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

PHU CAO,	)	
	)	
Petitioner,	)	
	)	
v.	)	**No. CIV-25-1403-G**
	)	
PAMELA BONDI,	)	
Attorney General et al.	)	
	)	
Respondents.	)	

REPORT AND RECOMMENDATION

Petitioner Phu Cao, seeks a writ of habeas corpus under 28 U.S.C. § 2241. Doc. 1.[1] United States District Judge Charles B. Goodwin referred the case to the undersigned Magistrate Judge for initial proceedings under 28 U.S.C. § 636(b)(1)(B), (C). Doc. 3. The United States filed a response, Doc. 11, and Petitioner replied, Doc. 14. So the matter is at issue.

For the reasons set forth below, the undersigned recommends the Court grant, in part, Petitioner's request for habeas corpus relief.

I. Factual background and procedural history.

Petitioner is a citizen of Vietnam who entered the United States in 1985 as a child. Doc. 1, at 1, 10. Petitioner has an extensive criminal history:

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[1] Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

- On August 13, 1993, he was arrested for robbery;
- On August 27, 1993, he was arrested for conspiracy to commit extortion;
- On December 12, 1994, he pleaded no contest to receiving, possessing, or concealing stolen property, for which he received a sentence of two years' imprisonment;
- On December 28, 1994, he was arrested and charged with extortion, for which he received a sentence of two years and 180 days' imprisonment;
- On May 14, 1996, he pleaded guilty to two counts of robbery or attempted robbery with a dangerous weapon, for which he received a sentence of twenty years' imprisonment; kidnapping, for which he received a sentence of ten years' imprisonment; and conspiracy to commit a felony, for which he received a sentence of ten years' imprisonment;
- On May 14, 1996, he pleaded guilty to two counts of extortion, for which he received a sentence of two years and 180 days' imprisonment for each count, for a cumulative total of four years and 360 days' imprisonment;
- On May 14, 1996, he also plead guilty to assault and battery, for which he received a sentence of one year's imprisonment;
- On September 23, 1996, he pleaded guilty to pointing a firearm, for which received a sentence of ten years' imprisonment; and
- On October 16, 1996, he pleaded guilty to robbery or attempted robbery with dangerous weapon, for which he received a sentence of twenty-five years' imprisonment.

Doc. 11, Ex. 1, at 2-3. An Immigration Judge (IJ) ordered Petitioner's removal on February 22, 2007. *Id.* at 2. Petitioner and the United States both "waived appeal, rendering the removal order administratively final on February 22, 2007." Doc. 1, at 1-2. Petitioner was released on an Order of Supervision (OOS)

on August 31, 2007. *Id.* at 2. Petitioner complied with the OOS's requirements to appear for routine check-ins with Immigration and Customs Enforcement (ICE) and updated his address, as required, whenever he relocated. *Id.*

Petitioner alleges that he was wrongfully detained while reporting to his regular check-in on September 9, 2025. *Id.* at 3. He asserts that he was detained despite doing "nothing wrong and remaining in compliance with his OOS." *Id.* He has "applied for travel documents from Vietnam on multiple occasions," and "wants to return to Vietnam." *Id.* However, every request for travel documents he has made has been denied. *Id.* Petitioner applied for travel documents three weeks before being detained. *Id.* He does not have a valid Vietnamese passport but provided ICE with his Vietnamese birth certificate and his most recent application for a travel document to Vietnam. *Id.*

Three weeks after being detained, Petitioner submitted another travel document request to Vietnam. *Id.* "On November 3, 2025, [Petitioner's] Travel Document Request was submitted to ICE headquarters, who is actively working with the State Department to remove [him] to Vietnam." Doc. 11, Ex. 1, at 3.

Petitioner alleges that he was never served with a proper Notice of Revocation of Release explaining why his OOS was being revoked, nor was he afforded any opportunity to challenge any Notice. Doc. 1 at 4. He also states

that Respondents have not served him with a Notice of Custody Determination "or any other written decision explaining what changed circumstances allegedly justified or currently justify his redetention." *Id.*

Petitioner contends that his detention is "designed to send a message to other individuals with final orders of removal that they need to leave the United States or they will be jailed indefinitely and without any process." *Id.* at 4-5. He contends that "[t]he government is not in possession of any credible or persuasive documents or evidence that [his] removal is likely to occur in the reasonably foreseeable future." *Id.* at 4. He maintains that his "aggregate period of civil immigration confinement exceeds six months and continues to grow." *Id.* at 10.

