

No. 25-6177

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

BEHKAM BAHADORANI,
Petitioner-Appellant,

v.

PAMELA BONDI, ATTORNEY GENERAL, ET AL.,
Respondents-Appellees.

On Appeal from the United States District Court for the
Western District of Oklahoma, District Court Case No. CIV-25-01091-PRW,
the Honorable Patrick Wyrick, presiding.

APPELLEES' OPENING BRIEF

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ORAL ARGUMENT NOT REQUESTED BY APPELLEES

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STATEMENT OF RELATED CASES

The Respondents-Appellees are not aware of any prior or related appeals.

GLOSSARY

App.: Petitioner's Appendix [Doc. 18]

BIA: Board of Immigration Appeals

BIA: Board of Immigration Appeals

DHS: Department of Homeland Security

ERO: Enforcement and Removal Operations

ICE: Immigration and Customs Enforcement

IJ: Immigration Judge

OOS: Order of Supervision

STATEMENT OF JURISDICTION

The Respondents-Appellees do not take issue with Petitioner-Appellant Bekham Bahadorani's jurisdictional statement. *See* Fed. R. App. P. 28(b) (an appellee's brief need not include a jurisdictional statement unless the appellee is dissatisfied with the appellant's statement).

STATEMENT OF THE ISSUES

Pursuant to Fed. R. App. P. 28(b)(2), the Respondents-Appellees submit the following alternative statement of the issues:

- (1) Whether Mr. Bahadorani's allegations of regulatory violations are a proper basis for habeas corpus relief under 22 U.S.C. § 2241(c)(3) when that statute, by its express terms, addresses custody in violation of the Constitution, the laws, or treaties of the United States;
- (2) Whether the District Court applied the proper standard in its habeas corpus analysis when it followed Tenth Circuit precedent;
- (3) Whether the District Court properly conducted its due process analysis;
- (4) Whether Mr. Bahadorani misunderstands the scope and effect of Federal Rule of Civil Procedure 8(b)(6) in the context of his habeas corpus action;
- (5) Whether the District Court's findings of fact and law are supported by the record;
- (6) Whether the District Court properly relied on a binding Supreme Court decision when discussing the deference owed to the Executive Branch in matters relating to immigration and foreign policy.

STATEMENT OF THE CASE

Mr. Bahadorani is an Iranian citizen who was admitted into the United States in 1979 on a student visa. In 1999, he was granted lawful permanent resident status. In 2006, he pled guilty to a variety of sexual crimes against children, including second-degree rape, sexual abuse, lewd molestation, possession of child pornography, and making an indecent proposal. In 2015, the United States placed him in immigration removal proceedings, resulting in a final order of removal and his placement in immigration custody. Mr. Bahadorani was released from ICE custody in June 2016 on an order of supervision (OOS).

In 2025, he was re-detained and placed in custody at the Cimmaron Correctional Facility in Cushing, Oklahoma. In the United States District Court for the Western District of Oklahoma, he sought a writ of habeas corpus pursuant to 28 U.S.C. § 2241(c)(3) and related relief. On October 31, 2025, the District Court entered its Order and Judgment denying the petition for a writ of habeas corpus. App. at 140-152. He appeals the District Court's decision.

SUMMARY OF ARGUMENT

Mr. Bahadorani appeals the District Court's denial of his request for habeas corpus relief under 28 U.S.C. § 2241(c)(3), which confers to federal courts the power to grant the writ if the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." As presented in his appeal, his demand for

habeas relief centers on alleged regulatory violations, which do not afford a basis for habeas corpus relief under § 2241(c)(3).

Mr. Bahadorani asserts on appeal that the District Court erred as a matter of law in its review of the alleged regulatory violations and that the overwhelming weight of authority supports his position. The District Court applied the law of the Tenth Circuit, and Mr. Bahadorani's appeal does not address the Tenth Circuit cases relied upon by the District Court. He makes no showing that the District Court misunderstood or misapplied Tenth Circuit jurisprudence, and two Supreme Court cases that he includes in a string cite do not afford him relief.

Mr. Bahadorani claims that the District Court was an outlier and abused its discretion when it found that he had been afforded due process. The District Court's analysis is well supported, and Mr. Bahadorani has received due process.

He asserts that the Government has conceded various allegations presented in his habeas corpus petition. Mr. Bahadorani misconstrues and misapplies Federal Rule of Civil Procedure 8(b)(6) in the context of a habeas corpus suit.

Mr. Bahadorani claims that the District Court erred in its factual findings. Those findings are supported by the record, the District Court properly weighed the evidence, and Mr. Bahadorani misconstrues the standard of appellate review.

Lastly, Mr. Bahadorani takes issue with the District Court's discussion of the Executive Branch's authority in matters relating to immigration and foreign policy.

He claims that District Court cited no cases supporting its analysis and therefore, no deference is owed to the Executive Branch. Contrary to Mr. Bahadorani's argument, the District Court was restating and appropriately applying a binding decision of the United States Supreme Court.

This Court should affirm the District Court's order and judgment dismissing Mr. Bahadorani's habeas corpus action.

STANDARDS OF REVIEW

In a federal habeas case, this Court reviews *de novo* a federal district court's conclusions of law. The Court reviews a district court's factual determinations for clear error. *Hooks v. Workman*, 689 F.3d 1148, 1163-64 (10th Cir. 2012).

