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8 *Attorneys for the Federal Respondents*

9 **UNITED STATES DISTRICT COURT**
DISTRICT OF NEVADA

10 Juak Albino Gabriel Biel,
 11
 12 Petitioner,

13 v.

14 John Mattos, NSDC Warden; Michael
 Bernacke, Field Director, Salt Lake City
 15 Field Office of ICE ERO; Todd Lyons, ICE
 Acting Director; Kristi Noem, DHS
 16 Secretary; Pam Bondi, U.S. Attorney
 General,

17 Respondents.

Case No. 2:25-cv-02432-APG-EJY

**Federal Respondents' Omnibus
 Response to First Amended § 2241
 Petition (ECF No. 11) and
 Motion for Temporary Restraining
 Order (ECF No. 13)**

19 Federal Respondents Kristi Noem, Pamela Bondi, Michael Bernacke, and Todd
 20 Lyons, through undersigned counsel, hereby file this omnibus response to the First
 21 Amended § 2241 Petition (ECF No. 11) and Motion for Temporary Restraining Order
 22 (ECF No. 13) filed by Juak Albino Gabriel Biel ("Petitioner").

23 In 2014, an Immigration Judge ordered Petitioner removed to South Sudan or, in
 24 the alternative, Sudan. Petitioner's Amended Petition challenges his current detention
 25 primarily because, he believes, removal is not reasonably foreseeable. But circumstances
 26 have changed, and South Sudan recently indicated that it will issue Petitioner a travel
 27 document. Furthermore, the delay in obtaining this travel document is attributable to
 28 Petitioner's unwillingness to complete and sign the relevant forms.

1 The remaining grounds in the Amended Petition relate to the possibility that ICE
2 could theoretically remove Petitioner to a country not identified in his removal order. But
3 the possibility that Petitioner may be removed to a country other than South Sudan or
4 Sudan is entirely speculative and now exceedingly unlikely given South Sudan's
5 willingness to provide Petitioner a travel document.

6 Finally, Petitioner's motion for a TRO appears to seek relief on a basis not brought
7 in his Amended Petition: that ICE failed to follow its own procedures when re-detaining
8 Petitioner in May 2025. Setting aside that Petitioner seems unlikely to prevail on an issue
9 not raised in his Amended Petition, the revocation of Petitioner's release was justified by
10 the change in the likelihood of his removal and his numerous violations of his conditions of
11 supervision, and any procedural deficiencies with ICE's revocation of that release are
12 harmless.

13 I. Factual Background

14 Petitioner is a native and citizen of Sudan. ECF No. 11 at 1. In 2009, Petitioner was
15 convicted of two crimes that led to the initiation of removal proceedings in Utah: attempted
16 to possession or use of a controlled substance (cocaine); and fail to stop at command of law
17 enforcement. Exhibit A (Notice to Appear). On July 21, 2014, an Immigration Judge
18 ordered Petitioner removed from the United States to South Sudan. Exhibit B (IJ Order).
19 The court alternately ordered Petitioner removed to Sudan. *Id.* Petitioner waived his right
20 to appeal that decision, and the order of removal became final. *Id.* Also on July 21, 2014,
21 based on this Immigration Judge order, a Warrant of Removal / Deportation issued that
22 Petitioner was subject to removal / deportation pursuant to section 237(a)(2)(B)(i) of the
23 INA. Exhibit C (Warrant of Removal).

24 Following the Order of Removal, Petitioner continued his detention in DHS
25 custody. Following expiration of the mandatory 90-day removal period, ICE concluded
26 that Petitioner "appears to pose a risk to the community," however, ICE released
27 Petitioner from custody pursuant to an Order of Supervision because "removal does not
28 appear likely in the reasonably foreseeable future" Exhibit D (Post Order Custody

1 Worksheet); *see* 8 U.S.C. § 1231(a)(3) (“If the alien does not leave or is not removed within
2 the [90-day] removal period, the alien, pending removal, shall be subject to supervision
3 under regulations prescribed by the Attorney General.”).

4 That Order of Supervision required that Petitioner comply with conditions,
5 including, among others, “[t]hat you appear in person at the time and place specified, upon
6 each and every request of the agency, for identification and for deportation or removal”
7 and “[t]hat you do not commit any crimes while on this Order of Supervision.” Exhibit E
8 (Order of Supervision). Upon leaving custody, DHS notified Petitioner that his release
9 from the initial 90-day detention does not affect his removal and does not constitute an
10 admission to the United States. Exhibit F (Release Notification).

