

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 25-CV-62270-RAR

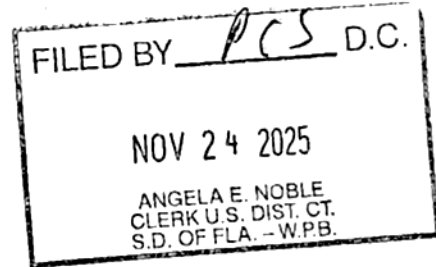
NELY YOHANA TORRES-HUETE

Petitioner,

v.

**PAM BONDI, UNITED STATES
ATTORNEY GENERAL, et al.,**

Respondents,



PETITIONER'S REPLY TO RESPONDENT'S RESPONSE

TO ORDER TO SHOW CAUSE

Petitioner respectfully files this reply to Respondent's Response, showing cause as to why the instant Petition for Habeas Corpus (Doc. # 1) should be granted and why the Respondent's fail to meet their burden.

I. JURISDICTION

In a Footnote---buried under a heading---Respondents recycle an argument on subject matter jurisdiction that this court has already rejected. Respondents now insist that the "further-developed record" somehow changes the outcome, claiming that the revocation of Ms. Torres-Huete's supervised release arises "from [a] decision or action by the Attorney General to... execute [a] removal order" and therefore strips this Court of jurisdiction. This is not a new argument but the same jurisdictional objection this Court has already resolved. See *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025) ("Officials must comply with the requirements of applicable regulations...Because they failed to do here, Petitioner may demonstrate entitlement to a writ of habeas corpus...§ 2241 confers jurisdiction upon the federal

courts to hear challenges to the lawfulness of immigration detention... Accordingly this court has jurisdiction to hear “Petitioner’s claim that her detention is unlawful under 28 U.S.C. § 2241”).

Respondents persist in mischaracterizing Ms. Torres-Huete’s claim as a challenge to her removal order when the record has been unambiguous from the start that she does not contest the finality of that order, nor does she dispute Respondents’ theoretical ability to remove her to a third country if they could identify one that would accept her and where she would be free from persecution or torture. Her challenge is, and always has been, to present decision to detain her. This is a matter entirely distinct from substance or validity of the removal order itself.

To reiterate, all post-order detention is, by definition, tangentially “related” to the execution of a removal order, yet courts have consistently recognized habeas petitions as the proper vehicle for challenging the constitutionality of that detention, *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) (“Habeas petitions are the appropriate forum to challenge post-removal-period detention”). The Supreme Court expressly distinguished questions of detention from decision to execute removal order *Id.* at 689. The Eleventh Circuit has done the same. *Madu v. United States AG*, 470 F.3d 1362, 1368 (11th Cir. 2006). And most recently, the Court reaffirmed that the constitutionality of immigration detention squarely belongs in habeas. *Trump v. J.G.G.*, 145 S. Ct. 1003 (2025). Respondent’s repeated attempts to reframe this case into one it is not is meritless.

II. THE REVOCATION OF MS. TORRES-HUETE’S ORDER OF SUPERVISION WAS NOT IN COMPLIANCE WITH REGULATION, AS SUPPORTED BY THE RESPONDENT’S OWN EVIDENCE.

8 CFR § 241.4(a)(4) specifically states:

The custody review procedures in this section do not apply after the Service has made a determination, pursuant to the procedures provided in 8 CFR § 241.13, that there is no significant likelihood that an alien under a final order of removal can be removed in the reasonably foreseeable future. However, if the Service subsequently determines, because of a change of circumstances, that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future to the country to which the alien was ordered removed or to a third country, that alien shall again be subject to the custody review procedures under this section. 8 CFR § 241.4(a)(4).

Therefore, revocation of release is controlled by 8 CFR § 241.13(i) and not 8 CFR § 241.4(l)(2)(i)-(iv). Nonetheless, no reason to justify revocation of release in either section applies to Ms. Torres-Huete. She did not violate any conditions of release and no changed circumstances exist to support a determination that there is a significant likelihood that she may be removed in the reasonably foreseeable future.

