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UNITED STATES DISTRICT COURT

Southern District of California

JUANA BEBSABE FLORES LARA,

Petitioner,

v.

CHRISTOPHER J. LaROSE ; *et al.*,

Respondents.

Case Number: 3:25-cv-03565-RSH-DEB

PETITIONER'S TRAVERSE AND MEMORANDUM IN SUPPORT OF PETITION

Respondent's Return urges the court to deny the petition for three reasons. First, it says the court has no jurisdiction. Second, it says that petitioner may soon be removed. Third, it says that the DHS may ignore the law and regulations with impunity. None of these arguments have any merit.

Jurisdiction

Respondents first argue that 8 U.S.C. § 1252(g) prohibits this court from even considering whether petitioner's detention because it lacks jurisdiction. This argument is belied by both the statute and case law.

8 U.S.C. § 1252(g) divests the court of jurisdiction to review actions that the Attorney General may take to *commence* proceedings, *adjudicate* cases, or *execute* removal orders. (emphasis added). Here, petitioner is not asking the court to review any actions related to the *commencement* of proceedings, the *adjudication* of cases, or the *execution* of a removal order. Petitioner challenges the purely legal question of whether she is subject to revocation of her parole and mandatory re-detention without any change in circumstances or explanation after the DHS released her on her own recognizance. So, the statute does not apply to this habeas corpus petition by its own words.

Moreover, the case law reached the same conclusion. Section 1252(g) should be ready narrowly to apply "only to three discrete actions that the Attorney General may take: her 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.' " *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *see also Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (holding that constitutional challenge to prolonged detention without bond-hearing requirement is not barred by 8 U.S.C. § 1226(e)). "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." *Reno*, 525 U.S. at 482. Thus, Section 1252(g) does not "sweep in any claim that can technically be said to 'arise from' the three listed actions of the Attorney General." *Jennings*, 583 U.S. at 294. *See Vasquez Perdomo v. Noem*, 790 F. Supp. 3d 850, 884-85 (C.D. Cal. 2025). Therefore, § 1252(g) does not strip the Court of jurisdiction. *See, e.g., Navarro Sanchez v. Larose et al.*, 25-cv-2396 JES (MMP), 2025 WL 2770629, at *2 (S.D. Cal. Sept. 26, 2025) (finding the Court had jurisdiction in a similar matter); *Noori v. Larose et al.*, 25-cv-1824 GPC (MSB), 2025 WL 2800149, at *7–8 (S.D. Cal. Oct. 1, 2025) (samc).

Likelihood of Removal in Foreseeable Future

Second, respondents argue that *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001) does not compel respondents to release petitioner from detention. Petitioner disagrees. Here is why.

First, the six-month presumptively reasonable period for removal has passed for Petitioner. Petitioner has been the subject of a final order of removal since at least 2022. She has been at the immigration jail since March 3, 2025—a total of 302 days (or 9 months, 27 days).

"Courts in the Ninth Circuit, and most courts across the country, calculate detention "cumulatively based on all post-removal order detentions to determine whether *Zadvydas*'s presumption of reasonableness is exceeded." *Phan v. Warden of **Otay Mesa** Det. Facility*, Case No.: 25-cv-02369-AJB-BLM, 2025 WL 3141205, at *3 (S.D. Cal. Nov. 10, 2025) (collecting cases). Petitioner's detention totals over ninth months. Thus, the Court must consider whether Respondents have shown that Petitioner's removal is reasonably foreseeable. See *Zadvydas*, 533 U.S. at 699-700. Under *Zadvydas*, the burden is on the petitioner to first provide a "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. If the petitioner makes this showing, then the burden shifts to the government to "respond with evidence sufficient to rebut that showing." *Id.*" *Joseph v. Casey, et al.*, No. 3:25-CV-3560-JES-KSC, 2025 WL 3751705, at * 4. (S.D. Cal. Dec. 29, 2025).

In this case there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. This is so for a few reasons. First, the DHS has not removed petitioner since 2022. Second, petitioner still has a motion to reopen pending before the Board of Immigration Appeals. Respondents apparently are waiting for the BIA to rule on the motion to reopen. Given the enormous volume of cases at both the EOIR and BIA, this could take years. If the BIA grants the motion to reopen, we start the removal case all over again. If the BIA denies the motion to reopen, petitioner will file a petition for review with the Ninth Circuit Court of Appeals. The filing of a petition for review in the Ninth Circuit triggers a stay of removal. The Ninth Circuit case will also take years. Finally, respondents say they have petitioner's travel documents to Honduras but have provided no evidence. Since we are looking at years of litigation even if the BIA denies the motion to reopen, there is no likelihood that petitioner will be removed any time soon.

