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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

DANIEL RACHID YOUNAN,

Petitioner,

v.

MARK BOWEN, *et al.*,

Respondents.

No. 5:25-cv-03347-DMG-PD

FEDERAL RESPONDENT'S OPPOSITION TO PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER

[*Declaration of Jorge Suarez filed concurrently herewith*]

Honorable Dolly M. Gee
United States District Judge

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I. INTRODUCTION

Pro se petitioner Daniel Rachid Younan, a native and citizen of Egypt—currently a detainee in immigration custody since October 23, 2025, who has a final removal order against him—filed a petition for writ of habeas corpus asking the Court to order his release. *See* Pet. for a Writ of Habeas Corpus ("Petition"), Dkt. No. 1. He claims mainly that there is no good reason to believe he will be deported to Egypt in the reasonably foreseeable future. *See, e.g., id.* at 14 (citing *Zadvydas v. Davis*, 533 U.S. 678 (2001)). He further claims that the government revoked his Order of Supervision (OSUP) without notice and an opportunity to be heard. *Id.* at 15. Petitioner simultaneously filed an Application for Temporary Restraining Order and Preliminary Injunction seeking essentially the same relief. *See* App. for Temporary Restraining Order & Preliminary Injunction ("TRO"), Dkt. No. 3.

Contrary to Petitioner's allegations, ICE expects to effectuate Petitioner's removal to Egypt in the reasonably foreseeable future. DHS has applied to Egypt for a travel document and the application remains under active consideration.[1] Decl. of Jorge Suarez ("Suarez Decl.") ¶12. As such, Petitioner's Application fails to carry the extremely high burden for a TRO release. Accordingly, the Application should be denied.

Very similar TRO applications filed on behalf of Vietnamese detainees have been denied in this District via decisions correctly explaining why they fail to meet the very high governing evidentiary and procedural standards for a TRO. *See Hung Huu Anh Hoang v. Kristi Noem et al.*, 5:25-cv-03177-JLS-RAO [Dkt. no. 10] (Dec. 4, 2025 order denying application for TRO); *Nghia Giang Nguyen v. Mark Bowen et al.*, 5:25-cv-03109-MCD-ADS [Dkt. no. 12] (Dec. 1, 2025 order denying application for TRO). The same outcome should be reached here.

Petitioner is detained for purposes of enforcing his final removal order. To that end, DHS revoked his OSUP. On or around the day of his re-arrest, Petitioner was

[1] Due to this reason, DHS has not made any request for removal to a third country.

afforded sufficient process due to him under the applicable regulations and the U.S. Constitution. He was issued a notice of revocation stating that ICE determined he can be removed from the United States pursuant to the outstanding removal order against him (Suarez Decl. ¶ 10) was provided with an informal interview giving Petitioner an opportunity to respond to the revocation of his order of supervision. *(id.* ¶ 11). Contrary to Petitioner's assertions, Egypt has been issuing travel documents to its nationals and accepting their return *(id.* ¶15).

For these reasons, the TRO Application should be denied.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Egypt. Suarez Decl. ¶ 4. On or about June 25, 1984, Petitioner was admitted to the United States as a lawful permanent resident. *Id.*, ¶ 5.

A. Final Order of Removal

On December 14, 2009, Petitioner was ordered removed to Egypt and both sides waived appeal. Suarez Decl. ¶ 6. Petitioner filed a motion to reopen his immigration proceedings on December 26, 2017, which an Immigration Judge denied on September 20, 2018. *Id.*, ¶ 7. On December 3, 2018, Petitioner filed an appeal of the Immigration Judge's denial of the motion to reopen, which the Board of Immigration Appeals denied on April 5, 2019. *Id.*, ¶ 8.

B. Petitioner's Detention

On October 23, 2025, Petitioner was taken back into ICE custody for removal. Suarez Decl. ¶ 9. On the same day, Petitioner was served with a Notice of Revocation of Release. *Id.*, ¶ 10. Also on October 23, 2025, an informal interview was conducted by the arresting office in which Petitioner had an opportunity to respond to the revocation of his order of supervision. *Id.*, ¶ 11.