11 While on supervision, Petitioner continued his criminal conduct. A DHS criminal
12 record check shows that since 2014, Petitioner has been arrested dozens of times for crimes
13 such as assault, drug possession, providing false information to police. Sealed Exhibit G
14 (Criminal Record).¹ Moreover, many of those arrests resulted in convictions, including the
15 following from just the last two years:

- 16 - July 2024 convictions for false info to law enforcement and resisting officer;
- 17 - an October 2024 conviction for assault by prisoner;
- 18 - January 2025 convictions for possession or use of controlled substance and
19 interfering with a peace officer; and
- 20 - a February 2025 conviction for possession of controlled substance;
- 21 - a February 2025 conviction for failing to stop at command of law enforcement;
- 22 - an April 2025 conviction for use or possession of drug paraphernalia.

23 Exhibit G at 42-50. Petitioner also violated his conditions of supervision by failing to
24 appear for his check-ins with ICE. According to ICE, Petitioner had not attended a
25 scheduled check in since 2021.

26 On May 24, 2025, ICE encountered Petitioner while he was in Utah state custody
27 on his latest charge. Because conditions had changed, there was now a substantial

28

¹ The full 57-page criminal record check for Petitioner is submitted under seal.

1 likelihood of removal in the reasonably foreseeable future, and ICE took Petitioner into
2 custody on or about May 30, 2025. Exhibit H (Record of Deportable / Inadmissible Alien).

3 Since his detention, Petitioner has repeatedly failed to comply with his obligation to
4 assist in obtaining a travel document. INA § 241(a)(1)(C) requires that Petitioner make
5 timely and good faith efforts to obtain travel or other documents necessary for his removal
6 from the United States. However, Petitioner refused to cooperate with ICE officers in
7 completing his travel document applications on June 11, 2025, July 18, 2025, August 19,
8 2025, September 17, 2025, October 21, 2025, and December 11, 2025. Exhibit I (Failure to
9 Comply Notice and Warnings).

10 On December 13, 2025, ICE submitted his travel forms without his signature to the
11 South Sudanese Consulate. Exhibit J (Travel Document Forms). According to ICE, on
12 January 5, 2026, Petitioner had a telephonic interview with the South Sudanese Consulate,
13 and the Consulate indicated it would be issuing the Petitioner a travel document.

14 **II. Procedural Background**

15 On December 5, 2025, Petitioner filed a pro se Petition for Writ of Habeas Corpus.
16 See ECF No. 1. On December 11, 2025, the Court issued an order appointing the Federal
17 Public Defender as counsel for Petitioner. ECF No. 3. On December 29, 2025, Petitioner
18 filed a First Amended § 2241 Petition and a Motion for Temporary Restraining Order.
19 ECF Nos. 17, 19. Pursuant to the Court's December 11 Order, the deadline for the Federal
20 Respondents to respond to the amended petition is January 5, 2026. ECF No. 20. This
21 omnibus response follows.

22 **III. Relevant Statutory and Regulatory Background**

23 **A. Removal and Detention Under 8 U.S.C. § 1231(a)**

24 Where, as here, an alien is subject to a final order of removal, there is a 90-day
25 "removal period," during which the government "shall" remove the alien. 8 U.S.C. §
26 1231(a)(1). Detention during this period is mandatory. See 8 U.S.C. § 1231(a)(2). And the
27 mandatory removal period begins on the latest of three possible dates: (1) the date an order
28 of removal becomes "administratively final," (2) the date of the final order of any court that

1 entered a stay of removal, or (3) the date the alien is released from non-immigration
2 detention. 8 U.S.C. § 1231(a)(1)(B).

3 There are at least three potential outcomes in the event the government does not
4 remove an alien during the 90-day mandatory removal period. First, the government may
5 release the alien subject to conditions of supervised release. *See* 8 U.S.C. § 1231(a)(3).
6 Second, the government may extend the removal period if the alien “fails or refuses to make
7 timely application in good faith for travel or other documents necessary to the alien’s
8 departure or conspires or acts to prevent the alien’s removal subject to an order of removal.”
9 8 U.S.C. § 1231(a)(1)(C). And finally, the government may further detain certain categories
10 of aliens, including those “inadmissible” under 8 U.S.C. § 1182. *See* 8 U.S.C. § 1231(a)(6).
11 Continued detention under this latter category is often referred to as the “post removal
12 period.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021).

