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10 **UNITED STATES DISTRICT COURT**
11 **DISTRICT OF ARIZONA**
12

13 Luis Valladares Arenas,

14 *Petitioner,*

15 v.

16 Pamela Bondi, et al,

17 *Respondents.*

No. 2:25-cv-04413-DWL--JZB

REPLY

18 This Reply will focus on two narrow issues: that Respondents failed to follow their own
19 regulations regarding revocation of Petitioner’s release from custody, and that Respondents have
20 alleged no new facts or evidence that the Petitioner’s removal to Cuba is any more reasonably
21 foreseeable than it was nine years ago. Petitioner’s criminal history is entirely irrelevant to these
22 legal questions.

23 Petitioner has been subject to a final order of removal since April 19, 2016. Respondents
24 have been trying to execute that removal order ever since then. Following Petitioner’s most release
25 from Immigration custody on or about August 20, 2021, Petitioner has been reporting as ordered
26 pursuant to his Order of Supervision. *See* Doc. 9-1, Ex. A, pg. 5. On November 20, 2025, Petitioner
27 was arrested by ICE “pursuant to a targeted law enforcement operation.” *Ibid.*

28 Two regulations governing the revocation of release are 8 C.F.R. §§ 241.13(i)(3) and
241.4(l), which require that “upon revocation” the alien “be notified of the reasons for revocation

1 of his or her release” and given “an initial informal interview promptly after his or her return to
2 Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in
3 the notification.” 8 C.F.R. §§ 241.13(i)(3) & 241.4(l). These regulations “were intended to provide
4 due process protections to noncitizens following the removal period as they are considered for
5 continued detention, release, and then possible revocation of release.” *Constantinovici v. Bondi*,
6 2025 WL 2898985, at *5 (S.D. Cal. Oct. 10, 2025).

7 Even by Respondents’ own witness statements, Petitioner was in full compliance with the
8 terms of his supervision. Moreover, a prompt informal interview never took place, and again this
9 is according to Respondents’ witness statements. Thus, Respondents have failed to follow their
10 own regulations, thus demonstrating Petitioner’s high likelihood of success on the merits of his
11 claim.

12 More troubling is the Respondents’ failure to allege, much less produce, evidence of any
13 changed circumstances that would make execution of the removal order any more feasible now
14 than it was in April of 2016. It is well-known that the lack of formal diplomatic relations between
15 the United States and Cuba has historically prevented ICE from executing deportations to Cuba.
16 Petitioner cannot be returned to Cuba, because Cuba historically has been extremely reluctant to
17 accept individuals with criminal records.¹ While in recent years the number of Cubans deported
18 has increased, evidence suggests that Cuba has refused most of the deportees that ICE has attempted
19 to repatriate under the current administration. The number of removals effected continues to remain
20 miniscule compared to the number of outstanding removal orders.² For fiscal year 2025, ICE
21 reported the arrest of 419 Cuban citizens, but within the same fiscal year only 138 Cubans were
22 removed.³ Of these, only 32 Cubans were listed as having criminal convictions. *Id.* There is no

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24 ¹ Lizette Alvarez & Kristin Hussey, *Cubans Convicted in the U.S. Face New Fears of Deportation*, N.Y. Times (Jan.
25 18, 2015) <https://www.nytimes.com/2015/01/19/us/cubans-convicted-in-the-us-face-new-fears-of-deportation.html>
26 [<https://perma.cc/6ANE-23KJ>] (“Other countries also make it difficult for the United States to deport convicted
27 criminals, but Cuba is one of ‘very few’ that block most deportation orders, Ms. Gonzalez said. Among the nations
28 listed in 2011 as ‘recalcitrant,’ as immigration officials call them, are Cambodia, China, India, Iran and Vietnam, and
several in the Caribbean.”).

² Lindsay Daniels, *The End of Special Treatment for Cubans in the U.S. Immigration System: Consequences and
Solutions for Cubans with Final Orders of Removal*, 122 Dick. L. R. 2, 707 (2018),
<https://insight.dickinsonlaw.psu.edu/dlr/vol122/iss2/8/> [<https://perma.cc/G8DG-SETL>] (“There are at least 34,000
Cubans with final orders of removal in the United States, due in large part to criminal convictions.”).

³ U.S. Immigration and Customs Enforcement Administrative Arrest Statistics, <http://www.ice.gov/statistics>

1 indication that the Cuban government’s policy of refusing to accept detainees with criminal records
2 has materially changed even as the United States government has begun re-arresting detainees who
3 were previously released under orders of supervision. Removal to Cuba is not reasonably
4 foreseeable.

5 The parties agree that two 90-day periods of post-removal detention are presumptively
6 reasonable according to the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). According
7 to the Respondents’ witness, Petitioner has been in and out of state and federal custody between
8 February of 2013 and August of 2021. This Court should decline the Respondents’ invitation to
9 parcel out the periods of custody to find that this habeas petition is premature according to
10 *Zadvydas*. Adopting Respondents’ position effectively permits the government to manufacture a
11 “new” removal period, contrary to the core holding of *Zadvydas*, the regulations governing
12 revocation of orders of supervision, and the Due Process Clause of the Fifth Amendment. The
13 Respondents have had almost ten years to effect the Petitioner’s removal. And yet the Respondents
14 have hardly begun to demonstrate the good faith efforts they have made towards this goal.

15 For the reasons stated above and as stated in the Petitioner’s initial brief, a temporary
16 restraining order should issue in this case, returning Petitioner to the state he was in before
17 Respondents violated the law and his rights.

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19 Dated: December 11, 2025

Respectfully submitted,

20 /s/ Benjamin T. Wiesinger

21 Counsel for Petitioner
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(accessed December 11, 2025).

CERTIFICATE OF SERVICE

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On the 11th day of December, 2025, I, Benjamin T. Wiesinger, the undersigned, served via certified U.S. Mail, return receipt requested, the attached Reply on each person/entity listed below addressed as follows:

Theo Nickerson
United States Attorney's Office
District of Arizona
Two Renaissance Square
40 N. Central Avenue, Suite 1200
Phoenix, AZ 85004-4408

I declare under penalty of perjury that the foregoing is true and correct. Executed on 11th day of December 2025, at Phoenix, Arizona.

s/ Benjamin T. Wiesinger