II. Petitioner's claims.

Petitioner alleges that "ICE has denied [him] release because: (A) it incorrectly believes [he] is responsible for reestablishing that removal is not substantially likely to occur in the reasonably foreseeable future, (B) [] seeks to punish [him] for remaining in the United States after previously having been ordered removed, and (C) [] seeks to punish [him] to send a message to similarly situated persons who have not yet been detained as a way to encourage those similarly situated people to immediately leave the United States to avoid [his] fate." *Id.* at 14.

In Count One, Petitioner requests "declaratory judgment pursuant to 28 U.S.C. § 2201 that [he] is detained pursuant to 8 U.S.C. § 1231(a)(1)," "that [he] has previously demonstrated to ICE's satisfaction that there is no significant likelihood of his removal in the reasonably foreseeable future ("NSLRRFF")," "that ICE did not rebut [his] prior NSLRRFF showing prior to redetaining him," and "that until ICE rebuts [his] prior NSLRRFF showing, [he] may not be redetained." *Id.* at 25.

In Count Two, Petitioner alleges that Respondents violated the Immigration and Nationality Act (INA) before redetaining him. *Id.* at 25-26. And he cites the following procedural irregularities as the basis for his claim:

- His redetention was not reviewed or authorized by any member of the Headquarters Post-order Detention Unit ("HQPDU") or ERO HQ;
- His redetention has not been reviewed or authorized by the Executive Associate Commissioner or District Director;
- He has been redetained in the absence of changed circumstances capable of rebutting his prior showing of NSLRRF;
- He has not received a written decision stating the reasons for his redetention; and
- He has not received an individualized post-detention interview to determine whether his OOS should be reinstated or to otherwise allow him to provide information to demonstrate there is NSLRRFF.

Id. at 5-6.

In Count Three, Petitioner raises two due process claims. First, he alleges that "he has served more than six months in civil immigration detention" which violates his due process rights as the Government has not rebutted his prior showing that there was no significant likelihood of his removal in the reasonably foreseeable future. *Id.* at 26-27. And he raises a separate due process claim based on his allegations that he has been detained "to punish him and to otherwise send a message to similarly situated individuals that they must leave the United States to avoid a similar fate." *Id.* at 27.

In Count Four, Petitioner alleges that Respondents violated the Administrative Procedure Act (APA) as "[their] decisions, which represent changes in the agencies' policies and positions, have considered factors that Congress did not intend to be considered, have entirely failed to consider important aspects of the case, and have offered explanations for their decisions that run counter to the evidence before the agencies." *Id.* at 27-28.

Petitioner seeks "immediate release" and the reinstatement of his prior OOS "subject to one caveat"—that it "permit[s] him to reside in New York"

with his wife. *Id.* at 7.[2] He also seeks various forms of declaratory and injunctive relief. *Id.* at 28-29.

He sues Respondents in their official capacities. *Id.* at 10-11.

III. Standard of review.

An application for a writ of habeas corpus "is an attack by a person in custody upon the legality of that custody, and . . . the traditional function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Habeas corpus relief is warranted only if the petitioner "is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). "Challenges to immigration detention are properly brought directly through habeas." *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001)).

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[2] Petitioner also asks the Court to restrain "Respondents from transferring him to a location where he cannot reasonably consult with counsel," and enter "an emergency preliminary order requiring Respondents to give [him] due process prior to removing him" to a third country. Doc. 1, at 6-7. Given the undersigned's recommended disposition of Petitioner's habeas claims, as explained below, Petitioner's requests will be made moot by the adoption of this Report & Recommendation.