13 The INA does not place an explicit time limit on how long detention during the “post-
14 removal-period” can last. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). But the
15 Supreme Court has held that the government may only detain aliens in the post-removal-
16 period for the time “reasonably necessary to bring about that alien’s removal from the
17 United States.” *Zadvydas*, 533 U.S. at 689. And the Supreme Court further clarified that a
18 six-month period of detention is “presumptively reasonable.” *Id.* at 701. “After this 6-month
19 period, once the alien provides good reason to believe that there is no significant likelihood
20 of removal in the reasonably foreseeable future, the Government must respond with
21 evidence sufficient to rebut that showing.” *Id.*

22 **B. Orders of Supervision**

23 In the event the government does not further detain and instead releases the alien at
24 the end of the 90-day mandatory removal period, the government must do so under
25 conditions of supervised release. *See* 8 U.S.C. § 1231(a)(3) (providing that an alien who
26 “does not leave or is not removed within the removal period ... shall be subject to
27 supervision”). Regulations at 8 C.F.R. § 241.4 govern aliens where “release will not pose a
28 danger to the community or to the safety of other persons or to property or a significant risk

1 of flight pending such alien's removal from the United States.” *Id.* § 241.4(d)(1). Aliens, such
2 as Petitioner, who pose a risk of danger, but are nevertheless released because ICE
3 determined “there is no significant likelihood of removal in the reasonably foreseeable
4 future,” are governed by the regulations at § 241.13.

5 If the alien violates a condition of release, the government can revoke the order of
6 supervision and return the alien to custody. *See* 8 C.F.R. § 241.13(i)(1). In addition, the
7 government can revoke an alien’s release “if, on account of changed circumstances, the
8 Service determines that there is a significant likelihood that the alien may be removed in the
9 reasonably foreseeable future.” *Id.* § 241.13(i)(2). In either scenario, the government must
10 notify the alien of “the reasons for revocation,” and “conduct an initial informal interview
11 promptly” to give the alien “an opportunity to respond to the reasons for revocation stated
12 in the notification.” *See id.* § 241.13(i)(3).

13 **C. Suspension of Removal Under 8 U.S.C. § 1231(a)(1)(C)**

14 As noted above a separate basis for detention of aliens with final orders of removal is
15 via an extension of the removal period in circumstances where the alien “fails or refuses to
16 make timely application in good faith for travel or other documents necessary to the alien’s
17 departure.” 8 U.S.C. § 1231(a)(1)(C). In such cases, the government must serve the alien a
18 “Notice of Failure to Comply,” which sets forth the relevant statutory provisions (8 U.S.C. §§
19 1231(a)(1)(C), 1253(a)) and provides “an explanation of the necessary steps that the alien
20 must take in order to comply with the statutory requirements.” 8 C.F.R. § 241.4(g)(5)(ii).
21 The government must also advise the alien that the “Notice of Failure to Comply shall have
22 the effect of extending the removal period as provided by law, if the removal period has not
23 yet expired,” and that the government is not required to complete any scheduled custody
24 reviews under 8 C.F.R. § 241.4 until the alien has “demonstrated compliance with the
25 statutory obligations.” *Id.* § 241.4(g)(5)(iii).

26 **D. Removal to Third Country**

27 As a general matter, aliens ordered removed “may designate one country to which
28 [he or she] wants to be removed,” and DHS “shall remove the alien to [that] country[.]” 8

1 U.S.C. § 1231(b)(2)(A). In certain cases, however, DHS will not remove the alien to his or
2 her designated country, including if “the government of the country is not willing to accept
3 the alien into the country.” *Id.* § 1231(b)(2)(C)(iii). In that scenario, the alien “shall” be
4 removed to his or her country of nationality or citizenship, unless the country “is not willing
5 to accept” the alien.” *Id.* § 1231(b)(2)(D). If, however, the alien cannot be removed to a
6 country of designation or the country of nationality or citizenship, then the government may
7 consider other options, including “[t]he country from which the alien was admitted to the
8 United States,” “[t]he country in which the alien was born,” or “[t]he country in which the
9 alien last resided[.]” *Id.* §§ 1231(b)(2)(E)(i), (iii)-(iv). Where removal to any of the countries
10 listed in subparagraph (E) is “impracticable, inadvisable, or impossible,” then the alien may
11 be removed to any “country whose government will accept the alien into that country.”
12 *Id.* § 1231(b)(2)(E)(vii); see *Jama v. Immigr. & Customs Enft.*, 543 U.S. 335, 341 (2005).