ARGUMENT

1. Mr. Bahadorani is a criminal alien who is subject to removal.

Appellant Behkam Bahadorani, an Iranian citizen, sought habeas corpus relief under 28 U.S.C. § 2241 in the United States District Court for the Western District of Oklahoma, challenging his immigration detention at the Cimarron Correctional Facility in Cushing, Oklahoma. App. at 9, ¶ 10. He urges that his re-detention is unlawful, with his claim for habeas corpus relief centered on alleged regulatory violations relating to notice and other procedures afforded to re-detained aliens subject to removal. Appellant's Brief [Doc. 17] at 21-22. Standing convicted of rape and other sexual crimes against child victims, he cannot reasonably claim that

lack of a written notice and an informal interview leave him wondering why he has been re-detained.

On or about January 7, 1979, Mr. Bahadorani was admitted into the United States on a student visa. He was granted lawful permanent resident status on January 26, 1999. App. at 92.

On November 21, 2006, in *State of Oklahoma v. Bekham Bahadorani*, CF-2006-3373, in the District Court of Tulsa County, Mr. Bahadorani pled guilty to the following:

- Count 1, sexually abusing a minor in violation of Okla. Stat. tit. 10, § 7115-2;
- Count 2, sexually abusing a minor in violation of Okla. Stat. tit. 10, § 7115-2;
- Count 3, second-degree rape by instrumentation in violation of Okla. Stat. tit. 21, § 1114B;
- Count 4, indecent proposal to a child in violation of Okla. Stat. tit. 21, § 1123.1;
- Count 5, lewd molestation in violation of Okla. Stat. tit. 21, § 1123-2; and
- Count 8, possession of child pornography in violation of Okla. Stat. tit. 21, § 1021-2.

App. at 57-91.

Immigration removal proceedings were initiated against him based on his conviction in that case. App. at 92. On August 3, 2015, an Immigration Judge (IJ) ordered him removed from the United States. App. at 7, ¶ 2; *id.* at 95 and at 97, ¶ 4.

Mr. Bahadorani was kept in ICE custody for approximately 10 months and was released on an Order of Supervision (OOS) in June 2016. App. at 8, ¶ 3.

On June 11, 2025, federal immigration officers arrested and re-detained Mr. Bahadorani with the intent to effect his removal from the United States. *Id.*; ¶ 6. He seeks immediate release from that detention and appeals the District Court’s denial of his petition for a writ of habeas corpus.

2. Mr. Bahadorani’s allegations of regulatory violations afford him no basis for habeas corpus relief under 28 U.S.C. § 2241(c)(3).

Mr. Bahadorani’s habeas corpus claim is brought pursuant to 28 U.S.C. § 2241(c)(3), under which a writ of habeas corpus may be granted to one who “is in custody in violation of the Constitution or laws or treaties of the United States.” In his appeal, he urges that the District Court erred in denying relief because the Government failed to follow the “procedures in 8 C.F.R. § 241.13(i)(2)-(3).” Appellant’s Brief [Doc. 17] at 21. “These regulations” contemplate written notice of revocation of supervised release, changed circumstances, and an opportunity to respond and be heard. *Id.*

Mr. Bahadorani’s claim centers on the “procedural steps in § 241.13(i)(2)-(3)” which provide “regulatory safeguards.” *Id.* at 22. “The regulations” contemplate notice of revocation of release and a prompt interview, creating “procedural safeguards,” and Mr. Bahadorani denies receiving either the notice or “an adequate interview” at the time of his re-detention. *Id.* at 24.

Mr. Bahadorani relies on alleged regulatory violations for his habeas corpus appeal, but habeas corpus relief under § 2241(c)(3) is limited to violations of the Constitution, the laws, or the treaties of the United States. “In conducting habeas review, a federal court is limited to deciding whether a conviction violated the Constitution, laws, or treaties of the United States.” *Estelle v. McGuire*, 502 U.S. 62, 68 (1991). In the immigration context, § 2241 habeas corpus proceedings are “available as a forum for *statutory and constitutional challenges* to post-removal-period detention.” *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (emphasis added). To the extent that a detainee complains that due to alleged violations of regulations “he ‘is in custody in violation of the ... laws ... of the United States,’ 28 U.S.C. § 2241(c)(3), he has not established a violation cognizable under the habeas corpus statutes,” even assuming that the detention regulations could be deemed federal law. *Wright v. Lansing*, 75 F. App’x 710, 712 (10th Cir. 2003).

Mr. Bahadorani expressly relies on alleged regulatory violations in his appeal. A provision of the Code of Federal Regulations (here, 8 C.F.R. § 241.13(i)(2)-(3)), is not a law of the United States. It is a regulation, yet Mr. Bahadorani equates that regulation with a law of the United States. *See* Appellant’s Brief [Doc. 17] at 33 (“Section 2241 authorizes review of any detention that contravenes federal statutes *or regulations*, not only those implicating constitutional rights.”) (emphasis added). Courts on occasion observe that certain agency regulations have the force of law or

the effect of law (*see, e.g., Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 65 (2004) (referring to certain “agency regulations that have the force of law”)), but when they do so, they are engaging in that legal fiction precisely because the regulations literally are *not* the law. Instead, they have the *force* or *effect* of law.

