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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

MICHAEL ZIMRAN,

Petitioner,

v.

KRISTI NOEM, Secretary of Homeland Security, *et al.*,

Respondents.

No. 5:25-cv-03143-JFW-KES

RESPONDENTS' ANSWER TO PETITION FOR WRIT OF HABEAS CORPUS

[Decl. of Deportation Officers Enrique Chavez and Jorge Preciado filed concurrently]

Hon. Karen E. Scott
United States Magistrate Judge

TABLE OF CONTENTS

DESCRIPTION			PAGE
I.	INTRODUCTION		1
II.	LEGAL STANDARD		2
III.	ARGUMENT		2
	A.	Petitioner cannot show that "there is no significant likelihood of removal in the reasonably foreseeable future"	3
	B.	Petitioner cannot show that DHS improperly revoked his OSUP and detained him	7
	C.	Balance of Equities and Public Interest Warrants Continued Detention	10
IV.	CONCLUSION		11

TABLE OF AUTHORITIES

Page(s)

Federal Cases

Ahmad v. Whitaker,
2018 WL 6928540 (W.D. Wash. Dec. 4, 2018) 9

All. for Wild Rockies v. Cottrell,
632 F.3d 1127–35 (9th Cir. 2011) 10

Blackie's House of Beef, Inc. v. Castillo,
659 F.2d 1211 (D.C. Cir. 1981) 10

Diouf v. Mukasey,
542 F. 3d 1222 (9th Cir. 2008) 4, 6, 7, 8

Doe v. Smith,
2018 WL 4696748 (D. Mass. Oct. 1, 2018) 10

Jazi v. Rubio, No. 25-cv-27 BEN,
2025 WL 2420690 (S.D. Cal. Aug. 20, 2025) 10

Lema v. I.N.S.,
341 F.3d 853 (9th Cir. 2003) 5

Malkandi v. Mukasey,
2008 WL 916974 (W.D. Wash. Apr. 2, 2008) 4, 6

Matevosyan v. Warden, Desert View Annex Det. Facility,
2025 WL 978153 (C.D. Cal. Feb. 24, 2025) 6

Moran v. U.S. Dep't of Homeland Sec.,
2020 WL 6083445 (C.D. Cal. Aug. 21, 2020) 8

Muthalib v. Kelly,
2017 WL 11696616 (C.D. Cal. Apr. 19, 2017) 4

Nicia v. ICE Field Off. Dir.,
2013 WL 2319402 (W.D. Wash. May 28, 2013) 4, 5, 6

Nken v. Holder,
556 U.S. 418 (2009) 10

Pelich v. INS,
329 F.3d 1057 (9th Cir. 2003) 5

Pinson v. Carvajal,
69 F.4th 1059 (9th Cir. 2023) 2

Preiser v. Rodriguez,
411 U.S. 475 (1973) 2

Rodriguez Diaz v. Garland,
53 F.4th 1189 (9th Cir. 2022) 9

Rodriguez v. Hayes,
578 F.3d 1032 (9th Cir. 2009) 8

Sanchez v. Bondi,
2025 WL 3190816 (C.D. Cal. Oct. 3, 2025) 9

Sands v. Bradley,
144 S. Ct. 1382 (2024) 2

Ton v. Noem,
2025 WL 2995068 (C.D. Cal. Sept. 3, 2025) 8

United States v. Martinez-Fuerte,
428 U.S. 543 (1976) 10

Winter v. Nat. Res. Def. Council,
555 U.S. 7 (2008) 2

Zadvydas v. Davis,
533 U.S. 678 (2001) 3, 6

Federal Statutes

8 U.S.C. § 1231 ..... 3, 8
8 U.S.C. § 1253 5
28 U.S.C. § 2241 2

Federal Regulations

8 C.F.R § 241.4 8
8 C.F.R § 241.13 ..... 8, 10

I. INTRODUCTION

Petitioner Michael Zimran, a native and citizen of Pakistan and currently a detainee in immigration custody since June 2, 2025, who has a final removal order against him—and for whom Pakistan previously issued a Travel Document (TD) last year after which he absconded until after that TD had expired—filed a petition for writ of habeas corpus asking the Court to order his release. *See* Pet. for a Writ of Habeas Corpus ("Petition"), Docket No. 1. He claims mainly that "there is no good reason to believe he will be deported to Pakistan in the reasonably foreseeable future." *Id.* at 6-8 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)). He further claims that the government revoked his Order of Supervision (OSUP) without notice and an opportunity to be heard. *Id.* at 8-10. He then filed a motion seeking essentially the same relief. *See* Mot. for Preliminary Injunction & Temporary Restraining Order ("Motion"), Docket No. 3. Respondents opposed the Motion. *See* Opp'n, Docket No. 10.