13 In addition, DHS “may not remove an alien to a country if the Attorney General
14 decides that the alien’s life or freedom would be threatened in that country because of [his or
15 her] race, religion, nationality, membership in a particular social group, or political
16 opinion,” 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. §§ 208.16(a)-(b), 1208.16(a)-(b), or if it is more
17 likely than not that the alien would be tortured, 8 C.F.R. §§ 208.16(c), 208.17, 1208.16(c),
18 1208.17.

19 IV. Argument

20 A. Petitioner’s Request for Injunctive Relief Fails Because He Cannot 21 Establish a Likelihood of Success on the Merits

22 In his Motion, Petitioner seeks an order granting Petitioner’s request for a TRO and
23 ordering Respondents to release Petitioner. ECF No. 13 at 2. In general, the showing
24 required for a temporary restraining order is the same as that required for a preliminary
25 injunction. See *Stuhlberg Int’l Sales Co. v. John D. Brush & Co.*, 240 F.3d 832, 839, n. 7 (9th
26 Cir. 2001). To prevail on a motion for a preliminary injunction, a plaintiff must “establish
27 that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the
28 absence of preliminary relief, that the balance of equities tips in his favor, and that an

1 injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20
2 (2008); *see also Nken v. Holder*, 556 U.S. 418, 426 (2009).

3 Plaintiffs must demonstrate a “substantial case for relief on the merits.” *Leiva-Perez*
4 *v. Holder*, 640 F.3d 962, 967–68 (9th Cir. 2011). When “a plaintiff has failed to show the
5 likelihood of success on the merits, we need not consider the remaining three [*Winter*
6 factors].” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015).

7 The final two factors required for preliminary injunctive relief — balancing of the
8 harm to the opposing party and the public interest — merge when the government is the
9 opposing party. *See Nken*, 556 U.S. at 435. The Supreme Court has specifically
10 acknowledged that “[f]ew interests can be more compelling than a nation’s need to ensure
11 its own security.” *Wayte v. United States*, 470 U.S. 598, 611 (1985); *see also United States v.*
12 *Brignoni-Ponce*, 422 U.S. 873, 878-79 (1975); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d
13 1211, 1220–21 (D.C. Cir. 1981); *Maharaj v. Ashcroft*, 295 F.3d 963, 966 (9th Cir. 2002)
14 (movant seeking injunctive relief “must show either (1) a probability of success on the merits
15 and the possibility of irreparable harm, or (2) that serious legal questions are raised and the
16 balance of hardships tips sharply in the [moving party’s] favor.”) (quoting *Andrieu v. Ashcroft*,
17 253 F.3d 477, 483 (9th Cir. 2001)).

18 **1. Petitioner Cannot Establish a Likelihood of Success on the Merits**
19 **that His Detention Violates *Zadvydas* (Grounds 1 and 2)**

20 **i. ICE is Authorized to Detain and Deport Petitioner**

21 ICE can lawfully detain Petitioner because he is subject to a final order of removal
22 and there is a significant likelihood of removal in the reasonably foreseeable future. ICE’s
23 detention authority stems from 8 U.S.C. § 1231 which provides for the detention and
24 removal of aliens with final orders of removal. Section 1231(a)(1)(A) directs immigration
25 authorities to remove an individual with a final order of removal within a period of 90
26 days, which is known as the “removal period.” During the removal period, ICE must
27 detain the alien. 8 U.S.C. § 1231(a)(2) (“shall detain”). If the removal period expires, ICE
28

1 can either release an individual pursuant to an Order of Supervision as directed by
2 § 1231(a)(3) or may continue detention under § 1231(a)(6).