Regulations are not the “the Constitution or laws or treaties of the United States” around which a court has jurisdiction and power to grant a writ of habeas corpus. 28 U.S.C. § 2241(c)(3). Mr. Bahadorani’s appeal centers on alleged violations of 8 C.F.R. § 241.13(i)(2)-(3), not statutory violations, so he is not entitled to habeas corpus relief.

3. The District Court applied the correct standard when considering the habeas corpus claim.

Mr. Bahadorani contends that the District Court “erred as a matter of law” when it “applied the doctrines of harmless error and substantial compliance” to the alleged failure by the Government to comply with immigration regulations. Appellant’s Brief [Doc. 17] at 10 (issue 2); *id.* at 21. He claims that the “overwhelming weight of authority indicates” that harmless error and substantial compliance “are wholly inapplicable.” *Id.* at 22.

In *Nazaraghaie v. I.N.S.*, 102 F.3d 460 (10th Cir. 1996), *this Court* applied the harmless error standard to the habeas corpus claim of an Iranian citizen who challenged a decision by the Board of Immigration Appeals (BIA). The alien claimed that the BIA violated his due process rights, but this Court disagreed, finding

that the BIA’s decision “is supported by substantial evidence.” *Id.* at 465. Assuming *arguendo* that the BIA failed to weigh certain evidence fully, any error on the BIA’s part was, according to this Court, “*harmless*, and appellant’s due process argument must fail accordingly.” *Id.* (emphasis added).

The District Court cited *Nazaraghaie* for its observation that the “harmless error standard applies in deportation” cases, App. 143, but Mr. Bahadorani makes no effort to distinguish *Nazaraghaie* in his appeal. He ignores the case completely, and he fails to discuss cases *Nazaraghaie* cites with favor.

Nazaraghaie cites *Michelson v. I.N.S.*, 897 F.2d 465, 468 (10th Cir. 1990), in support of the application of the harmless error standard and for the proposition that the “fundamental fairness of deportation proceedings [are] not open to question unless prejudice [is] shown to result.” *Nazaraghaie*, 102 F.3d at 465. There is not even a passing mention of *Michelson* in Mr. Bahadorani’s brief.

Nazaraghaie cites *Ortiz-Salas v. I.N.S.*, 992 F.2d 105, 106 (7th Cir. 1993), in which the Seventh Circuit Court of Appeals considered the appeal of a former lawful permanent resident who was ordered deported from the United States. The Seventh Circuit assumed for purposes of the appeal that the Government breached a regulatory duty that it owed to the alien. “But we do not think it is a reversible error. *Harmless errors* no more justify reversal in a deportation case than in a criminal case.” *Id.* at 106 (emphasis added).

Nazaraghaie also cites *Cuadras v. I.N.S.*, 910 F.2d 567, 573 (9th Cir. 1990), in support. In that case, the Ninth Circuit Court of Appeals observed that in deportation proceedings “an alien is entitled to the fifth amendment guarantee of due process.” *Id.* In *Cuadras*, the specific question was whether the alien received a full and fair hearing, and the Ninth Circuit found that “such a hearing is denied only if the error complained of causes the alien to suffer some prejudice.” *Id.*; compare with *Westbrooks v. Capozza*, No. 1:17-CV-01721, 2020 WL 429779, at *1, n. 2 (M.D. Pa. Jan. 28, 2020) (“We cannot grant habeas relief absent a showing of some prejudice to the Petitioner,” and equating the failure to make that showing to “harmless error not meriting habeas relief.”); *United States v. Fumo*, No. CRIM.A.06-319, 2009 WL 1688482, at *48 (E.D. Pa. June 17, 2009) (“Harmless error analysis requires that there be some prejudice due to the error.”).

The District Court cited this Court’s opinion in *WildEarth Guardians v. Bureau of Land Mgmt.*, 870 F.3d 1222, 1238-39 (10th Cir. 2017), for the proposition that the harmless error standard applies in administrative cases. App. 143. Mr. Bahadorani does not discuss *WildEarth Guardians* either.

Citing this Court’s decision in *Bar MK Ranches v. Yuetter*, 994 F.2d 735, 740 (10th Cir. 1993), the District Court observed that it was Mr. Bahadorani’s burden to show that a failure by the Government to abide by its own regulations prejudiced him, and the District Court found that he failed to carry that burden. App. 143. *Bar*

MK Ranches states, “The harmless error rule applies to judicial review of administrative proceedings, and errors in such administrative proceedings will not require reversal unless Plaintiffs can show they were prejudiced.” *Id.* at 740.

In his appeal, Mr. Bahadorani does not attempt to show that the District Court misapplied *Bar MK Ranches* or misunderstood its holding. Once again, Mr. Bahadorani makes no effort to discuss or distinguish a Tenth Circuit case relied upon by the District Court, and his failure to engage with this Court’s precedent is baffling.

Mr. Bahadorani proceeds as though Tenth Circuit jurisprudence cited by the District Court simply does not exist, but according to Mr. Bahadorani, “the overwhelming weight of authority” supports his position. Appellant’s Brief [Doc. 17] at 22. Mr. Bahadorani offers a page-and-a-half string cite of cases that he presumably believes support his argument. First among the “overwhelming weight of authority” he presents is *Baccei v. United States*, 632 F.3d 1140 (9th Cir. 2011). In *Baccei*, the Ninth Circuit observed, “[T]he doctrine of substantial compliance can have no application in the context of a clear statutory prerequisite that is known to the party seeking to apply the doctrine.” *Id.* at 1145 (internal quotation marks and citation omitted). But in this case, Mr. Bahadorani does not point to a clear statutory prerequisite. He alleges regulatory noncompliance.