On December 3, 2025, the Court ordered Respondents to file a Sur-Reply addressing, among other things, the purported factual disputes in Respondents' Opposition and Petitioner's Reply. Docket No. 13 at 2. The Court also ordered Respondents to submit "the travel documents purportedly issued by Pakistan in October 2024 . . . as well as any other relevant documents with its Sur-Reply." *Id.* Respondents did so. *See* Sur-Reply, Docket No. 16.

The Court then denied that Motion, agreeing with Respondents that Petitioner "relies solely on argument and factual allegations that lack evidentiary support." Order at 5, Docket No. 17. It further found that the Federal Public Defenders (FPDs), who lacked personal knowledge of the alleged facts, provided the verifications, not the Petitioner. *Id.* It also found Petitioner's exhibits unauthenticated, just as Respondents had argued. *Id.* It finally found that Petitioner is likely to be removed in the reasonably foreseeable future and that his release was revoked following proper procedures, referencing Respondents' two declarations (by Deportation Officers Chavez and Preciado) and documentary evidence showing that Pakistani Consulate issued travel documents. *Id.* at 6.

Because Respondents have already provided in their Motion-related papers fulsome briefing on the issues raised in the Petition and the Court has already ruled on and resolved those issues, there is no separate substantive to be addressed by an Answer at this juncture. Nonetheless, Respondents will reiterate below the reasons they believe the Petition is defective and that Petitioner has not established that he is entitled to requested relief.

II. LEGAL STANDARD

District courts may exercise jurisdiction over habeas petitions where the petitioner is in custody in violation of the Constitution and laws or treaties of the United States. 28 U.S.C. § 2241(a), (c); *id.* § 2241(c) ("The writ of habeas corpus shall not extend to a prisoner unless . . . [h]e is in custody in violation of the Constitution or laws or treaties of the United States . . . ."). "The party seeking relief bears the burden of establishing jurisdiction." *Pinson v. Carvajal*, 69 F.4th 1059, 1063 (9th Cir. 2023).

"The Ninth Circuit has long held that the writ of habeas corpus is limited to attacks upon the legality or duration of confinement." *Id.* at 1065 (citing *Crawford v. Bell*, 599 F.2d 890, 891 (9th Cir. 1979)) (cleaned up), *cert. denied sub nom. Sands v. Bradley*, 144 S. Ct. 1382 (2024); *see also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("It is clear . . . from the common-law history of the writ . . . that the essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody."). "[C]laims that if successful would not necessarily lead to the invalidity of the custody are not at the core of habeas corpus." *Pinson*, 69 F.4th at 1071.

III. ARGUMENT

Petitioner fails to meet the high evidentiary bar for relief ordering government to release him from detention. *See* Sur-Reply at 2-3; Order at 5-6.[1]

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[1] Petitioner argues that he may be removed to a third country and requests the Court to enjoin the government from doing so. *See, e.g.*, Petition at 1, 11-13. But that is mere speculation. *See, e.g.*, Opp'n at 2 n.2 ("DHS has not made any request for removal to a third country."); *see also* Chavez Decl. ¶ 21 (averring that DHS has not made "a request for removal to a third country"). As such, the issue is not ripe for a resolution. *Trump v.*

(footnote cont'd on next page)

A. Petitioner cannot show that "there is no significant likelihood of removal in the reasonably foreseeable future"

The government's authority to detain an alien for removal purposes pursuant to a final removal order does not end at six months under *Zadvydas v. Davis*, 533 U.S. 678 (2001), but rather continues so long as it is "reasonable":

> After this 6–month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. This 6–month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.

Id. at 701. Thus, the noncitizen "may be held in confinement until it has been determined that there is ***no significant likelihood of removal in the reasonably foreseeable future.***" *Id.* (bold italic emphasis added). Petitioner cannot carry his burden to show so.