3 ICE may continue detention beyond the removal period for three categories of
4 individuals: (i) those who are inadmissible to the United States pursuant to section 212 of
5 the INA (8 U.S.C. § 1182); (ii) those who are subject to certain grounds of removability
6 from the United States pursuant to section 237 of the INA (8 U.S.C. § 1227), including, as
7 relevant here, subsection (a)(2); or (iii) those whom immigration authorities have
8 determined to be a risk to the community or “unlikely to comply with the order of
9 removal.” 8 U.S.C. § 1231(a)(6)(A).

10 Petitioner is outside the initial 90-day mandatory removal period which commenced
11 following his order of removal on July 21, 2014. However, he is still eligible for ICE
12 detention beyond the initial ninety days as he is subject to removal under section 237(a)(2)
13 of the INA. (8 U.S.C. § 1227(a)(2)). Specifically, Petitioner was subject to removal /
14 deportation under section 237(a)(2)(B)(i) (“convicted of a violation of (or a conspiracy or
15 attempt to violate) any law or regulation of a State . . . relating to a controlled substance”).
16 *See Exhibit C (Warrant of Removal)*. This order is now final.

17 Because Petitioner has been ordered removed pursuant to section 237(a)(2)(B)(i) of
18 the INA, ICE has statutory authority to detain Petitioner to effectuate his removal order
19 from the United States and he is not entitled to a bond hearing or release as § 1231(a)(6)
20 does not require such process. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 574, 581 (2022)
21 (holding § 1231(a)(6)’s plain text “says nothing about bond hearings before immigration
22 judges or burdens of proof”).

23 **ii. Petitioner’s Detention Does Not Run afoul of *Zavydas*.**

24 Under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the Supreme Court established
25 that detention for up to six months after a final order of removal is “presumptively
26 reasonable.” As the Court explained in *Zadvydas*, detention beyond the 90-day removal
27 period is justified when it is “reasonably necessary” to effectuate removal. *Id.* After six
28 months, the burden shifts to the petitioner to show “good reason to believe that there is no

1 significant likelihood of removal in the reasonably foreseeable future” before the burden
2 reverts to the government to rebut that showing *Id.* at 701. The Supreme Court has
3 recognized that “detention during deportation proceedings [is] a constitutionally valid
4 aspect of the deportation process.” *Demore v. Kim*, 538 U.S. 510, 523 (2003). When
5 evaluating “reasonableness” of detention, the touchstone is whether an alien’s detention
6 continues to serve “the statute’s basic purpose, namely, assuring the alien’s presence at the
7 moment of removal.” *Zadvydas*, 533 U.S. at 699. To set forth a Constitutional violation for
8 § 1231 detention, an individual must satisfy the *Zadvydas* test. *See Castaneda v. Perry*, 95
9 F.4th 750, 760 (4th Cir. 2024) (explaining that “*Zadvydas*, largely, if not entirely forecloses
10 due process challenges to § 1231 detention apart from the framework it established.”).

11 Here, Petitioner’s final Order of Removal was entered in July 2014. As a result,
12 Petitioner’s current period of post-removal-order detention has exceeded the six-month
13 timeframe that *Zadvydas* identifies as *presumptively reasonable*. But crossing that temporal
14 threshold does not itself entitle a detainee to relief. Once the six-month mark passes, the
15 burden shifts to the Petitioner to provide evidence giving rise to a “reason to believe” that
16 there is no significant likelihood of removal in the reasonably foreseeable future. Petitioner
17 has not met that burden.

18 The Petition conclusorily claims that Petitioner is “unremovable” and that he
19 “cannot be removed to Sudan or South Sudan.” ECF 13 at 2, 14. That is no longer
20 accurate, as aliens have been removed to South Sudan as least as early as July 2025.² But it
21 is also incorrect with respect to Petitioner. According to ICE, after Petitioner’s telephonic
22 interview on January 5, 2026, the South Sudanese Consulate has indicated it will provide
23 Petitioner a travel document.

