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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' OBJECTIONS TO REPORT & RECOMMENDATION

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

Hon. John F. Walter
United States District Judge

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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 at least 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 Petitioner's release was revoked following the proper procedures," referencing Respondents' two declarations (by Deportation Officers Chavez and Preciado) and "documentary evidence" showing that "the Pakistani Consulate issued travel documents for Petitioner as recently as September 23, 2024." *Id.* at 6.

The Magistrate Judge then issued a Report and Recommendation ("R&R"). Docket No. 21. That R&R inexplicably gives wholesale credit to Petitioner's fabricated account of the events while glossing over the documentary evidence Respondents submitted along with two declarations—including showing that DHS had secured Petitioner's Travel Document (TD) from Pakistan in 2024, after which Petitioner absconded until after that TD had expired. The fact that Petitioner eventually turned up out-of-turn and of his own accord and checked in with DHS, after that TD had expired, is immaterial to the issue at hand—Respondents failed to effectuate Petitioner's removal in late 2024 due wholly to Petitioner's failure to cooperate with that removal, which now burdens Respondents with another round of application for Petitioner's TD from Pakistan without his cooperation. Any further delays in obtaining his travel documents from Pakistan is the direct result of his continuing lack of cooperation, which under well-settled law extends the six-month "presumptively reasonable" period under *Zadvydas*. Respondents therefore object to the R&R's findings and reiterate below the reasons Petitioner has not carried his evidentiary burden to show that his release from immigration detention is warranted.

II. BACKGROUND

Petitioner is a native and citizen of Pakistan. Decl. of Enrique Chavez ("Chavez Decl.") ¶ 5.

On or about February 13, 1999, Petitioner entered the United States on a B-2 visitor visa. *Id.* ¶ 6.

On or about September 21, 2005, Petitioner was convicted of Robbery, Possession of a Weapon for a Dangerous Purpose, and Conspiracy to Commit Theft in Montreal, Quebec, Canada. *Id.* ¶ 7.

On or about June 6, 2006, DHS served Petitioner with a Notice to Appear, commencing removal proceedings against him. *Id.* ¶ 8.

On November 16, 2006, an immigration judge (IJ) denied Petitioner's applications for relief and ordered him removed from the United States. *Id.* ¶ 9. On March 5, 2007, the Board of Immigration Appeals dismissed Petitioner's appeal. Petitioner did not appeal this

decision, and his removal order became final. *Id.* ¶ 10.

On or around March 4, 2008, Petitioner was released under an Order of Supervision (OSUP). *Id.* ¶ 11. That order expressly set forth specific conditions of his release, including that he: not commit any crimes; appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal; report in person periodically; assist ICE in obtaining any necessary travel documents; provide ICE with written copies of requests to Embassies or Consulates requesting the issuance of a travel document; and provide ICE with written responses to those requests. *Id.* It also expressly provided that failure to comply with the OSUP requirements will result in a redetermination of his release conditions or his arrest and detention as well as criminal prosecution. *Id.*

On or about September 20, 2024, Pakistan issued Petitioner's travel documents (TD), after which a Form G-56 (Official Request for Appearance) was sent to Petitioner to report for removal. *Id.* ¶ 12; Decl. of Jorge George Preciado ("Preciado Decl.") ¶ 11 ("On or about September 27, 2024, after DHS received the TD, it sent a G-56 (Official Request for Appearance) to [Petitioner] with report date of October 15, 2024."); *see also* Preciado Decl., Ex. B at 2 (an authenticated copy of Form I-213 showing the relevant annotation). On or about October 15, 2024, Petitioner absconded. *Id.*

On June 2, 2025, DHS took Petitioner into custody. *Id.* ¶ 13.

On June 2, 2025, DHS also served Petitioner with a Warrant of Removal/Deportation (Form I-205), notifying him that DHS intends to execute his final removal order and process him for removal to Pakistan. *Id.* ¶ 14.

On June 2, 2025, DHS also served Petitioner with a Notice of Revocation of Release. *Id.* ¶ 15. It 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 (e.g., 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. *Id.*; *see also id.*, Ex. A (a copy of the Notice of Revocation of Release, showing among other things that "TD issued on 09/20/2024; expired 12/19/2024"). He was also 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.* The Notice also advised him that any willful failure or refusal on his part to make timely application in good faith for travel or other documents necessary for his departure may subject him to criminal prosecution under 8 U.S.C. § 1253(a). *Id.*; *see also id.*, Ex. A.