Mr. Bahadorani contends that the Government failed to follow “mandatory procedures in 8 C.F.R. § 241.13(i)(2)-(3).” Appellant’s Brief [Doc. 17] at 21.

Regulations are not statutes. The only statutes Mr. Bahadorani cites in his appeal are 28 U.S.C. § 2241, the habeas corpus statute under which he proceeds, and a variety of statutes under which he asserts the jurisdiction of this Court and the District Court. *Id.* at 9 (citing 8 U.S.C. § 1231(a) and 28 U.S.C. §§ 1291, 1331, 1361, 1651, 2201, 2241, 2253, and 2255 in the jurisdictional statement), *id.* at 10 (citing 28 U.S.C. § 2241(c)(3) in the statement of the issues), *id.* at 22 (citing 28 U.S.C. § 2241 in the standard of review), and *id.* at 33 (“Section 2241 authorizes review of any detention that contravenes federal statutes or regulations, not only those implicating constitutional rights.”). His appeal does not point to any “clear statutory prerequisite” that the Government allegedly failed to follow in his case, only a federal regulation, so it is not clear how *Baccei* might support Mr. Bahadorani’s position.

According to Mr. Bahadorani, *Baccei* and the rest of his string cite “demonstrate” that “substantial compliance is insufficient when fundamental liberty interests are at stake.” *Id.* at 24. But none of the cases in the string cite refer to “substantial compliance,” and it is not this Court’s responsibility to “fill the void” in Mr. Bahadorani’s written submission by sifting through the cases he cites and crafting arguments for him. *Garrett v. Selby Connor Maddux & Janer*, 425 F.3d 836, 841 (10th Cir. 2005).

Two cases in the string cite, *Morton v. Ruiz*, 415 U.S. 199 (1974), and *United*

States ex rel. Accardi v. Shaughnessy, 347 U.S. 260 (1954), are precedential authority in this Court. *Morton* involved a dispute over an Arizona couple's application for benefits administered by the Bureau of Indian Affairs. They were Papago Indians who lived in an Indian community a few miles away from a reservation, and a provision of a Bureau manual limited eligibility to Indians living on reservations and in jurisdictions in Alaska and Oklahoma only. The Supreme Court confronted "the issues whether the geographical limitation placed on general assistance eligibility by the [Bureau] is consistent with congressional intent and the meaning of the applicable statutes, or, to phrase it somewhat differently, whether the congressional appropriations are properly limited by the [Bureau]'s restrictions, and, if so, whether the limitation withstands constitutional analysis." *Morton*, 415 U.S. at 209-10.

The Supreme Court "found that the congressional appropriation was intended to cover welfare services at least to those Indians residing 'on or near' the reservation." *Id.* at 230. If there were more eligible beneficiaries than the appropriation would cover, it would be incumbent upon the Bureau to develop an eligibility standard, and the standard, if rational and proper, might leave some of the class without benefits. *Id.* at 231. The Bureau had declared that its directives informing the public of privileges and benefits available, and of eligibility requirements, were to be published, but the Bureau had not published its general

assistance eligibility requirements in the Federal Register or in the Code of Federal Regulations. *Id.* at 235. The Bureau’s eligibility criteria amounted to “an unpublished ad hoc determination of the agency that was not promulgated in accordance with its own procedures, to say nothing of those of the Administrative Procedure Act” requiring publication of substantive policies. *Id.* at 236.

The questions in *Morton* were resolved solely on “disposition of the statutory issue,” the Supreme Court expressly did not “reach the respondents’ constitutional arguments,” and it offered no views as to those constitutional arguments. *Id.* at 238. Mr. Bahadorani does not explain how the narrow, fact-specific decision in *Morton* applies to his demand for habeas corpus relief.

Admittedly, at first blush it appears that *Accardi* might be germane to Mr. Bahadorani’s appeal, notwithstanding his failure to explain *how* the case might apply. *Accardi* was a habeas corpus action in which the petitioner attacked the denial of his application for suspension of deportation. He claimed that the BIA’s decision was prejudged by the Attorney General’s issuance of a confidential list of persons, including the petitioner, that the Attorney General wanted deported from the United States. 347 U.S. at 262. The Supreme Court ruled:

If petitioner can prove the allegation he should receive a new hearing before the Board without the burden of previous proscription by the list....Of course, he may be unable to prove his allegation before the District Court; but he is entitled to the opportunity to try. If successful, he may still fail to convince the Board or the Attorney General, in the exercise of their discretion, that he is entitled to suspension, but at least

he will have been afforded that due process required by the regulations in such proceedings.

Id. at 268.

Accardi relied on a now-superseded version of the habeas corpus statute. The Supreme Court vacated the BIA’s deportation order because issuance of the confidential list, and a press conference in which the Attorney General announced that he planned to deport certain “unsavory characters,” amounted to public prejudice by the Attorney General such that fair consideration of the petitioner’s case by the BIA was made impossible. *Id.* at 264. The applicable regulations *in that case* “supplement[ed] the bare bones” of § 19(c) of the Immigration Act of 1917, so they were read to have the force and effect of law. *Id.* at 265. Those regulations pinpointed the decisive fact — the BIA was required “to exercise its own judgment when considering appeals” — and the habeas corpus charged “the Attorney General with precisely what the regulations forbid him to do: dictating the Board’s decision.” *Id.* at 266-67.

