UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:25-cv-25866-RKA

JOSE TOMAS FLORES-VERA,

Petitioner,

vs.

PAM BONDI, et al.,

Respondents.
_____/

RESPONDENTS' RETURN/RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS AND MEMORANDUM OF FACT AND LAW IN SUPPORT OF SAME AND MOTION TO DISMISS FOR LACK OF JURISDICTION

Respondents[1] file this Return to Plaintiff's Verified Petition for Writ of Habeas Corpus [D.E. 1] (hereinafter the "Petition"), respond to Court's Order dated December 15, 2025[2] [D.E. 3], and move to dismiss petition for lack of jurisdiction. As to the merits, as set forth below, this action should be dismissed as Petitioner is properly detained pursuant to 8 U.S.C. § 1231(a)(6).

I. FACTUAL BACKGROUND

Petitioner, Jose Flores-Vera, is a native and citizen of Cuba who arrived in the United States on May 17, 1980, and was paroled. **Exhibit A**: Form I-213, Record of Deportable/Inadmissible

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner admits to being detained at Florida Soft-Sided Facility-South (FSSFS), which is located in Ochopee, Florida, but does not name the warden or director of this institution. D.E. 1 ¶ 3. Respondents Pam Bondi, Kristi Noem, Kelie Walker, Nelson Perez, David L Neal, Todd M. Lyon, Jason Reding Quinones and Elisa Sukkar are not Petitioner's immediate custodians. Therefore, they should be dismissed as improper parties.

[2] The Court's December 15, 2025 Order directs Respondents to address all arguments "on the merits, *even if* the Respondent is asserting procedural defenses to some or all of the claims." D.E. 3 ¶ 2. Consequently, this Response address both the merits of Petitioner's claim and procedural deficiencies with the Petition. This Return/Response challenges the Court's jurisdiction to hear the petition, and the merits of the Petition.

Alien (I-213), dated 11.15.25. On May 17, 1984, Petitioner was convicted in the Superior Court of New Jersey of possession of cocaine, a controlled dangerous substance, with intent to distribute. **Exhibit B**: Conviction Records. He was sentenced, *inter alia,* to serve one year of probation, 180 days of incarceration, and pay a fine of $10,000. *Id.*

As a result of this conviction, Petitioner was placed in exclusion proceedings before an Immigration Judge. **Exhibit C**: Form I-122, Notice to Applicant for Admission Detained for Hearing before Immigration Judge; **Exhibit D:** Form I-110. He was charged under former INA §§ 212(a)(23) and (20), as an alien convicted of possession of a schedule II narcotic drug with intent to distribute and as an alien not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other valid entry document required by the Immigration and Nationality Act. Exh. C. On February 26, 1988, an immigration judge ordered Petitioner excluded and deported from the United States. *See* D.E. 1 at 1-2. On July 1, 1991, the Board of Immigration Appeals (BIA) dismissed Petitioner's appeal. *See* D.E. 1 at 1-2. As such, Petitioner's exclusion order became administratively final. *See* 8 C.F.R. § 1241.1(a) (order of removal made by immigration judge at conclusion of proceedings under INA § 240 becomes final upon BIA's dismissal of appeal); *see also* 8 C.F.R. § 243.1 (1984) (order of deportation becomes final upon BIA dismissal of appeal).

On or about June 30, 2014, Petitioner was released on an Order of Supervision (OSUP). **Exhibit E**: 2017 I-213; **Exhibit F**: DHS Declaration ¶ 10. On or about July 18, 2017, Petitioner was encountered by ICE, his OSUP revoked, and he was taken into ICE custody. **Exhibit G:** Notice of Revocation of Release dated July 18, 2017. Exh. F ¶ 11; **Exhibit H**: Detention History. On or about October 24, 2017, Petitioner was released from ICE custody pursuant to another OSUP. Exh. F ¶ 12; Exh. H.

On November 15, 2025, ICE revoked Petitioner's OSUP and took him into ICE custody to effectuate removal. **Exhibit I**: Notice of Revocation of Release dated November 15, 2025. He was afforded an informal interview to give him an opportunity to respond to the reasons for the OSUP revocation. *Id.*; Exh. F ¶ 13. Petitioner is presently detained at the Florida Soft-sided Facility – South. *Id.* ¶ 14; Exh. H. On December 12, 2025, Petitioner filed the Petition and requested this Court stay his imminent removal, order his release from custody, enjoin Respondents from detaining or deporting him, and award reasonable costs and fees. D.E. 1 at 18. Petitioner is detained under the authority of 8 U.S.C. § 1231(a)(6).