On August 9, 2025, Ms. Torres-Huete was detained by ICE after five years on appeal proceedings without a decision by the Board of Appeal. She has maintained since her release to a halfway house, and she was not “encountered” by ICE Fugitive Operations; rather she was never a fugitive and always reported as required. The Notice of Revocation of Release, however, did not state as reason for the revocation of OSUP. This reason is preposterous because the BIA has not issued a decision. An appellate ruling issued before her release on an order of supervision cannot factually or legally be a violation of her order of supervision. Surely ICE knew and considered this appellate “denial of justice by delay” when they made the determination of release on OSUP because they chose to lift the detainer knowing the immigration procedures were final. They would not have lifted the detainer and issued release on conditions of OSUP if the process had not been exhausted. This “denial of justice by delay” due to lack of BIA’s decision cannot constitute a violation whatsoever. Moreover, it is constitutionally offensive for ICE to use an appellate lack of decision that demonstrated Ms. Torres-Huete availing herself of her due right to appeal a legal issue as a negative factor against her stellar record of OSUP compliance; therefore, 8 CFR § 241.13(i)(1) and 8 CFR § 241.4(l)(2)(ii) do not apply.

Respondent’s claim that ICE lawfully revoked Ms. Torres-Huete’s supervised release is not based in fact or supported by the evidence the Respondents themselves presented. First, there are statutory rules that must be followed in order to properly revoke an order of supervision including proper notification for the reason of revocation as well as an initial interview promptly after return to Service custody 8 CFR § 241.13(i)(3). The Respondents created an unfounded reason to revoke Ms. Torres-Huete’s order of supervision and did not comply with the statutory requirements for revocation.

Second, the controlling regulation does not support a reason to revoke Ms. Torres-Huete’s order of supervision and did not comply with the statutory requirements for revocation. When Ms. Torres-Huete won relief from removal from removal forbidding her return to her home country of Honduras, DHS did not appeal, only the petitioner filed an appeal brief. When

determined that she was eligible to enter a half-way house, ICE lifted the immigration detainer and pursuant to 8 CFR § 241.4 made the determination that she posed no danger to the public or risk of flight. There was no reason to continue to detain Ms. Torres-Huete beyond the removal period in accordance with 8 CFR § 241.4. Alternatively, or in conjunction with this determination to release, the government determined that there was no significant likelihood of removal in the reasonably foreseeable future (“SLRRFF”). Once this “SLRRFF” determination was made, the custody review procedures of 8 CFR § 241.4 would not apply. 8 CFR § 241.4(a)(4). Nonetheless, both regulatory sections and considerations compelled ICE to lift the immigration detainer and release Ms. Torres-Huete.

Neither regulation provisions apply to Ms. Torres-Huete and revoking her release on OSUP is not justified. First 8 CFR § 241.13(i) provides only two reasons to revoke release: 1) a violation of conditions of release which cannot be supported as explained above and 2) revocation for removal on account of change of circumstances there is a significant likelihood that the alien may be removed in the reasonably foreseeable future. As discussed below, the government’s own reports show that no such changed circumstances or significant likelihood of removal exists.

To be thorough and as stated above until a “SLRRFF” exists, 8 CFR § 241.4(l)(2) does not apply; however it’s four (4) reasons to revoke release also do not apply. Specifically, ICE may only revoke an order of supervision where: “(i) The purposes of release have been served; (ii) The alien violates any condition of release; (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate, 8 CFR § 241.4(l)(2). None of the four (4) reasons apply and ICE did not comply with 8 CFR § 241.13(i) or 8 CFR § 241.4(l)(3). (See BIA’s response to renewed request to background check – Exhibit A). The rules must be followed in order to properly revoke an order of supervision including proper notification for the reason of revocation as well as an initial interview promptly after return to Service custody. 8 CFR § 241.13(i)(3).

The Notice of Revocation of Release did not list a date of service; which did not occur because Ms. Torres-Huete was detained without notice on August 9, 2025. It is uncontested that Respondent did not contact Ms. Torres-Huete before her detention as requested by her former lawyer (See Doc # 1 – Exhibit B). Further Ms. Torres-Huete never had an informal interview

“promptly after [her] return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification” 8 CFR § 241.13(i)(3). If an interview is to be held, Petitioner is entitled to have her or her counsel present to provide evidence that she has never violated her order of supervision, and that there is no significant likelihood that she will be removed in the reasonably foreseeable future, as required by the statute. ¹ ICE cannot justify detention in order to effectuate removal if there is no removal to effectuate.