The *Accardi* doctrine is limited, however, and may require a showing of prejudice when an agency’s failure to follow its own regulations does not implicate “important procedural benefits” impacting individual rights and liberties. *Am. Farm Lines v. Black Ball Freight Serv.*, 397 U.S. 532, 538-39 (1970). In the traditional habeas corpus context centered on confinement, failure to follow procedural regulations does not establish a violation of due process absent some showing of

resulting prejudice. *Boatswain v. Martinez*, 536 F. App'x 402 (5th Cir. 2013).

Mr. Bahadorani argues that harmless error is “wholly inapplicable,” Opening Brief [Doc. 17] at 22, but the Sixth Circuit Court of Appeals has explicitly “endorsed a limited application of the harmless-error doctrine in the immigration context.” *Abdulahad v. Garland*, 99 F.4th 275, 295 (6th Cir. 2024).

4. Mr. Bahadorani is dismissive of the District Court’s due process analysis, but it properly conducted that analysis.

The District Court observed that throughout the litigation, Mr. Bahadorani was represented by counsel, was provided notice for the basis of his detention, and was heard by both the District Court and the Government concerning his arguments about the circumstances underlying his detention. The District Court reasoned, “This process has effectively cured any administrative deficiencies stemming from the government’s failures to comply with 8 C.F.R. § 241.13(i)(2),” which requires notification of the reasons behind revocation of release, an informal interview so a detainee may respond to those reasons, and an opportunity to present evidence rebutting the Government’s belief that there is a significant likelihood that the removal can be effectuated. App. at 144-45.

On appeal, Mr. Bahadorani lampoons that aspect of the District Court’s decision. He argues, “[T]he idea that the litigation which challenged Petitioner’s unlawful detention was itself the remedy for Respondents’ unlawful detention of Petitioner is an untenable abuse of discretion.” Opening Brief [Doc. 17] at 33-34.

He cites no authority for his claim that the District Court abused its discretion. In fact, other courts have used the same analysis and rationale as the District Court.

In a § 2241 case brought by a re-detained criminal alien, the United States District Court for the Eastern District of Michigan recently explained, “Even assuming, however, that ICE failed to provide Karki with the correct process, habeas petitioners like Karki still need to show that any error was prejudicial.” *Karki v. Raycraft*, No. 2:25-CV-13186, 2025 WL 3516782, at *5 (E.D. Mich. Dec. 8, 2025). The requirement of prejudice applies in the context of § 2241 petitions. *Id.* at *6.

The petitioner in *Karki* alleged that he never received a revocation notice or an initial informal interview, but in his federal litigation and in the immigration process, he knew the reason for the Government’s decision to revoke his release. *Id.* He “also had ample opportunity to challenge the Government’s decision to revoke his release,” to obtain counsel, to argue before a federal court, and to present evidence supporting his claim that his detention was unlawful. *Id.* at *7. Accordingly, the court found that any deprivation of process by the Government’s failure to follow its regulatory procedures was harmless, and the court could not justify the petitioner’s release on a writ of habeas corpus. *Id.*

Relevant to Mr. Bahadorani’s criticism of the reasoning in this case, the court in *Karki* observed, “[B]ecause Karki has since received more process in federal court than anything required under the immigration regulations, any procedural errors are

harmless with respect to Karki's current detention." *Id.* at *1.

Similarly, the detainee in *Surovtsev v. Noem*, No. 1:25-CV-160-H, 2025 WL 3264479 (N.D. Tex. Oct. 31, 2025), asserted that the respondents failed to provide him the notice, interview, and opportunity to respond. The court found, "[E]ven assuming the alleged procedural violations occurred, any error was harmless given the expanded procedure that Surovtsev has received throughout this case, and, in any event, a writ of habeas corpus would not be the appropriate remedy." *Id.* at *1.

In *Nguyen v. Noem*, No. 6:25-CV-057-H, 2025 WL 2737803 (N.D. Tex. Aug. 10, 2025), the United States District Court for the Northern District of Texas similarly found that throughout the habeas proceedings the petitioner received more procedure than he was due under 8 C.F.R. § 241.13(i)(3). Under the regulation, he was to be afforded notice, an informal interview, and a limited opportunity to respond and present information. In the federal case, he had the opportunity to obtain counsel, to make full arguments to the court regarding his detention, to submit proof, and to respond to the Government's arguments. He received information of a scope greater than what he was entitled to receive under the regulation, and he was afforded the opportunity for review from a federal court. The respondents explained through briefing and declarations the basis for his detention, affording him notice. "Given that Nguyen has had more than a full notice and opportunity to be heard, the Court concludes that, even if the respondents failed to abide by Section 241.13(i)(3),

the error is now harmless in light of the procedures in this case, and there is no basis for which the Court could justify ordering Nguyen's immediate release." *Id.* at *5.

5. The Respondents have not conceded Mr. Bahadorani's allegations by operation of Federal Rule of Civil Procedure 8(b)(6).

