

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Liban O.,¹

Civ. No. 25-4560 (JWB/ECW)

Petitioner,

v.

Pamela Bondi, *Attorney General*; Kristi Noem, *Secretary of Homeland Security*; Todd M. Lyons, *Acting Director of U.S. Immigration & Customs Enforcement*; Marcos Charles, *Acting Executive Associate Director for Enforcement and Removal Operations*; Peter Berg, *Field Office Director for Enforcement and Removal Operations*; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; and John Doe, *Local Detention Authority*,

**ORDER GRANTING PETITION
FOR WRIT OF HABEAS
CORPUS IN PART**

Respondents.

Nicholas Ratkowski, Esq., Ratkowski Law PLLC, counsel for Petitioner.

Ana H. Voss, Esq., and Friedrich A. P. Siekert, Esq., United States Attorney's Office, counsel for Respondents.

Petitioner Liban O. is a Somali national who has been released since 2011 pursuant to an Order of Supervision and was residing in the community in Minnesota under that Order. In December 2025, the Department of Homeland Security ("DHS") re-detained Petitioner without identifying any violation of the Order of Supervision or any

¹ This District has a policy of using last name initials for any nongovernmental parties in immigration cases.

changed circumstances bearing on removability. Petitioner seeks habeas relief, alleging that his re-detention violates the Due Process Clause of the Fifth Amendment and governing federal regulations. (Doc. No. 1, Petition.)

This Court has jurisdiction to consider Petitioner's challenge to the lawfulness of his detention. *See* 28 U.S.C. § 2241. Petitioner does not challenge the validity of his removal order or the government's decision to commence removal proceedings. He challenges only the lawfulness of his re-detention considering the statutory and regulatory limits that govern DHS's custody authority.

Because Respondents failed to satisfy the regulatory requirements authorizing re-detention, the Petition is granted to the extent it seeks Petitioner's release.

BACKGROUND

Petitioner Liban O. is a Somali citizen who entered the United States on June 24, 1999, as the child of an asylee. (Doc. No. 7, Minner Decl. ¶ 5.) After a series of criminal convictions and sentences served between 2004 and 2010, he was ordered removed from the United States; the order became final on May 17, 2011. (*See* Petition ¶¶ 2–3; Minner Decl., Ex. C.) Petitioner was granted deferral of removal under the Convention Against Torture, which precluded the government from removing him to Somalia. (Petition ¶ 2; Minner Decl., Ex. D.) After Immigration and Customs Enforcement (“ICE”) determined that his removal would not occur in the reasonably foreseeable future, he was released and placed on an Order of Supervision pursuant to 8 C.F.R. § 241.5 and 8 C.F.R. § 241.13. (Petition ¶¶ 4–5.)

Since his release in 2011, Petitioner has complied with all conditions of his Order

of Supervision, including maintaining contact with ICE and appearing for all required check-ins. (*Id.* ¶ 7.) He has had no disciplinary infractions and has not engaged in criminal activity or acts of violence during that period. (*Id.* ¶ 64.)

In early December 2025, President Donald Trump made public statements concerning Somali immigrants living in Minnesota, including statements calling for their removal from the United States. On December 8, 2025, Petitioner was re-arrested at his twentieth regularly scheduled check-in with ICE. (*Id.* ¶ 7.) He has remained detained since that date. (*Id.* ¶ 12.)

Petitioner did not receive a Notice of Revocation of Release prior to his arrest identifying the reasons for his re-detention. (*Id.* ¶ 14.) He did receive a Notice after his detention stating that “[b]ased on changed circumstances,” ICE has “determined that there is a significant likelihood of removal in the reasonably foreseeable future.” (Minner Decl., Ex. F.) The document does not explain what changed circumstances justify revocation of his release. (*Id.*)

Respondents’ exhibits also reflect that an “informal interview” took place on December 8, 2025, the same day as his arrest. (*Id.*) The documentation by the interviewing officer states: “Subject chooses to remain silent and is seeking legal representation.” (*Id.*)

Under Petitioner’s deferral of removal, he cannot be removed to Somalia. (Petition ¶ 16.) On December 15, 2025, DHS filed a Motion to Reopen in Order to Terminate Grant of Deferral of Removal under the Convention of Torture. (Doc. No. 8, Ex. I.) Deportation Officer Angela Minner states in a declaration that this is the first step toward

removing Petitioner “if DHS were to seek removal to Somalia in the alternative.”