Aside from the deficiencies of the Notice and the Lack of a condition of release on Ms. Torres-Huete’s part, Respondents fail to meet their burden of proof that Ms. Torres-Huete’s detention is appropriate to enforce her order of removal. Under the Statute, “the Service may revoke an alien’s [supervised] 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” ” 8 CFR § 241.13; See *Hernandez Escalante v. Noem*, No. 9:25-CV-00182-MJT (E.D. Tex. August 2, 2025)(non-precedent) (These regulations clearly indicate, upon revocation of supervised release, it is the Service’s burden to show a significant likelihood that the alien may be removed). To date, the Service cannot make a determination that there is a significant likelihood of removal as there have been no change country conditions in Honduras, Ms. Torres-Huete’s deferral of removal has not been terminated, and no third country of removal where Ms. Torres-Huete is not likely to be tortured has been identified. In fact, Respondents have acknowledged numerous times on record to this Honorable Court that they have not identified a third country which will accept Ms. Torres-Huete, as required to enforce the order of removal. The Respondent have not presented the Court with an identified third country that is willing to accept Ms. Torres-Huete, the steps they are taking to secure a third country of removal, or any transparency as to why they believe removal is significantly likely in the reasonable foreseeable future.

It is clear the Respondents have no method of effectuating Ms. Torres-Huete’s removal order, so it is impossible for this detention to serve the purpose of enforcement. It is a gross mischaracterization by the Respondent to justify Ms. Torres-Huete’s detention as appropriate for

¹ See *Phong Phan v. Moises Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at 6 (E.D. Cal. July 15, 2025) (requiring petitioner’s immediate release where the reason for revocation order was for an arrest, and the government failed to meet its burden of proof that there was a likelihood of removal in the reasonably foreseeable future).

enforcing the removal order when they have not even identified a country of removal. The government should not be allowed to detain individuals under the guise of enforcing a removal order that cannot be effectuated. Ms. Torres-Huete is afraid of torture and persecution in any third country; however, to hold her to speculate as to where one day the government may be able to send her is an unconstitutional deprivation of liberty that has caused her the loss of her family in this country, where she pays her taxes to the US government, her savings, her ability to care of her extremely ill son as her only relative and caregiver, etc. Ms. Torres-Huete has a fear of persecution and fear in any country that is not the United States of America; however, the constitutional safeguard allowing her to apply for protection before the Immigration Court can only be triggered once a third country is identified. She is entitled to present her case in front of an immigration judge if Respondents are able to identify a third country of removal. Holding her until the government finds a country to accept her means there is no significant likelihood of removal in the reasonably foreseeable future. Her detention is unconstitutional and in violation of regulation. The government has not met its burden to show the court that the purpose of release has been served, that detention is appropriate to enforce a removal order, or that changed circumstances exist to believe they can removal her to a third country. Surely the court cannot allow ICE to continue to detain her for violating any condition of release or for any conduct on Ms. Torres-Huete's part.

III. MS. TORRES-HUETE'S DETENTION IS UNLAWFUL AS IT IS BEYOND THE STATUTORY REMOVAL PERIOD, AND HER REMOVAL IS NOT REASONABLY FORESEEABLE IN THE FUTURE.

The Respondents again conflate the removal period and over-extend the 6-month presumption in *Zadvydas v. Davis*, 533 U.S. 678 (2001). The "removal period" is the initial 90-day window during which the Department of Homeland Security (DHS) must execute a final order of removal. This period is defined in 8 CFR § 1231(a)(1)(A) and begins on the latest of three possible dates: (2) the date the noncitizen is released from detention or criminal custody. During this 90-day period, DHS may detain the noncitizen and make reasonable effort to carry out the removal order 8 CFR § 1231(a)(2). This period has expired.

If DHS is unable to remove the individual within the removal period, continued detention may be authorized **only if** there is a "significant likelihood of removal in the reasonably

foreseeable future” *Zadvydas v. Davis*, 533 U.S. 678 (2001). The Court in *Zadvydas* interpreted U.S.C. 1231(a)(6) to authorize detention only for a period reasonably necessary to effectuate removal. The Court set a presumptive limit of six months for post-removal-period detention to begin not whenever the Respondents choose, but after events enumerated in 8 CFR § 1231(a)(1)(A). After that point, the burden shifts to the Respondents to prove that removal is likely in the reasonably foreseeable future. Recent cases support that six-month presumption outlined in *Zadvydas*, that the respondents rely on, is **not** applicable after a revocation of an order of supervision where the government has failed to meet their burden demonstrating that removal is now likely in the reasonably foreseeable future. See *Nguyen v. Hyde*, No. 25-cv-11470, 2025 WL 1725791 (D. Mass. June 13, 2025) (finding 6-month presumption **had long lapsed** while petitioner was on supervised release and it is respondent’s burden to show removal is now likely in the reasonably foreseeable future).