So, the court should reinstate the Order of Supervision.

Unlawful Revocation of Order of Supervision.

Third, Respondents candidly admit that their agents did not follow the regulations pertaining to the revocation of an Order of Supervision. That is, respondents admit that their agents provided little or no written notice of revocation and failed to conduct the required informal interview. Nevertheless, respondents argue that this unlawful behavior did not prejudice the petitioner. Respondents are wrong. Petitioner is suffering almost the ultimate prejudice. The United States has unlawfully detained her in the immigration jail for over ninth months now. Petitioner has lost her liberty. Other that losing her life, this is the highest prejudice. There is no stay in effect to prevent petitioner's removal to Honduras. The fact that she is still stuck at the immigration jail implies that it is not likely that petitioner will be removal in the reasonably foreseeable future.

Respondents apparently believe that the law and regulations do not apply to them. They can do what they want with impunity. But if the law and regulations do not apply to them, then they do not apply to anyone. The state of nature without law is a terrifying "war of all against all" and life is "solitary, poor, nasty, brutish, and short." Hobbes, Thomas. *Leviathan*. 1651. Fortunately, the United States Constitution still remains the supreme law of the land and we are still a nation subject to the rule of law. The law and regulations apply to all and they matter.

For instance, the Southern District of California recently granted a habeas petition relating to a similar unlawful revocation of an Order of Supervision, where the noncitizen received a conclusive and perfunctory Notice of Revocation. *Joseph v. Casey, et al.*, No. 3:25-CV-3560-JES-KSC, 2025 WL 3751705, at * 3. (S.D. Cal. Dec. 29, 2025). The court explained that the revocation language in that case was substantially similar, if not identical, to language from other notices that courts within this Circuit have held to be not sufficient. *See, e.g., Van Nguyen v. Noem*, No. 3:25-CV-3062-JES-VET, 2025 WL 3251374, at *3 (S.D. Cal. Nov. 21, 2025). (finding conclusory language in notice that said revocation was based on a "review of your official alien file and a determination that there are changed circumstances in your case" and that "[y]our case is under current review for removal to an alternate country"); *Saengphat v. Noem et al.*, No. 3:25-CV-2909-JES-BLM, 2025 WL 3240808, at *7 (S.D. Cal. Nov. 20, 2025) (finding same language in notice to

be too "conclusory" to provide adequate notice); *McSweeney v. Warden of **Otay Mesa** Det. Facility*, No. 3:25-CV-02488-RBM-DEB, 2025 WL 2998376, at *5 (S.D. Cal. Oct. 24, 2025) (holding that language in notice stating that "ICE has determined that you can be expeditiously removed from the United States pursuant to an outstanding order of removal" was "conclusory and unclear" and failed to provide adequate notice of the basis of the revocation decision); *J.L.R.P., v. Wofford et al.*, No. 1:25-CV-01464-KES-SKO (HC), 2025 WL 3190589, at *7 (E.D. Cal. Nov. 14, 2025) (holding that same language in the notice of revocation of release "did not provide any specific changed circumstance applicable to petitioner"). The concession that the respondents failed to provide adequate notice of the revocation of the order of supervision is enough to grant this petition.

Similarly, the failure to conduct a prompt interview is another reason to grant the petition. The court in *Joseph v. Casey* also explained that Courts have routinely found a due process violation where no informal interview took place after the revocation of release. *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (collecting cases); *Constantinovici v. Bondi*, No. 3:25-CV-02405-RBM-AHG, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (due process violation where "[n]othing in the record indicates that Petitioner was provided with an interview in connection with the revocation of his release or otherwise afforded an opportunity to respond to the reasons for his re-detention"); *Delkash v. Noem*, No. 5:25-CV-01675-HDV-AGR, 2025 WL 2683988, at *5 (C.D. Cal. Aug. 28, 2025) (same where there was "no evidence that [petitioner] has been afforded an informal or formal interview"); *Phan v. Noem*, No. 3:25-CV-02422-RBM-MSB, 2025 WL 2898977, at *4 (S.D. Cal. Oct. 10, 2025) (finding same where no interview was conducted).

For these reasons, the court should order petitioner's release on the same terms as her prior Order of Supervision.

DATED: 30 December 2025

Respectfully submitted,

/s/ William Baker
William Baker (157 906)
MORENO & ASSOCIATES