(Minner Decl. ¶ 18.) Officer Minner also states that “ICE Headquarters and Removal Operations is actively working with [the] Department of State and the Department of Homeland Security on third country removal logistics for [Petitioner].” (*Id.* ¶ 17.)

However, Petitioner has not been informed, and Respondent’s documents do not reflect, that any third country has agreed to accept Petitioner, or that travel documents have been obtained for his removal to any country. (Petition ¶¶ 13, 17.)

Petitioner contends that his continued detention violates 8 U.S.C. § 241.13, which requires the government before revoking release to determine based on changed circumstances that removal is significantly likely in the reasonably foreseeable future, to provide notice of the reasons for revocation, and to afford the noncitizen an initial informal interview. 8 U.S.C. § 241.13(i)(2), (3).

Petitioner seeks immediate release subject to the conditions of his existing Order of Supervision. He also seeks additional injunctive relief related to removal proceedings. For the reasons set forth below, the habeas petition is granted in part.

DISCUSSION

I. Legal Standard

A writ of habeas corpus may be granted where the petitioner is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3). Federal courts have jurisdiction to decide § 2241 petitions for habeas corpus filed by persons who remain detained after a deportation order has become final. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). The petitioner bears the burden of establishing unlawful detention by a

preponderance of evidence. *See Aditya W. H. v. Trump*, 782 F. Supp. 3d 691, 703 (D. Minn. 2025) (collecting cases).

II. Analysis

A. The Government's Authority to Re-Detain a Noncitizen Released Under § 241.13

The government's authority to detain a noncitizen subject to a final order of removal is limited. Detention beyond the original 90-day removal period is lawful only where removal is significantly likely to occur in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 699–701. When removal is not reasonably foreseeable, continued detention is not authorized, and release under supervision is required. *Id.* at 699.

DHS implemented the requirements of *Zadvydas* through regulations governing post-removal order custody determinations. *See* 8 C.F.R. §§ 241.4, 241.13. Under those regulations, ICE must assess whether there is a significant likelihood that a noncitizen will be removed in the reasonably foreseeable future. *Id.* § 241.13(f). If ICE determines that removal is not reasonably foreseeable and no special circumstances justify continued detention, the noncitizen must be released subject to conditions of supervision. *Id.* § 241.13(g).

That release is not provisional in the sense suggested by Respondents. Once a noncitizen has been released pursuant to § 241.13, ICE's authority to return the individual to custody is limited. The regulations permit revocation of release in only two circumstances: if the noncitizen violates the conditions of supervision, or if changed circumstances arise such that removal is now significantly likely to occur in the

reasonably foreseeable future. *Id.* § 241.13(i). In either case, the regulations impose substantive and procedural constraints on the government's re-detention authority.

Recent decisions in this District have applied these limits consistently. Where a noncitizen has been released after ICE determined that removal was not reasonably foreseeable, the burden rests with the government to establish a lawful basis for revoking that release. *See Yee S. v. Bondi*, No. 25-cv-2782 (JMB/DLM), 2025 WL 2879479, at *4 (D. Minn. Oct. 9, 2025); *Mahamed R. v. Bondi*, No. 25-cv-3196 (LMP/LIB), 2025 WL 2443453, at *4 (D. Minn. Aug. 25, 2025). Absent proof of a supervision violation or changed circumstances demonstrating a realistic prospect of removal, re-detention is not authorized.

These limits are not discretionary. The government is bound to follow the regulations it has promulgated. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954). Where the government fails to comply with those regulations, continued detention is unlawful. *See Yee S.*, 2025 WL 2879479, at *3.