The Respondents have made absolutely no showing that Ms. Torres-Huete’s removal is reasonably foreseeable, or that it is even possible. The Respondent’s assertion that Ms. Torres-Huete has not demonstrated a lack of significant likelihood of removal in the reasonably foreseeable future is particularly troubling, given their repeated admission that no third country has been identified to effectuate her removal. **As noted above, it is not the Petitioner’s burden to prove that her removal is not likely in the reasonably foreseeable future. It is the Respondent’s burden.** The government’s weekly reports to the Court do not help reach their burden and without more, admit that they have not identified a third country of removal and show no proof one appearing in the foreseeable future. Petitioner again strongly emphasizes that without a third country of removal identified, her removal is not reasonably foreseeable, and her detention is not lawful. *Zadvydas v. Davis*, 533 U.S. 678 (2001) (Once removal is no longer reasonably foreseeable, continued detention is not authorized by statute). This Court should reject Respondent’s claim that Ms. Torres-Huete’s removal is reasonably foreseeable, as they have neither identified a third country willing to accept her nor provided any transparency regarding their efforts to do so and the likelihood that their efforts will prove successful.

IV. MS. TORRES-HUETE’S DETENTION CONSTITUTES A TANGIBLE DUE PROCESS VIOLATION.

The Respondent’s detention of Ms. Torres-Huete, constitute a clear, non-speculative violation of Ms. Torres-Huete’s due process, as it results in the unlawful deprivation of Ms.

Torres-Huete's life and liberty. Ms. Torres-Huete's detention without following the appropriate statutory requirements was a violation of her due process rights. Further, Ms. Torres-Huete's detention falls well beyond the 90-day removal period, despite the government's repeated acknowledgment that no third country of removal has been identified, making her removal reasonably foreseeable.

The harm to Ms. Torres-Huete is tangible. She has lost her family due to her detention. Her ill and U.S. legal resident son, who suffer from significant health issues, at will, the demanding effects of the Petitioner's detention are real and significant. Yet no government purpose justifies her expensive detention.

The respondent's position---that they may revoke an Order of Supervision after 90-day removal period for an individual granted protection under CAT, without first identifying a third country willing to accept removal---effectively grants them unchecked authority to seize Ms. Torres-Huete, or any similarly situated individual, at will, based solely on a future intention to search for a removal destination. Such an approach not only disregards the statutory and constitutional limits imposed by *Zadvydas* but also undermines the stability and due process protections to which individuals under supervision are entitled.

Furthermore, Respondents disclose to this court that it is ICE's policy if they receive diplomatic assurances that Ms. Torres-Huete will not be tortured or persecuted in a third country that is willing to accept to her, then she will be removed without the need for further procedures. See Department of Homeland Security, Policy Memorandum, Guidance Regarding Third Country Removals (March, 30, 2025). However, where the United States is currently offering six-figure payments to third countries in exchange for accepting deportees, any assurances provided by those countries are inherently compromised and cannot be regarded as unbiased or credible. Such financial arrangements raise serious concerns about the reliability of diplomatic assurances and further call into questions the legitimacy of any claim that removal is appropriate or safe under the Convention Against Torture. This Court must protect due process and order the Respondents to afford Ms. Torres-Huete notice of a third country of removal and opportunity to be heard, even in light of diplomatic assurances from a country being paid by the United States. When and if identified, Ms. Torres-Huete will pursue her right to appear before an immigration judge as provided in 8 CFR § 1231(b).