IV. Analysis.

Petitioner argues that "ICE has no information that could reasonably lead it to believe changed circumstances exist that justify redetention under 8 C.F.R. § 241.13(i)(2)-(3)." Doc. 1, at 16. He asserts that he satisfies the criteria for release under § 241.4(e), (f). *Id.* at 16-17. He alleges that ICE violated its regulations prior to detaining him, and that there is "[n]o independent alternative basis" to support Respondents' decision to renew his detention. *Id.* at 25-26.

A. Statutory and regulatory framework.

Petitioner contends that his prolonged detention violates 8 U.S.C. § 1231(a). *Id.* at 20. This statute dictates that "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period')." 8 U.S.C. § 1231(a)(1)(A). "During the removal period, the Attorney General shall detain the alien." *Id.* § 1231(a)(2)(A). The removal period begins on the latest of the following dates:

> (i) The date the order of removal becomes administratively final.
>
> (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order.

> (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

Id. § 1231(a)(1)(B).

The removal period may be extended "and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents . . . or conspires or acts to prevent the alien's removal." *Id.* § 1231(a)(1)(C).

Finally, detention of an alien subject to a final order of removal may not be indefinite and is presumptively reasonable for only six months beyond the removal period. *Zadvydas,* 533 U.S. at 701. After that, the detainee may bring a habeas action to challenge his detention. *Id.* at 684-85, 688. To obtain habeas relief, the petitioner has the initial burden to "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. Presuming the petitioner does so, the burden shifts, requiring "the Government [to] respond with evidence sufficient to rebut that showing." *Id.* "[F]or the detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink." *Id.*

B. The Court has jurisdiction to hear Petitioner's claims.

As it has argued in other cases before the Court, the Government contends that 8 U.S.C. § 1252 deprives the Court of jurisdiction to hear Petitioner's habeas claims. Doc. 11, at 25-28.

Section 1252(g) provides that "no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). Section 1252(g) is a "jurisdiction-stripping 'zipper clause,'" which "channel[s] review of all 'decisions and actions leading up to or consequent upon final orders of deportation' in the courts of appeal, following issuance of an order of removal." *Mukantagara v. DHS*, 67 F.4th 1113, 1115 (10th Cir. 2023) (quoting *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482-85 (1999)).

Section 1252(g) is to be read narrowly, *Reno*, 525 U.S. at 482, and it does not cover "all claims arising from deportation proceedings" or impose "a general jurisdictional limitation." *Id.* Instead, it "applies only to three discrete actions that the Attorney General may take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *Id.* Further, the Supreme Court has noted that it is "implausible that the mention of three discrete events along the road to deportation was a shorthand way of referring

to all claims arising from deportation proceedings." *Id.* "'[C]laims that clearly are included within the definition of 'arising from' . . . [are] those claims connected *directly and immediately* with a 'decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.'" *Namgyal Tsering v. ICE*, 403 F. App'x 339, 343 (10th Cir. 2010) (quoting *Humphries v. Various Fed. USINS Emp.*, 164 F.3d 936, 943 (5th Cir. 1999)).

Respondents contend that Petitioner challenges the Attorney General's action taken to execute his order of removal, which would preclude the Court from reviewing his claim. Doc. 11, at 25-26. Petitioner does not ask the Court to review the Attorney General's decision to execute the order of removal, which would be beyond the Court's purview. Instead, he argues, in part, that ICE disregarded its own regulations when it revoked his OOS and the improper revocation violated his due process rights. *See Barrios v. Ripa*, 2025 WL 2280485, at *5 (S.D. Fla. Aug. 8, 2025) ("[T]he Court does have jurisdiction to adjudicate whether Respondents complied with their own [OOS] revocation procedures.").

Likewise, for similar reasons, Respondents' fleeting reference to 8 U.S.C. § 1252(b)(9) also fails to deprive the Court of jurisdiction. Doc. 11, at 27. Section 1252(b)(9) provides that "[j]udicial review of all questions of law and fact,

including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States . . . shall be available only in judicial review of a final order under this section." 8 U.S.C. § 1252(b)(9).

Respondents, relying on *Tazu v. Att'y Gen. United States*, 975 F.3d 292 (3d Cir. 2020), contend that "Petitioner's detention is for the purpose of executing his removal order." Doc. 11, at 27. So, like *Tazu,* "'the legal questions he raises about the scope of the Attorney General's discretion to re-detain him are bound up with (and thus 'arise[e] from') an 'action taken to remove him there.'" *Id.* (quoting *Tazu,* 975 F.3d, at 299).