Petitioner merely complains that his current detention under 8 U.S.C. § 1231(a)(6) for purposes of enforcing his final removal order is "unreasonable" because the government cannot remove him to Pakistan in the foreseeable future. Petitioner main idea is that about two decades ago, back in 2007, the government released him when he could not be removed to Pakistan, so he cannot now be removed in 2025. *See, e.g.*, Petition at 6-

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New York, 592 U.S. 125, 131 (2020) ("A foundational principle of Article III is that an actual controversy must exist not only at the time the complaint is filed, but through all stages of the litigation. . . . [T]he case must be ripe—not dependent on contingent future events that may not occur as anticipated, or indeed may not occur at all." (cleaned up)).

8. That idea is a nonstarter. Courts properly deny *Zadvydas* claims under such circumstances and find that a "habeas petitioner's assertion as to the unforeseeability of removal, supported only by the mere passage of time, [is] insufficient to meet the petitioner's burden to demonstrate no significant likelihood of removal under the Supreme Court's holding in *Zadvydas*." *Muthalib v. Kelly*, 2017 WL 11696616, at *3 (C.D. Cal. Apr. 19, 2017) (collecting cases).

"This is particularly so where the only impediment to removal is the issuance of the appropriate travel document." *Id.* (*citing Nasr v. Larocca*, 2016 WL 3710200 (C.D. Cal. June 1, 2016), *report and recommendation adopted*, 2016 WL 3704675 (C.D. Cal. July 11, 2016)). That Petitioner does not yet have a specific date of anticipated removal does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008); *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (Martinez, J.) (denying *Zadvydas* petition where petitioner had been detained more than 14 months postfinal order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (Martinez, J.) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-order).

In any event, on or about September 20, 2024, DHS previously successfully obtained Petitioner's travel document (TD) from Pakistan, flatly undercutting his suggestion that Pakistan will not issue one now and that he cannot thus be removed to Pakistan. *See* Decl. of Enrique Chavez ("Chavez Decl.") ¶ 12; *see also* Decl. of Jorge George Preciado ("Preciado Decl."), Ex. A (an authenticated copy of the TD, which includes a cover letter, flight itinerary, and a two-page emergency passport). Indeed, immediately after securing his TD, DHS instructed Petitioner to report for removal. *Id.* On or about October 15, 2025, Petitioner absconded and remained in that status at least until after the TD had expired. *Id.*; *see also id.*, Ex. A (showing that the "TD issued on 09/20/2024" and "expired [on] 12/19/2024"); Preciado Decl. ¶ 10 ("The emergency passport in the TD . . . shows an expiration date of December 19, 2024"); *id.* ¶¶ 11-13;

Sur-Reply at 3 (arguing so).

That is not all: DHS cautioned Petitioner numerous times to assist with obtaining his travel documents to Pakistan. For starters, DHS set that as one of the conditions of his OSUP. *Id.* ¶ 11. He failed to abide by it. *Id.* ¶ 15. After his OSUP was revoked upon his most recent re-detention in June 2025, he was again advised that he must show that he is making reasonable efforts to comply with the order of removal and that he is cooperating with ICE's efforts to remove him by taking whatever actions ICE requests to effectuate his removal. *Id.* ¶¶ 15, 18. He failed to show so. And at least on three different occasions, DHS served on Petitioner Form I-229(a), a Warning for Failure to Depart the United States, requiring him to apply for travel documents to Pakistan and otherwise cooperate with his removal procedure. *Id.* ¶ 18. The notices gave him 30 days to comply. *Id.* He never complied. *Id.* It is well-settled that where, as here, an alien refuses to cooperate in obtaining travel documents for purposes of effectuating their removal, such attempts to block their own removal do nothing to establish that their continuing detention is unreasonable or unconstitutional. *Lema v. I.N.S.*, 341 F.3d 853 (9th Cir. 2003) (where noncitizen's failure to cooperate in obtaining travel documents was impeding removal, detention is not unreasonable). Indeed, "*Zadvydas* does not save an alien who fails to provide requested documentation to effectuate his removal." *Pelich v. INS*, 329 F.3d 1057, 1060 (9th Cir. 2003); 8 U.S.C. § 1253(a)(1)(B)-(C) (providing that willfully failing to make timely application in good faith for travel or other documents necessary to the alien's departure may result in detention); *cf. Khamseh v. C. Langill et al.*, No. 25-09955, Dkt. No. 14 (Nov. 6, 2025 C.D. Cal.) (denying TRO on Nov. 6, 2025 where record contained evidence that travel documents for petitioner's removal to Iran were requested on or about October 2, 2025 and petitioner was scheduled for a consulate interview on October 27, 2025, but he then refused to attend the interview).