Citing Federal Rule of Civil Procedure 8(b)(6), Mr. Bahadorani claims that where the Respondents did not deny allegations in his habeas corpus petition, they "thereby conceded" those allegations. Opening Brief [Doc. 17] at 14, 19. Mr. Bahadorani fundamentally misunderstands the scope and effect of Rule 8(b)(6).

Under Rule 8(b)(6), a failure to deny factual allegations in a preceding pleading may constitute an admission of those allegations if a responsive pleading is required. However, legal conclusions masquerading as factual allegations do not turn legal questions into issues of fact. "And 'a defendant's failure to deny conclusions of law does not constitute an admission of those conclusions.'" *Thompson v. DeWine*, 976 F.3d 610, 616 (6th Cir. 2020) (quoting 5 Charles Alan Wright & Arthur R. Miller, *Federal Practice & Procedure* § 1279 (3d ed.)).

Moreover, in the specific context of habeas corpus litigation, "Rule 8(b)(6) does not have the same applicability to governments when they file answers to habeas petitions." 5 Wright & Miller § 1279 (4th ed.). The District Court directed the application of the Rules Governing Section 2254 Cases ("Section 2254 Rules") in this Section 2241 habeas corpus case, and the District Court afforded considerable flexibility to the Government in how it might choose to respond to the petition,

directing the Respondents to “file an answer or other response consistent with Rule 5” of the Section 2254 Rules. App. at 5 (docket entry no. 12).

The Section 2254 Rules provide that the Federal Rules of Civil Procedure may be applied to a habeas corpus action “to the extent that they are not inconsistent with any statutory provisions or these rules.” Rule 12, Section 2254 Rules. Federal Rule of Civil Procedure 8, which provides general rules of pleading, therefore only applies to the extent that it is not inconsistent with habeas corpus litigation.

Mr. Bahadorani’s interpretation of Rule 8(b)(6) is inconsistent with a statutory provision that applies to habeas corpus litigation, and his interpretation inverts the evidentiary presumption directed by that statute. “The allegations of a return to the writ of habeas corpus or of an answer to an order to show cause in a habeas corpus proceeding, if not traversed, shall be accepted as true except to the extent that the judge finds from the evidence that they are not true.” 28 U.S.C. § 2248. In other words, the factual allegations in a *response* to a habeas corpus petition are presumed true, and the burden is on the petitioner to rebut or “traverse” those allegations unless the presiding judge finds from the evidence that they are not true. *See, e.g., Vitale v. Hunter*, 206 F.2d 826, 829 (10th Cir. 1953) (In a habeas corpus proceeding, “[n]o evidence is necessary to support the allegations of a return. It imports verity and must be taken as true, unless directly put in issue by the pleadings.”); *U.S. ex rel. Catalano v. Shaughnessy*, 197 F.2d 65, 66 (2d Cir. 1952) (on appeal from the

dismissal of a writ of habeas corpus in deportation proceedings, where no traverse was filed and no evidence offered to contradict the allegations of the return, the return and the administrative record submitted with the return had to be accepted as true pursuant to 28 U.S.C. § 2248); *U.S. ex rel. Sklar v. Shaughnessy*, 117 F. Supp. 160, 162 (S.D.N.Y. 1953) (in a habeas corpus proceeding by an alien who was detained pending administrative appeal from an order of deportation, where the alien did not traverse allegations that he was active in the world communist movement, that failure to traverse constituted an admission which alone was substantial evidence supporting his continued detention); *traverse*, Black's Law Dictionary (12th ed., 2024) (a "formal denial of a factual allegation made in the opposing party's pleading").

Civil Rule 8(b)(1) requires a responding party to "state in short and plain terms its defenses to each claim asserted against it" and to "admit or deny the allegations asserted against it by an opposing party." Fed. R. Civ. P. 8(b)(1)(A)-(B). Civil Rule 8(b)(6) provides that an allegation, other than one relating to damages, "is admitted if a responsive pleading is required and the allegation is not denied," but if a responsive pleading is not required, "an allegation is considered denied or avoided." Fed. R. Civ. P. 8(b)(6).

Under the Section 2254 Rules, when a court orders the government to respond, the government need only respond to the relevant allegations of the habeas corpus

petition. *United States v. Boniface*, 601 F.2d 390, 393 (9th Cir. 1979). There are different pleading requirements in habeas corpus actions, and it would be inconsistent with the habeas corpus rules “to impose on the government the additional burdens set forth in Civil Rule 8(b)(1) and (6).” *Price v. United States*, 779 F. App’x 383, 385 (6th Cir. 2019) (discussing the Rules Governing Section 2255 Cases).

Furthermore, Civil Rule 8(b)(6) must be read in context with other rules. For example, Civil Rule 8(a) requires a pleading to contain “a short and plain statement of the grounds for the court’s jurisdiction” and “a short and plain statement of the claim showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(1)-(2).