Petitioner's case is distinguishable from *Tazu.* There, the Government re-detained the noncitizen after previously releasing him on supervised release when it was determined that it was unlikely he would be removed in the foreseeable future. *Tazu,* 975 F.3d. at 294-95. Unlike Petitioner's renewed detention, the Government in *Tazu* detained the noncitizen immediately after receiving a passport from Bangladesh (the noncitizen's native country) to execute his removal order. *Id.* at 295. Here, the central dispute is the lack of any changed circumstances warranting Petitioner's prolonged re-detention. And "[c]hallenges to the length or conditions of an alien's confinement are not directly abut removal." *Id.* at 299. So, § 1252(b)(9) also does not bar review of

Petitioner's claim.

C. Respondents improperly revoked Petitioner's OOS.

In Count Two, Petitioner alleges that Respondents failed to comply with the INA and ICE's applicable regulations "prior to redetaining [him] after [his] release on an OOS." Doc. 1, at 26.

Respondents state that "[Petitioner] was released from [Enforcement Removal Operations (ERO)] custody on an [OOS] under 8 CFR § 241.13, because at the time there was no significant likelihood of removal to Vietnam." Doc. 11, Ex. 1, at 3. So, to revoke Petitioner's OOS and "return [him] to custody" required a determination that "there is a significant likelihood that [Petitioner] may be removed in the reasonably foreseeable future" "on account of changed circumstances." 8 C.F.R. § 241.13(i)(2).

As Petitioner notes, there is no indication that Respondents informed him in writing of the reason for his redetention on September 9, 2025. Doc. 14, at 7. Section 214.4(d) provides that:

> A copy of **any decision** by the district director, Director of the Detention and Removal Field Office, or Executive Associate Commissioner to release or **to detain an alien shall be provided to the detained alien.**

8 C.F.R. § 241.4(d) (emphasis added).[3] Respondents' assertion that "Petitioner

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[3] Section 241.4(d) applies here per § 241.4(b)(4):

was given notice" verbally, Doc. 11, at 29-30, is also contradicted by Petitioner:

> I dispute the accuracy of deportation officer Julio Guzman's claims regarding his interactions with and statements to me. He did not explain to me why I was detained, nor did he tell me that I had an opportunity to explain to him why my supervision should not be revoked or why I should not be detained while the government tries to obtain a travel document for me. If he had given me such opportunities, I would have taken full advantage of them.

Doc. 14, Ex. 1 (Petitioner's Affidavit). Even if Respondents verbally informed Petitioner of the reasons why they revoked his OOS, it still would not constitute proper notice. A review of other district court cases involving renewed detentions to effectuate removal shows that ICE typically will provide the detainee with written notice at some point during detention and provide it to the Court when responding to the detainee's habeas petition. *Zhu v. Genalo*, 2025 WL 2452352, at * 8 (S.D.N.Y. Aug. 26, 2025) (citing cases); *see also Yee S.*

> 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, the alien shall again be subject to the custody review procedures under this section.

v. Bondi, 2025 WL 2879479, at *2 (D. Minn. Oct. 9, 2025) ("The next day, having already detained Petitioner, ICE served a [Notice] on him."); *see, e.g.*, *K.E.O. v. Woosley*, 2025 WL 2553394, at *6 (W.D. Ky. Sept. 4, 2025) (noting that the United States provided the district court a copy of the Petitioner's Notice to correct deficiencies identified by the Petitioner and recognizing that "[she was] entitled to a Notice . . . pursuant to authority delegated by regulation") (internal quotation marks omitted); *Umanzor-Chavez v. Noem*, 2025 WL 2467640, at *2 (D. Md. Aug. 27, 2025) (noting that when Petitioner reported to ICE check-in his OOS "was revoked, and he was served with a notice that ICE intends to remove him to Mexico.") (internal quotation marks omitted).

The importance of properly providing notice is reinforced by § 241.13(i)(3):

> 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.