B. ICE Failed to Establish Changed Circumstances or a Significant Likelihood of Removal

Once a noncitizen has been released under § 241.13, re-detention is authorized if the noncitizen violates supervision conditions or if, based on changed circumstances, removal is now significantly likely to occur in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2). The regulation places the burden on the government to make that showing. *See Yee S.*, 2025 WL 2879479, at *4; *see also Zadvydas*, 533 U.S. at 699–701.

Respondents do not contend that Petitioner violated the conditions of his Order of

Supervision. Re-detention therefore can be justified only if ICE identified changed circumstances demonstrating a realistic prospect of removal in the reasonably foreseeable future.

ICE has not done so. The only explanation offered for re-detention is the statement that there were “changed circumstances” and that “removal from the U.S. is now significantly likely in the reasonably foreseeable future.” (Minner Decl. at Ex. F.) That assertion does not identify what has changed, why removal is now likely, or how removal would be accomplished. Standing alone, it does not satisfy § 241.13(i)(2).

The regulation specifies factors ICE must consider in assessing whether removal is significantly likely in the reasonably foreseeable future. Those factors include the noncitizen’s compliance history, ICE’s efforts to secure removal to any country that may accept the noncitizen, the reasonably foreseeable results of those efforts, and the views of the Department of State regarding prospects for removal. 8 C.F.R. § 241.13(f).

Respondents’ filings do not address these considerations in any concrete way.

Respondents state that ICE is “diligently working to coordinate” Petitioner’s removal “to Somalia or a third country.” (Doc. No. 6 at 4.) They point to the fact that DHS has filed a motion to terminate Petitioner’s deferral on October 15, 2025—a motion that was filed after Petitioner’s re-arrest and detention, and which would be a necessary step if DHS were seeking removal to Somalia. However, Petitioner was granted deferral of removal under the Convention Against Torture, which precludes the government from removing him to Somalia. Petitioner’s deferral order remains in effect.

Respondents have not identified any country willing to accept Petitioner. They

have not identified any diplomatic communications, travel document requests, or approvals. They have not provided a timeline for removal or described steps taken toward securing one. And they do not state from which country a travel document is being sought, whether that country has agreed to accept Petitioner, or what progress—if any—has been made. Without such information, removal cannot be found significantly likely to occur in the reasonably foreseeable future, as *Zadvydas* requires.

The absence of changed circumstances is underscored by the history of this case. ICE released Petitioner more than a decade ago after determining that removal was not reasonably foreseeable. Nothing in the present record meaningfully distinguishes the circumstances that led to Petitioner's release from those that exist today.

Decisions from this District applying § 241.13 to similar records have treated the absence of a receiving country, travel documents, or a concrete removal plan as dispositive. *See, e.g., Yee S.*, 2025 WL 2879479, at *4; *Mahamed R.*, 2025 WL 2443453, at *4; *Sarail A. v. Bondi*, No. 25-cv-2144 (ECT/JFD), 2025 WL 2533673, at *7 (D. Minn. Sept. 3, 2025).

On this record, ICE has not met its burden to establish changed circumstances or a significant likelihood of removal in the reasonably foreseeable future. Re-detention therefore was not authorized under § 241.13(i)(2).

C. ICE Failed to Comply with the Procedural Requirements for Revoking Release

Even where ICE could establish a substantive basis for re-detention—which it has not—the regulations impose mandatory procedural requirements governing the

revocation of a noncitizen's release. Those requirements are not optional. The government must follow the regulations it has promulgated. *Accardi*, 347 U.S. at 268.

Under 8 C.F.R. § 241.13(i)(3), ICE must notify the noncitizen of the reasons for revocation of release and conduct an initial informal interview promptly after the noncitizen's return to custody. The interview is intended to give the noncitizen an opportunity to respond to the stated reasons for revocation, including the government's assertion that removal is now significantly likely to occur in the reasonably foreseeable future. *Id.*

Those requirements were not met here. Petitioner did not receive a notice identifying the reasons for revocation of his release prior to re-detention. Serving a revocation notice after Petitioner had already been taken into custody does not satisfy the regulation's notice requirement. *See* 8 C.F.R. § 241.13(i)(3) (requiring notification “[u]pon revocation”); *Yee S.*, 2025 WL 2879479, at *6 n.9.