On June 2, 2025, an informal interview was conducted in which Petitioner had an opportunity to respond to the reasons for revocation of his OSUP. *Id.* ¶ 16; *see also id.*, Ex. B (a copy of the form documenting that an informal interview was conducted pursuant to 8 C.F.R. §§ 241.4(l), 241.13(i)). Petitioner failed to submit any evidence or information then to contest that notice. *Id.*

On July 17, 2025, August 29, 2025, and then again on October 13, 2025, DHS served on Petitioner Form I-229(a), a Warning for Failure to Depart the United States. *Id.* ¶ 18. DHS cautioned Petitioner about the consequences of willfully failing to make timely application in good faith for travel or other documents necessary to the alien's departure. *Id.* It required Petitioner to submit passports (current and expired) to ICE, apply for a travel document/passport, submit to ICE birth certificates, national identification cards, and any other document indicating his citizenship, nationality, place of birth, and place of residence prior to entering the United States. *Id.* It also required him to take measures to request reinstatement of his previous nationality, register as required, or take any other action that will ensure the issuance of a travel document. *Id.* The notification gave him 30 days to comply. *Id.* He has so far failed to take any of the foregoing steps. *Id.*

On July 15, 2025, DHS mailed a travel document request (TDR) packet to the Consulate General of Pakistan. *Id.* ¶ 17; *see also id.* Preciado Decl. ¶ 16 ("On July 15, 2025, DHS mailed a new travel document request (TDR) packet to the Consulate General

of Pakistan, which in substance mirrored that which DHS submitted previously that led to Pakistan issuing the TD in September 2024.").

On July 22, 2025, DHS sent an email notification to the Consulate General of Pakistan regarding Petitioner's TDR. *Id.* ¶ 19.

On or about October 3, 2025, DHS learned that the Consulate General of Pakistan is awaiting confirmation from Islamabad, Pakistan regarding Petitioner's TDR. *Id.* ¶ 20.

DHS intends to remove Petitioner to Pakistan. *Id.* ¶ 21. As of November 10, 2025, it is DHS's understanding that his TD remains pending for active consideration by the Pakistani authorities. *Id.*; *see also* Preciado Decl. ¶ 17 ("DHS's July 15, 2025 TDR remains pending for active consideration by the Pakistani authorities. DHS expects that a travel document for [Petitioner] will soon be issued and that it will effectuate his removal to Pakistan in the reasonably foreseeable future."). Hence a request for removal to a third country has not been made. *Id.*

III. ARGUMENT

A. The R&R erred in finding that Petitioner has shown that there is no significant likelihood of removal in the reasonably foreseeable future

Petitioner has failed to show that his release from detention is warranted. The R&R flips the evidentiary burden, finding that "Respondents have not shown that . . . removal to Pakistan is reasonably foreseeable." R&R at 25; *see also id.* at 26 ("The 2024 travel documents alone, which are now expired, are insufficient to meet *Respondents' burden of proof*." (emphasis added)). To be sure, 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

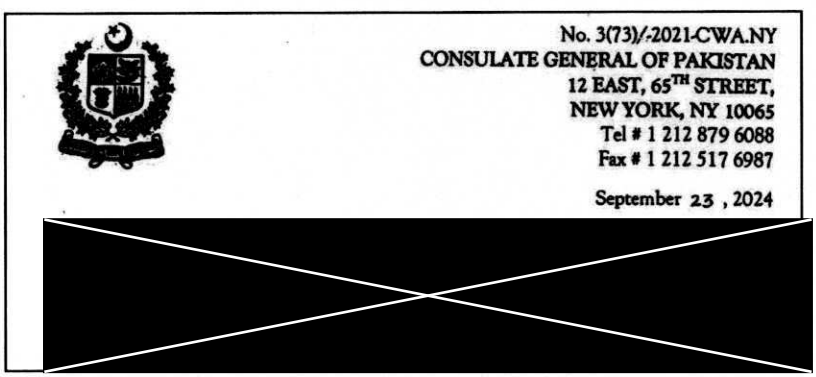
> confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. This 6–month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined 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 here.