24 Although it has taken about seven months to reach this point, that is because
25 Petitioner refused to complete and sign the application for emergency travel document.
26

27 ² Amy Howe, *Court allows Trump administration to move forward in sending group of immigrants*
28 *to South Sudan*, SCOTUSblog (Jul. 3, 2025), <https://www.scotusblog.com/2025/07/court-allows-trump-administration-to-send-group-of-immigrants-to-south-sudan/>

1 Exhibit I. About three weeks after ICE submitted the forms without his signature,
2 Petitioner received an interview with the South Sudanese Consulate. Petitioner should not
3 be rewarded for drawing out the process by refusing to assist with his travel document
4 application. *Accord* 8 U.S.C. § 1231(a)(1)(C) (“The removal period shall be extended
5 beyond a period of 90 days and the alien may remain in detention during such extended
6 period if the alien fails or refuses to make timely application in good faith for travel or other
7 documents necessary to the alien's departure”).

8 **2. Petitioner’s Challenge to a Possible Third-Country Removal Is**
9 **Speculative (Grounds 3 and 4)**

10 Petitioner cannot establish a likelihood of success on his due process claim because
11 no third-country removal has been identified, designated, or initiated. To the contrary, ICE
12 is pursuing Petitioner’s removal to South Sudan and recently received indication from the
13 South Sudanese Consulate that it will issue Petitioner a travel document.

14 The Ninth Circuit has made clear that, in the context of third-country removals, due
15 process protections—including notice and an opportunity to reopen to pursue withholding
16 or CAT claims—are triggered when the agency identifies a third country of removal. *See*
17 *Sadychov v. Holder*, 565 F. App’x 648, 651 (9th Cir. 2014) (“[A]n applicant is not entitled to
18 have the agency adjudicate claims of relief that relate ‘to a country that nobody is trying to
19 send them to.’”). Here, none of the predicates for those protections are present.

20 At present, DHS has not designated a third country for Petitioner’s removal, nor has
21 it issued a Notice of Removal identifying any third country. Absent such agency action,
22 Petitioner’s due process claim rests entirely on speculation. Until DHS identifies a third
23 country of removal and provides formal notice, there is no cognizable deprivation of liberty
24 or statutory right, and therefore no ripe due process claim for the Court to adjudicate.

25 Because Petitioner has not shown that a third-country removal is occurring—or
26 even imminent—he cannot demonstrate that DHS has failed to provide constitutionally
27 required process. His claim thus fails at the threshold and cannot support the extraordinary
28 relief of a temporary restraining order.

1 **3. Petitioner’s Claim that ICE Improperly Revoked His Supervision**
2 **Is Not Alleged in the Amended Petition.**

3 In the introductory paragraphs of his motion, Petitioner claims his release was
4 improperly revoked and requests a TRO that “prohibit[s] the government from revoking his
5 OSUP without first following the required statutory procedures” ECF 13 at 2. But his
6 Amended Petition does not appear to actually claim in any of the four grounds presented
7 that his detention is unlawful on the grounds that ICE failed to follow the applicable
8 regulations. *See generally* ECF 11. Petitioner cannot prevail on a claim he did not make.

9 Even if the Court considers this issue, the regulations are clear that Petitioner’s
10 supervision is revocable. Because his release in 2014 was based solely on lack of a
11 foreseeable removal, § 241.13 applies. Under § 241.13(i), Petitioner’s supervision could be
12 revoked for violating a condition of release or if there is a significant likelihood that he may
13 be removed in the reasonably foreseeable future. Both apply here. Petitioner violated his
14 conditions of supervision by failing to check in with ICE for the three years preceding his re-
15 detention. He further violated those conditions by committing additional crimes, as
16 evidence by his dozens of state law enforcement arrests and his numerous convictions,
17 including drug offenses, obstruction-related crimes, and assault.

18 Moreover, there can be no dispute that the likelihood of Petitioner’s removal has
19 changed, which justifies revocation on its own under § 241.13(i)(2). Since at least this
20 summer, South Sudan has accepted some removable aliens. Most importantly, as of
21 January 5, 2026, South Sudan indicated it is willing to accept Petitioner.