C. Removal to Egypt

On or about November 12, 2025, ICE submitted a travel document request to the Consulate of Egypt. Suarez Decl. ¶ 12. On November 19, 2025, Petitioner refused to be

interviewed by the Egyptian Consulate. *Id.*, ¶ 13. On December 3, 2025, Petitioner was served with a failure to comply notice. *Id.*, ¶ 14. Egypt has been issuing travel documents to its nationals and accepting the return of its nationals. *Id.*, ¶ 15.

III. STANDARD OF REVIEW

Courts have recognized very few circumstances justifying the issuance of an ex parte temporary restraining order. *See Reno Air Racing Ass'n., Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Where a litigant seeks their ultimate relief by preliminary injunctive means, that is improper since "judgment on the merits in the guise of preliminary relief is a highly inappropriate result." *Senate of California v. Mosbacher*, 968 F.2d 974, 978 (9th Cir. 1992).

IV. ARGUMENT

A. Petitioner Has Not Shown a Likelihood of Success on the Merits Because He Has Not Established That "There Is No Significant Likelihood of Removal in the Reasonably Foreseeable Future"

Here, with a valid final order of removal, ICE may re-detain under 8 U.S.C. § 1231(a)(6), for post-removal-period detention, as well as under 8 U.S.C. §1357 (a), general immigration enforcement authority.

As an initial matter, there is no jurisdiction to contest the government's decision to detain Petitioner pending his removal pursuant to a final removal order. 8 U.S.C. § 1252(g) provides that for "Judicial review of orders of removal":

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of title 28, or any other

> habeas corpus provision, and sections 1361 and 1651 of such title, 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 against any alien under this chapter.

Even if the detention decision were reviewable in District Court, the INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). When a noncitizen receives a final removal order, their detention is mandatory for the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's discretion under 8 U.S.C. § 1231(a)(6). 8 U.S.C. § 1231(a)(6) provides that an alien ordered removed who is inadmissible under section 1182, removable under 1227(a)(1)(C), (a)(2), or (a)(4), or who has been determined to be a risk to the community or unlikely to comply with the order of removal "may be detained beyond the removal period."

Here, Petitioner does not identify any basis for contesting his removal from the United States. And as discussed above, claims contesting removal in District Court are generally barred by 8 U.S.C. § 1252(g), which permits the government to enforce final removal orders without judicial review except in certain narrowly delimited circumstances not present here. To the extent a non-citizen wishes to contest such final removal orders, they have other legal process available—not a District Court lawsuit.

Petitioner contends that his detention is improper, however, because it is too prolonged. He asserts that he has been in post-removal order detention since October 23, 2025, a total of 54 days of detention, placing him under the total six-month presumptive limit of *Zadvydas*.

Petitioner incorrectly states in his Habeas Corpus Petition that "The Zadvydas grace period lasts for 'six month after a final order of removal – that is, three months after the statutory removal period has (sic) ends'" (Petition at 12). This period contemplated by *Zadvydas* is for the time in detention *any time* after a final order of

removal has been issued.

Assuming Petitioner was detained past the six-month limit, his claim still fails. It is important to emphasize how the Supreme Court ruled in *Zadvydas* and what the exact constitutional standard is:

> After this 6–month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing. And for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. This 6–month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.

Zadvydas, 533 U.S. at 701. Thus, the noncitizen "may be held in confinement until it has been determined that there *is no significant likelihood of removal in the reasonably foreseeable future.*" *Id.* (italic emphasis added).

The Ninth Circuit has explained that the *Zadvydas* language requires an alien to show that "he is stuck in a 'removable-but-unremovable limbo,' as the petitioners in *Zadvydas* were[;]" that is, the alien must show he "is unremovable because the destination country will not accept him or his removal is barred by our own laws." *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008).

Here, there is certainly a significant likelihood that Petitioner will be removed in the reasonably foreseeable future. Shortly after Petitioner was taken into detention, Respondents then submitted his travel document request to Egypt on November 12 of 2025. *See* Suarez Decl., ¶ 12. There is no evidentiary bar against Petitioner's removal to Egypt, and Respondents are arranging for that removal. *See Id.*, ¶ 15.

