfully submitted,

Dated: November 17, 2025

/s/ Nico Ratkowski
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