As one court aptly noted: "*Zadvydas* does not save an alien who fails to provide requested documentation to effectuate his removal. The reason is self-evident: the detainee cannot convincingly argue that there is no significant likelihood of removal in the

reasonably foreseeable future if the detainee controls the clock." *Pelich*, 329 F.3d at 1060; *see also id.* (holding that there is no due-process violation where detainee's lack of cooperation causes delay: "The risk of indefinite detention that motivated the Supreme Court's statutory interpretation in *Zadvydas* does not exist when an alien is the cause of his own detention. Unlike the aliens in *Zadvydas,* [petitioner] has the 'keys[to his freedom] in his pocket' and could likely effectuate his removal by providing the information requested by the INS."); *Matevosyan v. Warden, Desert View Annex Det. Facility*, No. 24-01570-PA (DFM), 2025 WL 978153, at *7 (C.D. Cal. Feb. 24, 2025) (even where petitioner was detained beyond the six-month period finding as follows: "Given Petitioner's lack of cooperation, he cannot satisfy his burden under *Zadvydas* to show that there is no significant likelihood of removal in the reasonably foreseeable future."), *report and recommendation adopted*, 2025 WL 975009 (C.D. Cal. Mar. 31, 2025), *certificate of appealability denied*, 2025 WL 1576990 (C.D. Cal. Mar. 31, 2025).

Zadvydas does not require Respondents to pre-arrange a noncitizen's removal travel before arresting them, which would often be extremely difficult if not impossible. The constitutional standard is whether there is "a significant likelihood of removal" in the "reasonably foreseeable future"—not whether a removal will occur "imminently"—indeed, the law does not require that "every [noncitizen] not removed must be released after six months." *Id.* Instead, the Supreme Court was clear that the Constitution prevents only "indefinite" or "potentially permanent" detention. *Zadvydas*, 533 U.S. at 689-91. Courts therefore properly deny *Zadvydas* claims under such circumstances. *See, e.g.*, *Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-final order). That Petitioner does not yet have a specific date of anticipated removal does not make his detention indefinite. *See Diouf*, 542 F. 3d at

1233. In any case, DHS intends to remove Petitioner to Pakistan, and to that end, his travel documents remain pending for active consideration by Pakistan. Chavez Decl. ¶ 21.

Accordingly, Petitioner cannot succeed in establishing that his current detention is unreasonable pursuant to the Due Process standard delineated by the Supreme Court in *Zadvydas* for noncitizens detained pursuant to a final removal order.

B. Petitioner cannot show that DHS improperly revoked his OSUP and detained him

Petitioner also asks that the Court order that he be released from immigration detention, on the ostensible grounds that the government improperly revoked his OSUP. But Petitioner submits no evidence of that putative violation. Furthermore, given Petitioner's current efforts to subvert and prevent his removal to Pakistan by absconding and repeatedly refusing to cooperate in requesting travel documents, releasing Petitioner would improperly reward his unlawful efforts to obstruct his own removal. *See, e.g.*, Chavez Decl. ¶¶ 15, 18. If he were released while the government is seeking to arrange his travel to Pakistan pursuant to a final removal order, that would severely impair—if not outright prevent—the government's ability to timely remove him.

As to Petitioner's suggestion that revocation procedure was not followed properly, Petition at 8-10, it is telling that he submits no evidence of that. Nor can he—after all, he was *immediately* issued a Notice of Revocation upon his detention, *see* Chavez Decl., Ex. A; he was also *immediately* provided an informal interview, *see id.*, Ex. B. Expectedly, his Notice of Revocation of Release notified him of changed circumstances in his case, including his failure to comply with the terms of his OSUP release, including by engaging in criminal activities—for example, convictions for felony trespassing on July 27, 2024; driving-under-influence (DUI) on December 5, 2020; and DUI and aggravated DUI on November 4, 2020—as well as for absconding on or about October 15, 2024 after his travel document (TD) for removal to Pakistan issued and remaining in that status until after the TD had expired. *See id.* ¶¶ 11-12, 15. In the same vein, during the informal interview, which was conducted to provide Petitioner an opportunity to respond to the

reasons for revocation of his OSUP, he failed to submit any evidence or information to contest the Notice of Revocation of Release. *See id.* ¶ 16. The foregoing process is more than sufficient under the relevant regulations and the U.S. Constitution—and no more process is due to him. *See, e.g.*, 8 C.F.R § 241.4(l); *id.* § 241.13(i)(3).