The deficiencies here also go beyond timing. The notice that Petitioner received after his re-detention was not sufficient. Notification “of the reasons for revocation”—which is what ICE's regulations require in § 241.13(i)(3)—means more than providing a conclusory statement that circumstances have changed or that removal is being pursued. It requires an explanation of what has changed and why those changes alter the prior determination that removal was not reasonably foreseeable. *See Mahamed R.*, 2025 WL 2443453, at *3. No such explanation was provided.

Petitioner also did not receive a meaningful initial informal interview. While it appears a meeting labeled an “Informal Interview” occurred on the day of his arrest (*see*

Minner Decl. at Ex. F), there is no indication that ICE conducted an interview at which evidence could be examined or at which Petitioner was given an opportunity to respond to the asserted basis for re-detention.

The defective notice provided to Petitioner obstructed his ability to “respond to the reasons for revocation stated in the notification” since the notification did not actually state any reasons for revocation. *See Mahamed R.*, 2025 WL 2443453, at *3 (stating a similar scenario bordered on “the Kafkaesque”). And notes from the interviewer reflect that Petitioner sought legal representation for the interview. (Minner Decl. at Ex. F.)

The interview is not required only to confirm identity or to record silence of a noncitizen. Its purpose is to allow the noncitizen to respond to ICE’s assertion that removal is now significantly likely. There is no evidence that the interview was rescheduled or that a meaningful interview has since taken place. This absence is not a technical defect. It is the mechanism the regulation provides to test whether the government’s claim of changed circumstances is supported by evidence. *See* 8 C.F.R. § 241.13(i)(3).

Where the government fails to comply with the procedural requirements governing re-detention, continued custody is not authorized. *See Accardi*, 347 U.S. at 268. Decisions applying § 241.13 to similar procedural records have treated the absence of notice and a meaningful initial interview as dispositive and ordered release. *See Yee S.*, 2025 WL 2879479, at *3–4; *Mahamed R.*, 2025 WL 2443453, at *3; *Sarail A.*, 2025 WL 2533673, at *4–6.

Here, ICE failed to provide the notice and interview required by § 241.13(i)(3).

Re-detention is therefore not authorized on procedural grounds independent of the substantive deficiencies discussed above. Accordingly, Petitioner must be released immediately.

Because Petitioner is ordered released, Petitioner's other arguments supporting his release are not addressed. *See United States v. Turechek*, 138 F.3d 1226, 1229 (8th Cir. 1998).

Petitioner also seeks broader injunctive relief restricting future re-detention and removal. That relief is not warranted on this record. Having ordered Petitioner's release, there is no showing of a present or imminent risk that ICE will again detain or remove Petitioner in violation of governing law. Possible or speculative future harm is insufficient to support further injunctive relief. *See Northland Ins. Cos. v. Blaylock*, 115 F. Supp. 2d 1108, 1116 (D. Minn. 2000). Nothing in this Order precludes future custody action taken in compliance with applicable statutes and regulations.

ORDER

Based on the foregoing, and on all the files, records, and proceedings in this case, **IT IS HEREBY ORDERED** that:

1. Petitioner Liban O.'s Emergency Petition for Writ of Habeas (Doc. No. 1) is **GRANTED IN PART**.

2. Respondents must release Petitioner from custody immediately, and in any event no later than 10:00 am CT on December 19, 2025, subject to and in accordance with the conditions in his preexisting Order of Supervision dated August 15, 2011.

3. No later than 10:00 a.m. CT on December 19, 2025, counsel for

Respondents must provide a declaration pursuant to 28 U.S.C. § 1746 affirming that Petitioner was released from custody consistent with this Order.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Date: December 17, 2025

s/ Jerry W. Blackwell
JERRY W. BLACKWELL
United States District Judge