Courts therefore properly deny *Zadvydas* claims under such circumstances and

find that a "habeas petitioner's assertion as to the unforeseeability of removal, supported only by the mere passage of time, [is] insufficient to meet the petitioner's burden to demonstrate no significant likelihood of removal under the Supreme Court's holding in *Zadvydas*." *Muthalib v. Kelly*, 2017 WL 11696616, at *3 (C.D. Cal. Apr. 19, 2017) (collecting cases). "This is particularly so where the only impediment to removal is the issuance of the appropriate travel document." *Id. (citing Nasr v. Larocca*, 2016 WL 3710200 (C.D. Cal. June 1, 2016), *report and recommendation adopted*, 2016 WL 3704675 (C.D. Cal. July 11, 2016)). That Petitioner does not yet have a specific date of anticipated removal does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008).

Accordingly, the TRO Application should be denied.

A. Petitioner's Allegations about Procedural Deficiencies in His Re-detention Do Not Establish a Basis for a TRO

Petitioner argues that he was denied notice of the reasons for revocation of his release, violating the Petitioner's constitutional right to due process. However, Petitioner was both served with a Notice of Revocation and provided with an informal interview giving Petitioner a chance to respond to the revocation of his order of supervision. As the Ninth Circuit recognized, "[w]hile the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation 'when, in the opinion of the revoking official ... [t]he purposes of release have been served ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would no longer be appropriate.'" *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010), citing §§ 241.4(l)(2)(i), (iv) (emphasis in original).The government is thus broadly authorized to exercise its discretion to revoke such release pursuant to 8 CFR § 241.1(l)(1), and 8 CFR § 241.4(l)(2).

While a small number of District Court decisions have found that a supervised

release was not properly revoked, such decisions generally (1) involve a non-citizen's detention *during* their removal proceedings (i.e. before the non-citizen has yet been found removable by an Immigration Court), rather than their detention after an administratively final removal order is issued; (2) typically involve no revocation documentation at all—which is not the case here. Contrary to Petitioner's contention that the Notice of Revocation did not provide reasons, the Notice of Revocation is attached hereto as Exhibit A and states:

> This letter is to inform you that your case has been reviewed and it has been determined that you will be kept in the custody of the U.S. Immigration and Customs Enforcement (ICE) at this time. This decision has been made based on a review of your file and/or your personal interview on account of changed circumstances in your case. ICE has determined that you can be removed from the United States pursuant to the outstanding order of removal against you.
>
> Based on the above, and pursuant to 8 C.F.R. § 241.4, you are to remain in ICE custody at this time.

(Notice of Revocation of Release).

Consequently, there were not deficiencies in the revocation of Petitioner's release as alleged. Assuming for the sake of argument that there were, the appropriate remedy for any such procedural deficiency would *not* be automatic release from custody, but rather to remedy the specific procedural deficiency that might be established. That is consistent with the well-established principle that injunctive relief must be *narrowly tailored* to the specific wrong at issue. *See e.g. Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1214 (9th Cir. 2022).

Other District Courts have correctly applied this point. In *Ahmad v. Whitaker*, for example, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner

argued that revocation of his release was unlawful because, he contended, the federal regulations prohibited re-detention without, among other things, an opportunity to be heard. *Id.* In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of Massachusetts held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation … should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order.... Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

The Honorable Judge Birotte Jr. recently denied a TRO seeking to assert such a re-detention procedure challenge. *See Sanchez v. Bondi*, No. 5:25-cv-02530-AB, 2025 U.S. Dist. LEXIS 196639, at *13 (C.D. Cal. Oct. 3, 2025) (order denying TRO). Indeed, much like Petitioner's argument here, the Court noted that "[p]etitioner has not produced evidence showing that the SDDO lacked authority to revoke supervision or that ICE's procedures were fundamentally flawed. Even more, the absence of additional details regarding the identity of the SDDO or a formal interview, while potentially imperfect under the regulations, does not negate the statutory authority provided by § 1231(a)(2)–(6)." *Id.* at *7. *See also Ton v. Noem*, No. 5:25-CV-02033-SB, 2025 WL 2995068, at *1 (C.D. Cal. Sept. 3, 2025) (denying preliminary injunction to petitioner who was born in refugee camp in Hong Kong and came to the United States 45 years ago).

Even if there were violations of release revocation procedure, which have not been established, they would not warrant a TRO barring detention.