Petitioner complains that his current detention under 8 U.S.C. § 1231(a)(6) for purposes of enforcing his final removal order is "unreasonable" because he contends that the government cannot remove him to Pakistan in the foreseeable future. Petitioner's main argument is that about two decades ago, back in 2007, the government released him when he could not be promptly removed to Pakistan, so he cannot now be removed in 2025. *See, e.g.*, Petition at 6-8. But 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, the R&R erroneously credits Petitioner's self-serving contention that "Pakistan has neither *confirmed his citizenship* nor agreed to accept him at the present time." R&R at 26 (emphasis added). 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* Preciado Decl., Ex. A (an authenticated copy of the TD, which includes a cover letter, flight itinerary, and a two-page emergency passport). That shows on its face that the "Pakistani Consulate" indeed has "records indicating [that Petitioner] is a Pakistani national": It openly "acknowledges that [Petitioner] had an expired passport with 'Passport No. [redacted]'" Preciado Decl. ¶ 8.



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See also id., Ex. A at 1 (excerpted and emphasis added). The R&R errs on this point by inexplicably accepting Petitioner's unsupported and fallacious contrary claims at face value, rather than critically assessing what the evidence shows.

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. As Respondents previously argued:

> The Form I-213 corroborates the sworn statements by both Deportation Officer Chavez (*see* Chavez Decl. ¶ 12) and now Deportation Officer Preciado (*see* Preciado Decl. ¶ 11). And it bears noting that courts find these "government-prepared documents" presumptively trustworthy and reliable. *See, e.g.*, *Hernandez v. Garland*, 52 F.4th 757, 766 (9th Cir. 2022) ("Forms I-213 are entitled to a presumption of reliability because of their general characteristics as government-prepared documents."); *Espinoza v. I.N.S.*, 45 F.3d 308, 310 (9th Cir. 1995) (where the Board of Immigration Appeals (BIA) stated that Forms I-213 are "presumed inherently reliable if authenticated," agreeing "with the BIA that information on an authenticated immigration form is presumed to be reliable in the absence of evidence to the contrary presented by the alien."), *as amended on denial of reh'g* (Jan. 12, 1995).

Sur-Reply at 3.[1]

Despite that "impediment to removal" on part of Petitioner right from the get-go, the R&R appears to improperly credit his incredible account of the events in finding that

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[1] That Petitioner later resurfaced out-of-turn and of his own accord, Preciado Decl. ¶ 14, is irrelevant to his cooperation with his removal. By then, his TD had already expired, and so DHS had stopped preparing for his travel to Pakistan. *Id.* ¶ 14 ("From December 20, 2024 (after the TD's expiration) through June 1, 2025 (prior to ZIMRAN's most recent detention), DHS stopped preparing for [Petitioner's] travel to Pakistan."); *see also* Sur-Reply at 1 ("Petitioner claims now—for the first time in his Reply—that he checked in with DHS in March 2025, and inexplicably suggests this means the Respondents misstated his conduct. But Respondents had argued emphatically and consistently throughout their opposition that Petitioner absconded **as of October 15, 2024** and continued to remain absconding during the period ***when*** DHS could have effectuated his removal pursuant to the travel document (TD) Pakistan had previously issued for that purpose—that is, before that TD expired on December 19, 2024." (emphasis in original)).

his removal is not reasonably foreseeable. *See, e.g.*, R&R at 27 ("[E]ven taking Respondents' evidence as true, they have not shown a lack of cooperation that justifies denying Zimran relief."); *id.* at 28 ("Respondents do not identify any specific occasion on which Zimran failed to submit such an application or explain how they expected him to do so while in custody."). The R&R fails to appreciate that DHS admonished Petitioner multiple times to cooperate in 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.* The R&R appears to credit Petitioner's failure to take "any deliberate action to *thwart DHS's efforts* to obtain travel documents from Pakistan," R&R at 29 (emphasis added), but it fails to appreciate the plain language of Form I-229(a), which requires *Petitioner* to take deliberate action to *apply for travel documents to Pakistan*. That he is in custody is no bar to applying for such travel documents himself. After all, he claims to have been able to contact the Consulate several times while in custody. *See, e.g.*, *id.* at 23-24. Also, to be abundantly clear, DHS eventually submitting a travel document request on Petitioner's behalf without his cooperation does not moot the issue of his failure to cooperate in getting his travel documents and purportedly thwarting his removal. All in all, any further delays in obtaining his travel documents from Pakistan is the direct result of his lack of cooperation, and that further extends the six-month "presumptively reasonable" period under *Zadvydas*.