II. ARGUMENT

As explained in more detail below, the Petition fails for jurisdictional reasons as well as on its merits. Specifically, this Court lacks jurisdiction because Petitioner is not detained in this district. Instead, he is detained in Ochopee, Florida, which falls within the Middle District of Florida. Additionally, the Court lacks subject matter jurisdiction to enjoin the removal order or to enjoin Petitioner's transfer pursuant to 8 U.S.C. § 1252(g), which provides that "no court shall have jurisdiction to hear any cause or claim by . . . any alien arising from the decision or action by [DHS] to . . . execute removal orders against any alien." Thus, the Court lacks jurisdiction to grant the relief requested.

Even if these jurisdictional hurdles are ignored, the Petition must still be dismissed on the merits because (1) ICE lawfully detained Petitioner pursuant to 8 U.S.C. § 1231(a); (2) Petitioner's claim is premature and his 27-day detention[3] is presumptively reasonable under the framework set forth in *Zadvydas v. Davis*; and (3) ICE's revocation of release comports with regulation and due process.

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[3] Petitioner was detained on November 15, 2025. Thus, Petitioner was detained for 27 days when he filed the Petition and has been detained for 60 days at the time of this filing.

A. Petition Must be Dismissed for Lack of Jurisdiction.

i. Court Lacks Jurisdiction Because Petitioner is confined within the Middle District of Florida.

Although Petitioner claims that at the time of filing, he was currently detained "within this judicial district", this is contradicted by Petitioner's own Petition which asserts he is currently held at Florida Soft-Sided Facility-South (FSSFS), which is located in Ochopee a municipality in Collier County, Florida. D.E. 1 ¶ 3; Exh. F ¶ 14; *See* 28 U.S.C. § 89(b) (explaining the counties, which includes Collier County, that comprise the Middle District of Florida). Accordingly, Petitioner's district of confinement is the Middle District of Florida.

Section 2441 allows "the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus only "within their respective jurisdictions." 28 U.S.C. § 2441(a). According to the Supreme Court, the "within their respective jurisdiction" phrase means "that a Section 2441 petitioner challenging his present physical custody must file a petition for writ of habeas corpus in the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004). "In challenges to present physical confinement…the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Padilla*, 542 U.S. at 435-40, 439.

Recently, the Supreme Court reiterated this rule and clarified that in habeas petitions filed by immigration detainees, "jurisdiction lies in only one district: the district of confinement" *Trump v. J.G.G.*, 604 U.S. 670, 672 (2025) (citing *Padilla*, 542 U.S. at 426, 443). In *J.G.G.*, the Supreme Court found that detainees in Texas improperly filed a putative class action in the District of Columbia challenging their detention. ("The detainees are confined in Texas, so venue is improper in the District of Columbia.").

Similarly, courts in this district, citing *Padilla*, previously dismissed habeas petitions for lack of jurisdiction filed by immigration detainees located outside the Southern District of Florida or alternatively, transferred the matter to the correct district. *See Ali v. Florida Soft Side South*, 26-cv-20098-Gayles (S.D. Fla. Jan. 9, 2026) (sua sponte transferring habeas corpus claim filed in Southern District of Florida where custodian was FSSFS to Middle District of Florida) attached as **Exhibit J**; *Zhang v. United States*, 21-CV-81382-ALTMAN, 2021 U.S. Dist. LEXIS 162725, at *2-3 (S.D. Fla. Aug. 25, 2021) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Glades County Jail, in Glades County, Florida, because jurisdiction lies in the district of confinement); *Dolme v. Barr*, 20-CV-24106-Altman, 2020 U.S. Dist. LEXIS 197596, at *2-3 (S.D. Fla. Oct. 21, 2020) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Wakulla County Jail, in Wakulla County, in the Northern District of Florida, because jurisdiction lies in the district of confinement); *see also Fernandez v. United States*, 941 F.2d 1488, 1495 (11th Cir. 1991) ("Section 2241 petitions may be brought only in the district court for the district in which the inmate is incarcerated."); *Price v. Immigr. & Custom Enf't*, No. 1:20-CV-4746-AT-JSA, 2020 WL 13544293, at *1 (N.D. Ga. Nov. 30, 2020), report and recommendation adopted sub nom. *Price v. U.S. Immigr. Customs Serv. (ICE)*, No. 1:20-CV-4746-AT, 2020 WL 13544292 (N.D. Ga. Dec. 18, 2020) (transferring matter to correct district).