22 From the documentation available at the time of this filing, it is not clear whether
23 ICE followed the procedures set forth in § 241.13(i)(3), which requires that (a) Petitioner be
24 notified of the reasons for revocation of his release; and (b) Petitioner receive an initial
25 informal interview promptly after his return to custody to afford him an opportunity to
26 respond to the reasons for revocation stated in the notification. Here, there is no written
27 notification in the records available to undersigned counsel, though the regulation does not
28 necessarily require the notice to be written. The Form I-213 (Record of Deportable /

1 Inadmissible Alien) completed upon Petitioner’s re-entry into ICE custody appears to show
2 that Petitioner was interviewed, but it does not mention Petitioner’s revocation of
3 supervision. Exhibit H at 4.³

4 Even assuming ICE did not follow the procedures in § 241.13, the failure to do so
5 would be harmless. *See, e.g.,* *Ladak v. Noem*, 2025 WL 3764016, at *5 (N.D. Tex. Dec. 30,
6 2025). The government has identified here several bases for revocation, and Biel will have
7 an opportunity to reply. As contemplated by § 241.13(i)(3), Petitioner can “submit any
8 evidence or information that he . . . believes shows there is no significant likelihood he . . .
9 be removed in the reasonably foreseeable future, or that he . . . has not violated the order of
10 supervision.” *See Ladak*, 2025 WL 3764016, at *5 (“Because *Ladak* has received more than
11 full notice and an opportunity to be heard, even if the respondents failed to conform to the
12 regulations set forth in Section 241.4(l)(1) and the factors for consideration in re-detention in
13 Section 241.13(f), any error is now harmless in light of the procedures in this case.”). Absent
14 some evidence from Petitioner that the revocation decision was substantively incorrect,
15 there is simply no prejudice to any procedural deficiencies.

16 Alternatively, the Court could order that ICE provide Petitioner with the notice and
17 interview required by § 241.13. In *Rustami v. Noem*, the government did not dispute that the
18 petitioner did not receive the required interview. 2025 WL 3760744, at *4 (D. Kan. Dec. 30,
19 2025). The *Rustami* court found that substitute process was the appropriate remedy, *id.*, and
20 ordered ICE to provide the required interview within 17 days of the issued order, *id.* at *5.

21 Such an outcome would make sense here. Petitioner asks that the Court order him to
22 be released and require that his supervision not be revoked without following the proper
23 procedures. But several justifications for revocation exist, so at any time after Petitioner’s
24 release, ICE could simply re-detain him and make sure to follow the requirements of
25 § 241.13.

26 _____
27 ³ The government attempted to contact the Deportation Officer who appears to have
28 prepared this form, but was unable to reach him. If the government receives additional
information showing that the requirements of § 241.13 were met, it will promptly
supplement this filing.

1 **B. Petitioner Has Failed to Show an Irreparable Harm.**

2 To prevail on their request for injunctive relief, Petitioners must demonstrate
3 “immediate threatened injury.” *Caribbean Marine Servs. Co. v. Baldrige*, 844 F.2d 668, 674
4 (9th Cir. 1988) (citing *Los Angeles Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d
5 1197, 1201 (9th Cir. 1980)). Merely showing a “possibility” of irreparable harm is
6 insufficient. See *Winter*, 555 U.S. at 22. “Issuing a preliminary injunction based only on a
7 possibility of irreparable harm is inconsistent with [the Supreme Court’s] characterization
8 of injunctive relief as an extraordinary remedy that may only be awarded upon a clear
9 showing that the plaintiff is entitled to such relief.” *Id.* Here, because Petitioner’s alleged
10 harm “is essentially inherent in detention, the Court cannot weigh this strongly in favor of”
11 Petitioner. *Lopez Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *10 (N.D.
12 Cal. Dec. 24, 2018).

13 **C. Factors Three and Four also Weigh against Petitioner.**

14 When “the government is a party, [courts] consider the balance of the equities and
15 the public interest together.” *California v. Azar*, 911 F.3d 558, 575 (9th Cir. 2018). And “[i]n
16 exercising their sound discretion, courts of equity should pay particular regard for the
17 public consequences in employing the extraordinary remedy of injunction.” *Weinberger v.*
18 *Romero-Barcelo*, 456 U.S. 305, 312 (1982). Here, an adverse decision would negatively
19 impact the public interest by jeopardizing “the orderly and efficient administration of this
20 country’s immigration laws” by requiring “the Court to severely restrict the discretion of
21 the Attorney General.” See *Sasso v. Milhollan*, 735 F. Supp. 1045, 1049 (S.D. Fla. 1990); see
22 also *Coal. for Econ. Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997) (“[I]t is clear that a
23 state suffers irreparable injury whenever an enactment of its people or their representatives
24 is enjoined.”). The public has an interest in the government’s enforcement of its laws. See,
25 e.g., *Stormans, Inc. v. Selecky*, 586 F.3d 1109, 1140 (9th Cir. 2009) (“[T]he district court
26 should give due weight to the serious consideration of the public interest in this case that
27 has already been undertaken by the responsible state officials in Washington, who
28 unanimously passed the rules that are the subject of this appeal.”).