8 C.F.R. § 241.13(i)(3) (emphasis added). Petitioner cannot "respond to the reasons for revocation stated in the notification" if he was never served with a physical copy in the first instance. And the parties provide no indication that the required informal interview has taken place.

Respondents have also failed to demonstrate to the Court that they made the required determination for revocation under § 241.13(i)(2) before re-detaining Petitioner. This is crucial as "ICE is not permitted to hold [Petitioner] indefinitely while it waits for travel documents from Vietnam." *Tran v. Bondi,* 2025 WL 3140462, at *3 (W.D. Wash. Nov. 10, 2025). Section 241.13(i)(2) provides that ICE "may revoke an alien's release under [§ 241.13] and return the alien to custody if, on account of changed circumstances, . . . [it] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

Respondents state that "[b]ased on the Government of Vietnam's willingness to accept its citizens, and the number of successful removals ERO has made to Vietnam this Fiscal Year . . . removal of [Petitioner] to Vietnam is significantly likely in the reasonably foreseeable future." Doc. 11, Ex. 1, at 4. Regarding the Memorandum of Understanding cited by Petitioner, Doc. 1, at 1, Respondents state that "ICE is currently not recognizing Memorandums of Understanding, and the Government of Vietnam has issued travel documents

for every travel document request ERO has submitted since February 2025." Doc. 11, Ex. 1, at 3-4.

Here, there is no indication that ICE has even submitted Petitioner's travel document requests to Vietnam. Instead, Respondents vaguely assert that ICE headquarters "is actively working with the State Department to remove [Petitioner] to Vietnam." *Id.* at 3. And regardless of whether Respondents are currently recognizing prior Memorandums of Understanding, Respondents overlook that Petitioner has unsuccessfully applied for travel documents from Vietnam on multiple occasions. Doc. 1, at 3. Notably, Petitioner applied for travel documents *three weeks* prior to being detained. Even if the Government has successfully removed pre-1995 Vietnamese detainees this year, Respondents still have provided nothing to the Court to suggest that this time will be different for Petitioner. *Nguyen v. Scott*, 796 F. Supp. 3d 703, 726 (W.D. Wash. 2025) (Government's reliance on declaration that 368 Vietnamese citizens were removed in FY25 "fail[ed] to rebut the evidence presented by Petitioner that his individual circumstances make removal unlikely.").

The declaration and Respondents' brief are wholly lacking in any details about any communication with the Vietnamese government about Petitioner's removal status that would reflect that there is now a likelihood of Petitioner

being removed. While "Courts have recognized that Vietnam is now considering repatriation requests from the United States," it is still done "on a case-by-case basis." *Duong v. Tate*, 2025 WL 933947, at *4 (S.D. Tex. Mar. 27, 2025); *see also Pham v. Bondi*, No. CIV-25-1157-SLP, 2025 WL 3243870, at *2 (W.D. Okla. Nov. 20, 2025) ("Courts have found that such increase in frequency of removals alone does not demonstrate significant likelihood of removal in the reasonably foreseeable future.") (collecting cases). And Respondents have not provided the Court with any information about how ICE has "consider[ed] all the facts of the case including . . . the history of the alien's efforts to comply with the order of removal . . . and the alien's assistance with [ICE's removal] efforts" under 8 C.F.R. § 241.13(f).

The record before the Court establishes that ICE failed to follow multiple regulations when it revoked Petitioner's release and re-detained him. *See Qui v. Carter,* 2025 WL 2770502, at *3-4 (D. Kan. Sept. 26, 2025) (holding that ICE violated its regulations when revoking existing OOS as it did not "provide[] any details or statistics or evidence to support" a determination of changed circumstances). As a result of ICE's failure to provide Petitioner with the required notice before his renewed detention, and lack of apparent determination of changed circumstances necessitating revocation, the undersigned finds that ICE's revocation of Petitioner's OOS was unlawful. *Id.*

at *4 (finding that failure to properly revoke the petitioner's OOS "pursuant to the applicable regulations" rendered revocation ineffective). So, the Court recommends Petitioner's immediate release subject to the same OOS that governed his prior release.[4]

D. Remaining claims.

The undersigned declines to address Petitioner's remaining claims as to how the revocation of his release is otherwise unlawful under the APA or under *Zadvydas*. The undersigned also declines to address Petitioner's request for declaratory judgment as to the legality and nature of his detention under ICE regulations and whether ICE's actions were arbitrary and capricious as his immediate release, if this Report and Recommendation is adopted, moots these requests.