One example of Mr. Bahadorani’s prolix pleading in contravention of Rule 8 is the following, which he styles as a “FACTUAL ALLEGATION”:

60. Myriad courts around the country have granted habeas corpus petitions and/or enjoined the current administration’s attempts to use civil detention punitively against noncitizens. *See, e.g., Mohammed H. v. Trump*, No.: 25-CV-1576-JWBDTS, --- F. Supp. 3d ---, 2025 WL 1692739, at *5 (D. Minn. June 17, 2025) (“Punishing Petitioner for protected speech or **using him as an example to intimidate other students into self-deportation is abusive and does not reflect legitimate immigration detention purposes.**”) (emphasis added); *Mahdawi v. Trump*, --- F. Supp. 3d ---, 2025 WL 1243135, at *11 (D. Vt. Apr. 30, 2021) (recognizing that immigration detention cannot be motivated by the desire to punish speech or to deter others from speaking); *Ozturk*, --- F. Supp. 3d ---, 2025 WL 1145250, at *60 (“So long as detention is motivated by those goals, and not a desire for punishment, the Court is generally required to defer to the political branches on the administration of the immigration system.”); *see also Fong Yue Ting v. United States*, 149 U.S. 698, 730 (1893) (“The order

of deportation is not a punishment”).

App. at 19 (emphasis in the original); *see also id.* at 16 (Header: “FACTUAL ALLEGATIONS AND PROCEDURAL HISTORY”).

As for the so-called “facts” that the Government supposedly “conceded,” this is one such “fact” as framed by Mr. Bahadorani in his appellate brief:

Petitioner alleged in his verified habeas corpus petition *that he did not recall* ever having been served with a Notice of Revocation of Release (“Notice”) or otherwise given any sort of informal interview to challenge the Notice or the reasons for his re-detention. App. 17, ¶ 46. Despite being ordered to respond to Petitioner’s allegations, Respondents did not deny and thereby conceded these allegations. *See* Fed. R. Civ. P. 8(b)(6); App. 31-100.

Appellant’s Brief [Doc. 17] at 19 (emphasis added).

The petition itself reads as follows:

46. *Bahadorani does not recall* ever having been served with a Notice of Revocation of Release (“Notice”) purporting to revoke his OOS, *nor does he recall* having been given any sort of informal interview to challenge the Notice.

App. at 17, ¶ 46.

The Federal Respondents were not in a position to admit or deny what Mr. Bahadorani could or could not recall. They did not concede anything about a party-opponent’s inability or failure to recollect or remember something.

The other so-called fact that the Government supposedly conceded is one that apparently spans nineteen pages of Mr. Bahadorani’s petition, set out in thirteen paragraphs. *See* Appellant’s Brief [Doc. 17] at 14 (“*See* App. 8-27, ¶¶ 4, 22, 55, 65-

68, 74, 87-90, 98.”). As framed by Mr. Bahadorani in his appellate brief, the issue is that “Petitioner alleged in his verified habeas corpus petition that the OOS issued under 8 C.F.R. § 241.4 and 8 C.F.R. § 241.13 ‘because it was determined there was no significant likelihood of removal in the reasonably foreseeable future.’” *Id.*

The OOS, a document, is best evidence of its terms. According to Mr. Bahadorani’s petition, that document was issued in 2016. App. at 8, ¶ 3 (“He was released on an Order of Supervision (‘OOS’) in June 2016.”). Nine years later, Mr. Bahadorani filed suit. He did not attach the OOS to his petition. Under the short response framework for the habeas corpus action, the Federal Respondents were not in a position to admit or deny the contents of the OOS.¹

6. The District Court’s findings are supported by the evidence and are not reversible under plain-error review.

Claiming that the District Court made a “clearly erroneous finding of fact” in its *Zadvydas* analysis, Mr. Bahadorani argues that its factual and legal findings are devoid of evidentiary support. See Appellant’s Brief [Doc. 17] at 27 (“The District Court’s Factual and Legal Findings ... Lack Evidentiary Support. The district court

¹ See *United States v. Iverson*, 818 F.3d 1015, 1019 (10th Cir. 2016) (“Both the hearsay rule and the best-evidence rule are exceptions to the general rule that a witness can testify to what the witness saw or heard. The hearsay rule ordinarily excludes testimony about what someone wrote or said out of court when ‘offer[ed] in evidence to prove the truth of the matter asserted in the statement.’ Fed.R.Evid. 801(c). And the best-evidence rule ordinarily excludes testimony about what appeared in a document when offered to prove ‘its content.’ Fed.R.Evid. 1002.”).

made a clearly erroneous finding of fact....”) (text effect removed). The District Court’s opinion demonstrates the fallacy of Mr. Bahadorani’s argument. The order states in pertinent part:

Through briefing, it has been made abundantly clear that Petitioner is removable, owing to his myriad sexual crimes. Further, Petitioner never appealed his original order of removal. 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. The government also represents that Iran is accepting “flights of Iranian citizens who have been ordered removed from the United States.” Finally, the government represents that Iran is accepting copies of passports and birth certificates for the purpose of proving Iranian citizenship, which has allowed Iran to issue travel documents. Petitioner’s ICE file contains copies of such documents. Accordingly, the government represents that it “believe[s] removal can be effectuated in the reasonably foreseeable future.”

App. at 145-46 (internal footnotes with citations omitted).

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. Further, the government also represents that it has taken concrete steps towards attempting to remove Petitioner. 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. 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.

Id. at 149 (emphasis in the original; internal footnotes with citations omitted).