Conclusion

To be clear, Petitioner is not before this Court contesting the Respondent's right to identify a third country of removal, nor is she contesting their right remove her to a third country after the proper procedures are followed and it is determined that she will be free from persecution and torture. She is merely asking to be placed back on supervised release pending possible removal pursuant to the immigration regulations regarding supervised release. This is a very different situation than if a suitable third country (one where Ms. Torres-Huete is free from the fear of torture or persecution) was identified for Ms. Torres-Huete's removal and her removal could realistically be carried out. The regulations clearly show that upon revocation of a supervised release, it is the Service's burden to show a significant likelihood that the alien may be removed. 8 CFR § 241.4(b)(4) (emphasis added) (states that, after supervised release under Section 241.13 "if the Service subsequently determines, because of a change of circumstances, that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future... to a third country, the alien shall again be subject to the custody review procedures under this section"). Imposing the burden of proof on the alien each time she is re-detained would lead to an unjust result and serious due process implications. The Respondents have failed to prove they made the required regulatory efforts of revoking an order of supervision, and they have given no evidence to show a significant likelihood of removal within the reasonably foreseeable future.

Other recent decisions support this conclusion. Similarly situated individuals throughout the country have recently faced the same constitutional violations and injustices perpetuated by the Respondents against the law, and Courts have ordered the release of those individuals pursuant to habeas corpus petitions. See *Grigorian v. Bondi*, 2025 U.S. LEXIS 175489 (S.D. Fla. Sep. 9, 2025) ("Officials must comply with the requirements of applicable regulations...Because they failed to do here, Petitioner may demonstrate entitlement to a writ of habeas corpus ...where the government failed to meet its burden of proof that there was a significant likelihood of removal in the reasonably foreseeable future."); *Phong Phan v. Moises Becerra*, No. 2:25-CV-01757-DC-JDP, 2025 WL 1993735, at 6 (E.D. Cal. July 15, 2025); *Liu v. Carter*, No. 25-3036-JWL, Memorandum and Order, at *3 (D. Kan. June 17, 2025 (ordering release of the petitioner pursuant to habeas corpus petition because revocation was not effectuated per the statute for failure to provide a prompt interview and there were no changed circumstances leading officials

to believe that petitioner would be removed in the foreseeable future). *Hernandez Escalante v. Noem*, No. 9:25-CV-00182-MJT (E.D. Tex. August 2, 2025) (ordering the release of petitioner over objections of the government as it failed to meet its burden of proof that it complied with the statutory requirements for a revocation of the order of supervision and that removal was significantly likely in the reasonably foreseeable future).

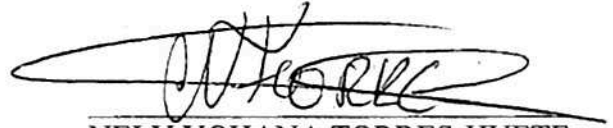
For the foregoing reasons, this Honorable Court should:

- A. Grant the Petitioner's Petition for Writ of Habeas Corpus.
- B. Immediately order the release of the Petitioner from Respondent's custody on a reinstated order of supervision;
- C. Order the Respondent's to not re-detain the Petitioner until and unless they can meet their burden in demonstrating her removal become likely in the reasonably foreseeable future; and
- D. Provide the Petitioner with sufficient notice no shorter than 30 days of a third country of removal once it has been identified and an opportunity to be heard to present a case of fear of persecution or torture if one exists.
- E. Grant any other and further relief this Court may deem appropriate.

OATH

UNDER PENALTIES OF PERJURY, I, Nely Yohana Torres-Huete, declare that I have read the foregoing document, and I Understand its content; this document is filed in good faith and is timely filed, I understand its content in English, has potential merit, and that facts contained in the documents are true and correct.

Date: November 20, 2025



NELY YOHANA TORRES-HUETE

Pro se Petitioner

A#: 

Broward Transitional Center

3900 N. Powerline Rd.

Pompano Beach Fl. 33073

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a true and correct original of the foregoing document has been furnished by U.S. Mail-postage prepaid to The Clerk of the District Court Southern District of Florida, to, Immigration and Custom Enforcement. Department of Homeland Security, Chief Counsel, Deputy Chief Counsel, Assistant Chief Counsel, Office of the principal Legal Advisor at Broward Transitional Center.3900 N. Powerline Road, Pompano Beach, Fl 33073, to the U.S. Dpt. of Justice, 950 Pennsylvania Av. NW. Office of the Attorney General, Room 5114, Washington DC. 20530-0001, and all the lawyer on record via e-filing court system, on this day, November 20, 2025.

Respectfully Submitted:



NELY YOHANA TORRES-HUETE

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