Accordingly, Respondents respectfully request this Petition be dismissed for lack of jurisdiction, or in the alternative, transferred to the Middle District of Florida where Petitioner is currently detained and was detained at the time of his Petition.

ii. Court Lacks Jurisdiction to prevent execution of removal order.

Petitioner seeks an order that bars ICE from executing Petitioner's removal order by requesting his immediate release, barring his transfer and an order enjoining his removal from the

United States. D.E. 1 at 18. However, this Court is without jurisdiction to grant such relief. Federal law precludes a district court from interfering with government's decision or action to execute orders of removal. 8 U.S.C. § 1252(g). Section 1252(g) states that "no court shall have jurisdiction to hear any cause or claim by . . . any alien arising from the decision or action by [ICE] to . . . execute removal orders against any alien." 8 U.S.C. § 1252(g). This provision applies "notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision." *Id.*

As the Eleventh Circuit explained, "Section 1252(g) bars review over "any" challenge to the execution of a removal order—and makes no exception for those claiming to challenge the government's "authority" to execute their removal orders." *Camarena v. Dir., Immigr. & Customs Enf't*, 988 F.3d 1268, 1273 (11th Cir. 2021) (holding that were there is challenge to the validity of a removal order, district courts lack jurisdiction to hear any "cause or claim brought by an alien arising from the government's decision to execute a removal order"). The petitioners in *Camerana* were in virtually identical situations as Petitioner, in that like here (a) they did not challenge the order for removal, (b) stayed in the U.S. via an order of supervision for years, and (c) filed habeas petitions once DHS attempted to execute its orders of removals. Under these circumstances, the Eleventh Circuit found that the court lacked jurisdiction to interfere with the execution of the removal orders pursuant to section 1252(g). *Id.* at 1272-73.

Here, as the petitioners in *Camarena*, Petitioner does not challenge the validity or existence of the order of removal, but instead argues that DHS should be prevented from executing its removal order and requests an injunction indefinitely staying his removal and ordering his immediate release. D.E. 1 at 15, 18. Putting aside Petitioner's premature *Zadvydas* challenge addressed below, Petitioner explicitly asks the district court enjoin DHS from executing its

removal order and stay his removal indefinitely. *Id.* Nevertheless, pursuant to Section 1252(g) as explained by *Camarena*, this Court lacks jurisdiction to grant such relief. *See also Rivera-Amador v. Rhoden*, No. 3:25-CV-1460-WWB-SJH, 2025 WL 3687452, at *3 (M.D. Fla. Dec. 19, 2025) (holding that section 1252(g) "divests the Court of jurisdiction" from enjoining respondents from detaining and deporting petitioner subject to a removal order); *Viana v. President of United States*, No. 18-CV-222-LM, 2018 WL 1587474, at *2 (D.N.H. Apr. 2, 2018) (Petitioner's "requested relief, a stay from removal, would necessarily impose a judicial constraint on immigration authorities' decision to execute the removal order, contrary to the purpose of § 1252(g)."); *Mapoy v. Carroll*, 185 F.3d 224, 230 (4th Cir. 1999) (holding that district court lacked jurisdiction to hear a challenge to execution of order of deportation pursuant to § 1252 (g)); .*Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *3 (S.D. Fla. Aug. 8, 2025) ("The Court finds that § 1252(g) deprives it of subject-matter jurisdiction over Respondents' decision to revoke the OSUP…").

Congress did not give courts jurisdiction to stay removals or reopen removal orders, and in fact, stripped district courts of the ability to interfere with ICE's execution of removal orders. As such, this court must deny any request by Petitioner enjoining his removal or interfering with the execution of the removal order (such as his immediate release) for lack of jurisdiction.

B. Petitioner's Claims Fail on the Merits Because ICE is Authorized to Detain and Deport Him.

ICE can lawfully detain Petitioner because he is subject to a final order of removal and can be detained under 8 U.S.C. § 1231(a)(6). Further, following Supreme Court precedent, his claim that his detention violates the Due Process Clause because his removal is allegedly not foreseeable is not well-founded at this early point in his detention.

ICE lawfully detained Petitioner pursuant to 8 U.S.C. § 1231(a).