To be sure, the government has very broad authority to revoke supervised release that it has granted. *Cf. Moran v. U.S. Dep't of Homeland Sec.*, No. 20-00696, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l) [revocation of release] was a violation of their procedural due process rights and noting, "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to support their contention that they have a protected interest in remaining at liberty in the United States while they have valid removal orders."). "While the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation "when, in the opinion of the revoking official . . . [t]he purposes of release have been served . . . [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would no longer be appropriate." *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010) (citing § 241.4(l)(2)(i), (iv)) (emphasis in original). Indeed, the relevant statute under the INA does not contemplate a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231.

The Hon. Judge Blumenfeld recently denied an injunction in a case alleging insufficient re-detention process, noting that the evidentiary burden was not met, and also that it was unclear that release would be the appropriate remedy for any violations of revocation procedure. *See Ton v. Noem*, No. 5:25-CV-02033-SB-AGR, 2025 WL 2995068, at *4-5 (C.D. Cal. Sept. 3, 2025) (denying application for preliminary injunction, noting that "Petitioner has not shown that release is the appropriate remedy for any APA violation"). The burden is on the moving party to show that ordering release via a TRO would be narrowly tailored to rectifying a deficiency that was proven under the heavy standard for preliminary injunctive relief. Speculating that the revocation of release was

not fully satisfactory in all possible respects is insufficient to carry that burden. The Hon. Judge Birotte likewise recently denied an application seeking a TRO based on allegedly defective revocation of supervised release for a noncitizen detained pursuant to a final removal order, explaining why it did not meet the governing legal standard. *See Sanchez v. Bondi*, No. 5:25-CV-02530-AB-DTB, 2025 WL 3190816, at *3 (C.D. Cal. Oct. 3, 2025) ("While the regulations cited by Petitioner, 8 C.F.R. §§ 241.13(i)(1)–(2) and 241.4, establish procedural safeguards—including the requirements that revocation be based on a condition of release violation or on a significant likelihood of removal, and that the noncitizen receive notice and an informal interview—they do not create independent substantive rights that override the statutory grant of detention authority.").

Finally, the appropriate remedy for any such procedural deficiency would not be automatic release from custody, but rather to remedy the specific procedural deficiency that might be established. Injunctive relief must be *narrowly tailored* to the wrong. *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022) ("And we note that even when there are deficiencies in individual § 1226(a) proceedings, they may be redressable through means short of major changes to the burden of proof."). Other District Courts have correctly applied this point of remedy law. In *Ahmad v. Whitaker*, for example, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued the revocation of his release was unlawful because, he contended, the federal regulations prohibited re-detention without, among other things, an opportunity to be heard. *Id.* In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of Massachusetts held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was

"no apparent reason why a violation of the regulation . . . should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated: "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order. . . . Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

So too here. Whatever procedural deficiencies may have hypothetically occurred, they do not warrant Petitioner's release and indeed could be cured by means well short of release. *See, e.g.*, *Pogosyan v. Bondi*, No. 5:25-cv-03121-SRM-AS, Docket No. 13 (C.D. Cal. Dec. 3, 2025) (where an Armenian petitioner-detainee claimed defective informal interview, the court shaped a narrowly tailored relief by ordering respondents to provide petitioner-detainee an informal interview under 8 C.F.R. § 241.13(i)(3) within a week).

C. Balance of Equities and Public Interest Warrants Continued Detention

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant." (collecting cases)); *Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"); *see also Jazi v. Rubio*, No. 25-cv-27 BEN, 2025 WL 2420690, at *2 (S.D. Cal. Aug. 20, 2025) ("Courts should act cautiously when reviewing matters entrusted to the Executive Branch, especially those involving immigration, lest it alter the balance between co-equal branches of government."); *Noem v. Vasquez Perdomo*, 2025 WL 2585637, at *5 (Sept. 8, 2025) (Kavanaugh, J., concurring) ("Especially in an immigration case like this one, it is also important to stress the proper role of the Judiciary . . . . [W]e . . . must decline to step outside our constitutionally assigned role to improperly *restrict* reasonable Executive branch enforcement of the immigration laws" (emphasis in original)). That significant public interest outweighs Petitioner's private interest and warrants continued detention.

IV. CONCLUSION

Respondents respectfully request that the Court deny the Petition.

Respectfully submitted,

Dated: December 16, 2025

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondents, certifies that the memorandum of points and authorities contains 3,748 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 16, 2025

/s/ Pushkal Mishra
PUSHKAL MISHRA