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). As one court aptly noted: "*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); *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); 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).

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; Preciado Decl. ¶ 17.

Accordingly, Petitioner fails to show 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. After all, his continued lack of cooperation in securing his Travel Documents extends any presumptively reasonable period of detention.

B. The R&R erred in finding that Petitioner has shown 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. The R&R agrees. *See* R&R at 15 ("The record does not demonstrate that Zimran had meaningful notice of the reasons why his OSUP was revoked or opportunity to challenge that revocation at the informal interview conducted on June 2, 2025."). But Petitioner fails to show any such violation to warrant his release. Nor can he: 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; Preciado Decl. ¶¶ 11, 13. 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.

Petitioner therefore turns to nitpicking that post-revocation procedure was not followed properly here. *See, e.g.*, Petition at 8-10. But Petitioner was timely issued a Notice of Revocation of Release 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; *see also id.*, Ex. A (noting on the "Order of Supervision Revocation Assessment" both "Supervision Compliance History" and "Criminal History since OSUP release," and notifying him of "changed circumstances" on the cover letter "based on a review of [his] official alien file"). And if there was any doubt that DHS intended to revoke Petitioner's release to effectuate his removal to Pakistan, it bears noting that DHS also promptly served him with a Warrant of Removal/Deportation (Form I-205), which notified him in no unclear terms that it intended to execute his final removal order and process him for removal to Pakistan. *Id.* ¶ 14. In the same vein, during the informal interview, given all that had transpired, Petitioner had sufficient opportunity to respond to the reasons for revocation of his OSUP release—relayed to him earlier with the Notice of Revocation and confirmed (at least as to effectuating his removal to Pakistan) with the Warrant of Removal/Deportation—and to provide any evidence to show that his removal is unlikely. *Id.* Petitioner made no comments or statements, oral or written, provided no

documents, and did not ask for more time to respond to the reason for revocation of his OSUP. Chavez Decl. ¶ 16; *see also id.*, Ex. B (a true and correct copy of the form documenting that an informal interview was conducted pursuant to 8 C.F.R. § 241.13(i)). The foregoing process is sufficient under the relevant regulations and the U.S. Constitution—and no more additional process is due to him. *See, e.g.*, 8 C.F.R. § 241.13(i)(3). And even if this process is defective in any manner—it is not—the remedy now is not to override the statutory grant of detention authority under 8 U.S.C. § 1231, but instead to cure any purported post-revocation defect by narrowly tailored means well short of release from detention. By way of example, about a month ago, where an Armenian petitioner-detainee with a final order of removal claimed defective informal interview in relation with her detention, the court shaped a narrowly tailored relief by ordering respondents to provide her an informal interview under 8 C.F.R. § 241.13(i)(3) within a week—i.e., that court ordered respondents to provide the informal interview more than ***two months*** after the petitioner was detained for removal to Armenia. *See, e.g.*, *Pogosyan v. Bondi*, No. 5:25-cv-03121-SRM-AS, Docket No. 13 (C.D. Cal. Dec. 3, 2025).

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.

Hon. Judge Birotte thus 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:

> 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.

Sanchez v. Bondi, No. 5:25-CV-02530-AB-DTB, 2025 WL 3190816, at *3 (C.D. Cal. Oct. 3, 2025).

Finally, as stated earlier, 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—including ordering the government to act in a certain way to remedy a procedural defect alleged in a habeas petition—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 courts correctly apply 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) ("Petitioner is not entitled to an order of release, but the Government shall provide him with a bond hearing before an immigration judge within seven days of the date of this order, unless he is no longer in custody at that time." (emphasis omitted)). 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.* ("[T]he Court cannot discern any actionable injury from this violation of the regulations given that ICE had procured a travel document and scheduled Mr. Ahmad's removal. Thus, there is no apparent reason that ICE's failure to provide an informal interview should result in Mr. Ahmad's release."). 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 outright 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—i.e., ordering respondents to provide the informal interview more than two months after the petitioner was detained for removal).

IV. CONCLUSION

For the foregoing reasons, Respondents respectfully request that the Court sustain their objections to the R&R and deny the Petition.

Respectfully submitted,

Dated: January 12, 2026

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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 5,380 words, which complies with the word limit of Local Rule 11-6.1.

Dated: January 12, 2026

/s/ Pushkal Mishra
PUSHKAL MISHRA