Mr. Bahadorani's arguments revolve around his assessment of the weight of the evidence. He acknowledges that "an ICE Deportation Officer sent a travel document request to ERO Headquarters" but argues that there is no other declaration establishing that ERO sent that request on to Iranian authorities, nor is there a flight manifest in the record. Appellant's Brief [Doc. 17] at 28. Ultimately, he seems to concede that there *was* evidence to support the Government's position (and the District Court's decision). However, he claims that the Government should have submitted "*more* evidence than was provided" and suggests that the additional evidence might include "a travel document in hand, or at least a guarantee from Iran that it will accept Petitioner and will issue a travel document by a date certain in the very near future." *Id.* at 32-33.

Such arguments demonstrate a misunderstanding of this Court's clear-error standard. On clear-error review, this Court's role is not to re-weigh the evidence. Its "review of a district court's finding is 'significantly deferential.'" *United States v. Gilgert*, 314 F.3d 506, 515-16 (10th Cir. 2002) (quoting *Concrete Pipe & Prods. of Cal., Inc. v. Construction Laborers Pension Trust for S. Cal.*, 508 U.S. 602, 623 (1993)). "A finding is clearly erroneous when, although there is evidence to support it, the reviewing court, on review of the entire record, is left with the definite and

firm conviction that a mistake has been committed.” *Id.* (internal brackets and quotation marks omitted). It is within a district judge’s discretion to weigh the evidence and draw reasonable inferences from the facts, and a court’s “choice between two permissible views of the evidence ‘cannot be clearly erroneous.’” *Naimie v. Cytozyme Lab’ys, Inc.*, 174 F.3d 1104, 1114 (10th Cir. 1999) (quoting *Manning v. U.S.*, 146 F.3d 808, 813 (10th Cir. 1998)).

Mr. Bahadorani clearly is dissatisfied with the District Court’s factual findings, but the District Court chose a permissible view of the evidence before it. Mr. Bahadorani falls short of demonstrating clear error.

7. The District Court’s discussion of Executive Branch foreign policy judgments finds absolute support in Supreme Court caselaw.

Wrapping up his appellate argument, Mr. Bahadorani takes issue with the District Court’s references to the deference that must be shown to “the foreign policy judgments of the Executive” and its foreign policy considerations. Appellant’s Brief at 37 (quoting “App. 149”). Mr. Bahadorani adds, “The district court cited no cases supporting these assertions of law. *See id.* [*i.e.*, App. 149].” *Id.* He then draws the conclusion, “Consequently, no deference is owed to the Executive in the context of this case.” *Id.*

The District Court wrote this: “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” App.

at 149. The District Court’s footnote 36 reads as follows: “³⁶*Zadvydas*, 533 U.S. at 700.” *Id.* *Zadvydas* includes the following observations by the Supreme Court:

We recognize, as the Government points out, that *review must take appropriate account of the greater immigration-related expertise of the Executive Branch*, of the serious administrative needs and concerns inherent in the necessarily extensive INS efforts to enforce this complex statute, and the Nation’s need to “speak with one voice” in immigration matters. But we believe that courts can take appropriate account of such matters without abdicating their legal responsibility to review the lawfulness of an alien’s continued detention.

Ordinary principles of judicial review in this area recognize primary Executive Branch responsibility. They counsel judges to give expert agencies decisionmaking leeway in matters that invoke their expertise. They recognize Executive Branch primacy in foreign policy matters. And they consequently require courts to listen with care when the Government’s foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise.

533 U.S. at 700 (internal citations omitted; emphasis added).

Contrary to Mr. Bahadorani’s argument that the District Court “cited no cases” supporting its assertions of law about deference to the Executive Branch, the District Court cited *Zadvydas*, the very case Mr. Bahadorani relied on to present his claim. *See* App. at 21-22, ¶¶ 69-71, 73. The District Court correctly summarized the principle expressed by the Supreme Court in *Zadvydas*. The argument that the District Court “cited no cases” supporting its assertions of law is mind boggling.

CONCLUSION

WHEREFORE, Appellees Pamela Bondi, Kristi Noem, DHS, ICE, Todd M.

CERTIFICATE OF COMPLIANCE

This brief complies with the type-volume limit of Federal Rule of Appellate Procedure 32(a)(7)(B) because it contains 6,952 words and 610 lines, inclusive of headings, footnotes, and quotations. This brief also complies with the typeface and type-style requirements of Federal Rule of Appellate Procedure 32(a)(5)-(6) because it was prepared using Microsoft Word in Times New Roman 14-point font, a proportionally spaced typeface.

/s/ R. D. Evans, Jr.
R. D. EVANS, JR.
Assistant United States Attorney

INDEX OF ATTACHMENTS*

Attachment 1: *Bahadorani v. Bondi*, Case No. CIV-25-1091-PRW, United States District Court for the Western District of Oklahoma, Order [Doc. 22]

Attachment 2: *Bahadorani v. Bondi*, Case No. CIV-25-1091-PRW, United States District Court for the Western District of Oklahoma, Judgment [Doc. 23]

* Note: Although they are included in the Petitioner's Appendix [Doc. 18] at pp. 140-52, Attachments 1 and 2 are submitted pursuant to Tenth Circuit Rule 28.2(B), incorporating by reference Rule 28.2(A)(1).

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.

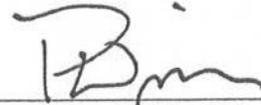
effort to challenge that. That fact does not have any apparent bearing on the outcome of this case, though, since re-detention is still permissible under the statute.

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.”).

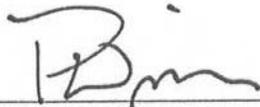
**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

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