As to Petitioner's remaining requests for injunctive relief, Respondents maintain that Petitioner asks the Court "to issue remarkable relief inappropriate for determination . . . such as a demand for injunctive and declaratory relief, . . . and a demand (for which there appears to be no ripe

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[4] Petitioner's request for the Court to modify his OOS to permit him to reside in New York is improper as granting his request would intrude on the Attorney General's authority to impose "reasonable written restrictions on the alien's conduct or activities that the Attorney General prescribes." 8 U.S.C. § 1231(a)(3).

controversy) that the Court enjoin action for any *future* revocations of [OOSs] or re-detention unless specified conditions are met." Doc. 11, at 9. The undersigned agrees that Petitioner's requests are overly expansive, so the Court should deny Petitioner's requests for the Court to:

- Permanently enjoin Respondents from re-detaining him under 8 C.F.R. § 241.13(i)(2)-(3) unless and until Respondents have obtained a travel document allowing for his removal from the United States;
- Permanently enjoin Respondents from re-detaining him under § 241.13(i)(2)-(3) for more than three days after receiving a travel document; and to
- Permanently enjoin Respondents from deporting him to an allegedly safe third country without first giving him due process in the form of a full merits hearing for asylum, withholding of removal, and deferral of removal under the convention against torture (DCAT) before an IJ relating to the proposed country of removal with a right to an administrative appeal to the Board of Immigration Appeals.

Doc. 1, at 29. "[F]uture decision[s] to detain . . . are appropriately committed to the executive branch, which—subject to compliance with applicable law—has substantial latitude in the execution of immigration enforcement decisions, including as to noncitizens subject to orders of removal." *Funes v. Francis*, 2025

WL 3263896, at 26 (S.D.N.Y. Nov. 24, 2025) (citing *United States v. Texas*, 599 U.S. 670, 679 (2023), then citing *Garland v. Aleman Gonzalez*, 596 U.S. 543, 546-48 (2022)).

V. Recommendation and notice of right to object.

For the reasons set forth above, the undersigned recommends the Court grant Petitioner's request for habeas relief, and order his immediate release from custody subject to the terms of his unlawfully revoked OOS. The undersigned further recommends that the Court order Respondents to submit a declaration pursuant to 28 U.S.C. § 1746 affirming that Petitioner has been released from custody.[5]

The undersigned advises the parties of their right to file an objection to this Report and Recommendation with the Clerk of this Court by December 31, 2025, in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72.[6] The undersigned further advises the parties that failure to make timely

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[5] As noted at the outset of this Report and Recommendation, Petitioner seeks a variety of other forms of relief including an "emergency preliminary order requiring Respondents to provide 72-hour notice of any intended movement of [his person]" and "restraining Respondents from attempting to move [him] from the State of Oklahoma during the pendency of [his] Petition." Doc. 1, at 28. The Court addressed those requests in its order to respond, Doc. 9, so Petitioner's requests are moot.

[6] Given the expedited nature of these proceedings, the undersigned has reduced the typical objection time to this Report and Recommendation to five

objections to this Report and Recommendation waives the right to appellate review of both factual and legal questions contained herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). This Report and Recommendation disposes of the issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 24th day of December, 2025.

SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE

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days. *See* Fed. R. Civ. P. 72(b)(2) advisory committee's note to 1983 addition (noting that rule establishing 14-day response time "does not extend to habeas corpus petitions, which are covered by the specific rules relating to proceedings under Sections 2254 and 2255 of Title 28."); *see also Whitmore v. Parker*, 484 F. App'x 227, 231, 231 n.2 (10th Cir. 2012) ("The Rules Governing § 2254 Cases may be applied discretionarily to habeas petitions under § 2241" and that "while the Federal Rules of Civil Procedure may be applied in habeas proceedings, they need not be in every instance – particularly where strict application would undermine the habeas review process").