ICE's detention authority stems from 8 U.S.C. § 1231 which provides for the detention and removal of aliens with final orders of removal. Section 1231(a)(1)(A) directs immigration authorities to remove an individual with a final order of removal within a period of 90 days, which is known as the "removal period." During the removal period, ICE must detain the alien. 8 U.S.C. § 1231(a)(2) ("shall detain"). If the removal period expires, ICE can either release an individual pursuant to an Order of Supervision as directed by § 1231(a)(3) or may continue detention under § 1231(a)(6). ICE may continue detention beyond the removal period for three categories of individuals: (i) those who are inadmissible to the United States pursuant to 8 U.S.C. § 1182; (ii) those who are subject to certain grounds of removability from the United States pursuant to 8 U.S.C. § 1227; or (iii) those whom immigration authorities have determined to be a risk to the community or "unlikely to comply with the order of removal." 8 U.S.C. § 1231(a)(6)(A).

As such, because Petitioner is present in the United States unlawfully, ICE has statutory authority to detain Petitioner to effectuate his removal order from the United States and he is not entitled to a bond hearing or release as § 1231(a)(6) does not require such process. *See Johnson v. Arteaga-Martinez*, 596 U.S. 573, 574, 581 (2022) (holding § 1231(a)(6)'s plain text "says nothing about bond hearings before immigration judges or burdens of proof"). Petitioner's detention is therefore lawful under § 1231(a)(6) and this Court should dismiss his Petition.

C. Under the framework set forth in *Zadvydas v. Davis*, Petitioner's claim that there is no significant likelihood of removal is premature as his detention is presumptively reasonable.

In Count I, Petitioner conclusively claims that his detention is unreasonable under the Fifth Amendment because there is no significant likelihood of removal in the reasonably foreseeable future to Cuba relying on *Zadvydas v. Davis* as the sole authority. Ironically, *Zadvydas v. Davis*

offers no reprieve to Petitioner and, contrary to Petitioner's position, establishes a presumption that Petitioner's 60-day detention is reasonable and his constitutional challenge premature. As conceded by Petitioner, the Supreme Court set forth a framework to mount a Due Process challenge to post-final order detention in *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001) (holding that while the government cannot indefinitely detain an alien before removal, detention for up to six months is "presumptively reasonable").

In *Zadvydas*, the Supreme Court avoided the "serious constitutional threat" presented by a "literal" interpretation of 8 U.S.C. § 1231(a)(6), which could authorize "indefinite, perhaps permanent, detention" in some circumstances, *id.* at 688, 699 and held that § 1231(a)(6) "authorizes the Attorney General to detain a removable alien ... only for a period reasonably necessary to secure the alien's removal." *Id.* at 682. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Id.* at 699. The Court recognized a six-month "presumptively reasonable period of detention." *Id.* at 701. "[A]fter that, the alien is eligible for conditional release if he can demonstrate that there is 'no significant likelihood of removal in the reasonably foreseeable future.' " *Clark v. Martinez*, 543 U.S. 371, 378 (2005) (quoting *Zadvydas*, 533 U.S. at 701).5 See also Zadvydas, 533 U.S. at 689 (After six months, if a non-citizen subject to a removal order "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.").

However, the "6–month presumption, of course, does not mean that every alien not removed must be released after six months." *Zadvydas*, 533 U.S. at 701. "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." *Id.* Thus, Zadvydas "places an initial burden on the

detainee" to establish that the "no significant likelihood" standard has been met. *Callender v. Shanahan*, 281 F. Supp. 3d 428, 434 (S.D.N.Y. 2017). "Only if he makes this initial showing does the burden shift back to the government, which 'must respond with evidence sufficient to rebut that showing.' " *Beckford v. Lynch*, 168 F.Supp.3d 533, 539 (W.D.N.Y. 2016) (quoting *Zadvydas*, 533 U.S. at 701).