1 As with the irreparable harm analysis, the “determination of where the public
2 interest lies also is dependent on the determination of the likelihood of success on the
3 merits of the [constitutional] challenge.” *Phelps-Roper v. Nixon*, 545 F.3d 685, 690 (8th Cir.
4 2008), overruled on other grounds by *Phelps-Roper v. City of Manchester, Mo.*, 697 F.3d 685,
5 690 (8th Cir. 2012). While it is “always in the public interest to protect constitutional
6 rights,” *id.*, when, as here, Petitioner has not shown a likelihood of success on the merits of
7 that claim, that presumptive public interest evaporates. *See Preminger v. Principi*, 422 F.3d
8 815, 826 (9th Cir. 2005). Accordingly, Petitioner has not established that he merits an
9 injunction, and the Court should deny this request.

10 **D. For similar reasons, Petitioner’s Amended Petition for Habeas Corpus**
11 **Should be Denied**

12 For the same reasons that Petitioner cannot establish a likelihood of success on the
13 merits sufficient to warrant injunctive relief, his Amended Petition likewise fails and should
14 be denied.

15 As set forth above, Petitioner is subject to a final order of removal and is lawfully
16 detained pursuant to 8 U.S.C. § 1231(a)(6). His detention falls squarely within the statutory
17 framework governing post-removal-order custody, and Supreme Court precedent forecloses
18 his claim to release or a bond hearing under that provision. *See Johnson*, 596 U.S. at 581.
19 Petitioner’s detention is lawful under *Zadvydas*, 533 U.S. 678, because there is a significant
20 likelihood of removal in the reasonably foreseeable future based on his recent interview
21 with the South Sudanese Consulate.

22 Petitioner’s third country due process claims fare no better. As discussed above, his
23 challenge to a purported third-country removal rests on speculation and the absence of any
24 operative agency action. Because DHS has not designated a third country of removal or
25 issued a notice identifying such a country, Petitioner has not suffered any deprivation of
26 process cognizable under the Due Process Clause. *See Sadychov v. Holder*, 565 F. App’x 648,
27 651 (9th Cir. 2014).

1 Finally, habeas relief is not warranted where, as here, the challenged detention is
2 authorized by statute and consistent with constitutional limitations as articulated by the
3 Supreme Court. *See Demore*, 538 U.S. at 523. Petitioner therefore has not demonstrated that
4 his custody violates the Constitution, laws, or treaties of the United States, and his
5 Amended Petition should be denied.

6 **V. Conclusion**

7 For the reasons set forth above, Petitioner has not demonstrated that his continued
8 detention is unlawful or that he is entitled to the extraordinary relief he seeks. Accordingly,
9 Federal Respondents respectfully request that the Court deny the Amended Petition and
10 the Motion for Temporary Restraining Order.

11 Respectfully submitted this 5th day of January 2026.

12 TODD BLANCHE
13 Deputy Attorney General

14 /s/ Richard Anthony Lopez
15 RICHARD ANTHONY LOPEZ
16 Assistant United States Attorney
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Exhibit Index

- 1
- 2 Exhibit A – Notice to Appear (July 1, 2014)
- 3 Exhibit B – Immigration Judge Order (July 21, 2014)
- 4 Exhibit C – Warrant of Removal (July 21, 2014)
- 5 Exhibit D – Post Order Custody Review Worksheet (Oct. 2014)
- 6 Exhibit E – Order of Supervision (Oct. 22, 2014)
- 7 Exhibit F – Release Notification (Oct. 21, 2014)
- 8 Exhibit G – DHS Criminal Record Check (May 30, 2025)
- 9 Exhibit H – Record of Deportable / Inadmissible Alien (May 30, 2025)
- 10 Exhibit I – Notices of Failure to Comply and Warnings for Failure to Depart (June 11,
- 11 2025 to Dec. 11, 2025)
- 12 Exhibit J – Request for Travel Document (Dec. 13, 2025)

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