A. Petitioner's Request for a TRO against Third Country Removal Is Unsupported by Any Evidence: He Is Being Removed to Egypt

Petitioner claims he should be granted a bar against third country removals. But he submits no evidence that he faces such a removal. This is not a third country removal case. Respondents are taking steps to remove the instant Petitioner to his home nation of Egypt—not a third country. *See* Suarez Decl. ¶ 12. There are no barriers to removing him to Egypt, he has not been told he will be removed to another country, and individuals in his situation are routinely removed to Egypt. He does not have a bar against removal to his home nation like a CAT claim or withholding of removal granted by an Immigration Court. To routinely order a bar on third country removals—with no evidence that such a removal is at issue—anytime a noncitizen raises a *Zadvydas* claim would transgress upon the heavy standard required for granting a TRO.

A. Alleged Violations of the APA Are Not Grounds for Release

Petitioner's argument that he should be released for violations of the APA should be rejected. Only final agency action is reviewable under the APA. *See Bennett v Spear*, 520 U.S. 154, 177-78 (1997). A court may set aside such final agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706. Under this standard, "[t]he scope of [the Court's] review is narrow; … 'a court is not to substitute its judgment for that of the agency.'" *Judulang v. Holder*, 565 U.S. 42, 52-53 (2011) (citation omitted). For a district court to review an agency's action pursuant to 5 U.S.C. § 706(2), there must be a "final agency action" that can be reviewed. Two conditions must be met for there to be a "final agency action" sufficient for APA review: "First, the action must mark the consummation of the agency's decision making process . . . it must not be of a merely tentative or interlocutory nature. And second, the action must be one by which rights or obligations have been determined, or from which legal consequences will flow." *Gallo Cattle Co. v. U.S. Dep't of Agric.*, 159 F.3d 1194, 1198-99 (9th Cir. 1998) (internal quotation and citations omitted); see also *FTC v. Standard Oil Co.*, 449 U.S. 232, 241 (1980) (action must be a definitive

statement of the agency's position).

The Honorable Judge Blumenfeld rejected a similar APA argument denied in *Ton v. Noem*, 5:25-cv-02033-SB-AGR, 2025 WL 2995068, at *1 (C.D. Cal. Sept. 3, 2025) (order denying application for PI). Like here, the petitioner Ton "provide[d] little more than conclusory assertions about the facts and the law" in support of the APA argument. Id. at p.6. The Court concluded that "Plaintiff has not shown in these circumstances that there is a final agency action subject to APA review, much less that the government failed to observe its own procedures in reaching its decision." *Id.* at *5. The Court should reach the same conclusion here.

A. Petitioner Has Not Shown He Will Suffer Irreparable Harm Absent a TRO

Finally, Petitioner has not demonstrated that he will suffer irreparable injury absent his release. To show irreparable harm, he must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League*, 634 F.2d 1197, 1201 (9th Cir. 1980)). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

Petitioner is subject to a final order of removal, and the government has taken steps to effectuate his removal to his country of origin in the foreseeable future. Petitioner's re-detention is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012). He has not shown extraordinary circumstances warranting the emergency relief requested.

B. The Balance of Interests Favors the Respondents

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g., United States v. Martinez-Fuerte*, 428 U.S.

543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"); *see also Noem v. Vasquez Perdomo*, No. 25A169, 2025 WL 2585637, at *2 (U.S. Sept. 8, 2025) (Kavanaugh, J. concurrence) (finding the equities favor the government in enforcing its current immigration priorities "given the millions of individuals illegally in the United States, the myriad 'significant economic and social problems' caused by illegal immigration, and the Government's efforts to prioritize stricter enforcement of the immigration laws enacted by Congress.") (internal citation omitted). This public interest outweighs Petitioner's private interest here. The government has valid reasons and statutory bases for detaining him to effectuate his removal pursuant to his valid final removal order.

V. CONCLUSION

For all the above reasons, the Respondents respectfully request that Petitioner's *Ex Parte* TRO Application be denied.

Respectfully submitted,

Dated: December 16, 2025

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondent, certifies that the memorandum of points and authorities contains 3,580 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 16, 2025

/s/ Patrick J. Kearney
PATRICK J. KEARNEY