Relying on *Zadvydas*, courts routinely deny habeas petitions filed with less than six months of detention. *See, e.g., Rodriguez-Guardado v. Smith,* 271 F. Supp. 3d 331, 335 (D. Mass. 2017) ("As petitioner has been detained for approximately two months as of this date, the length of his detention does not offend due process."); *Julce v. Smith*, No. CV 18-10163-FDS, 2018 WL 1083734, at *5 (D. Mass. Feb. 27, 2018) (deeming habeas petition "premature at best" as it was filed after three months of post-final order detention); *Farah v. U.S. Att'y Gen.,* 12 F.4th 1312, 1332-33 (11th Cir. 2021) ("If after six months he is still in custody and has not been removed from the United States, then he can challenge his detention under section 1231(a). But until then, his detention is presumptively reasonable under *Zadvydas*."), *overruled on other grounds by Santos-Zacaria v. Garland*, 598 U.S. 411, 419-23 & n.2 (2023); *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (holding that the "six-month period ... must have expired at the time [the petitioner's] § 2241 petition was filed in order to state a claim under *Zadvydas*"); *Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009) ("[B]ecause only 53 days elapsed between the final removal order and the filing of the petition, Gozo's *Zadvydas* claim is premature."); *Espinoza-Sorto v. Agudelo*, 2025 WL 3012786, *7 (S.D. Fla. Oct. 28, 2025) (holding that a noncitizen's habeas challenge to his detention under 8 U.S.C. § 1231 "is premature" where "Petitioner has only been detained for four months"); *Barrios v. Ripa*, 2025 WL 2280485, *8 (S.D. Fla. Aug. 8, 2025) (holding that that a noncitizen's habeas challenge to his detention under 8 U.S.C.

§ 1231 "is premature" where the noncitizen filed his petition significantly before the 6-month period set by the Supreme Court in *Zadvydas)*. "Therefore, in order to state a claim under *Zadvydas* the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Akinwale*, 287 F.3d at 1052 (holding that petition filed four months after detention failed to state a cause of action and must be dismissed without prejudice).

Here, Petitioner's Due Process challenge fails on two fronts. First, since he has only been detained for sixty days (as of this response) and only twenty-seven days before he filed the Petition, his detention falls well within the six month presumptively reasonable period established by *Zadvydas* making this Petition premature and subject to dismissal. Second, there is no non-speculative indication in the record that his removal is not reasonably foreseeable. *Callender*, 281 F. Supp. 3d at 434–35 (holding that petitioner must present more than "mere assertions that removal is unforeseeable" and that petitioner cannot rely upon the fact that the government has not yet obtained travel documents and must establish that the bottleneck is not due to petitioner's own efforts to litigate); *see also Juma v. Mukasey*, 2009 WL 2191247, at *3 (S.D.N.Y. July 23, 2009) (holding that allegation that consulate/embassy will not issue travel documents legally insufficient to establish that removal is not foreseeable). Thus, Petitioner's bare assertions based on personal conjecture that removal to Cuba is not permitted are legally insufficient. Thus, Count I fails on the merits.

D. ICE's revocation of release comports with regulation and the Constitution.

In Count II, Petitioner argues that his detention is unlawful under 8 U.S.C. § 1231 (a)(3) and (a)(6) because (1) there is no significant likelihood that he will be removed in the reasonably

foreseeable future[4], and (2) because ICE failed to comply with the statutory requirements governing post-order custody, Petitioner's detention violates 8 U.S.C. § 1231(a)(3) and (a)(6). As explained above, there is no evidence that his removal is not foreseeable, and his detention is presumptively reasonable under the framework of *Zadvydas*. Additionally, as addressed below, DHS complied with statutory and regulatory requirements in revoking his order of supervision as it provided Petitioner notice, an informal interview and an opportunity to address the reasons for the revocation. Ex. F ¶ 13.

While 8 U.S.C. § 1231(a)(3) is silent as to revocation procedures for an individual released pursuant to an Order of Supervision, ICE issued Post-Order Custody Regulations ("POCR") contained at 8 C.F.R. § 241.4 to set forth mechanisms concerning custody reviews, release from ICE custody, and revocation of release for individuals with final orders of removal. The regulatory provisions concerning revocation of release are contained at 8 C.F.R. § 241.4(l) and provide significant discretion to ICE to revoke release. *See Leybinsky v. U.S. Immigr. & Customs Enf't,* 553 F. App'x 108, 110 (2d Cir. 2014) (Remarking on the "broad discretionary authority the regulation grants ICE" to revoke release); *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (Explaining that while the revocation 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 …."). For example, they provide for revocation in additional circumstances such as when ICE's Field Office determines that "[t]he purposes of release have been served," or when "[i]t is appropriate to enforce a removal order . . . against an alien," or when "[t]he conduct of the alien, *or any other circumstance,* indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2)(i)-(iv) (emphasis added).

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[4] Arguments concerning the reasonableness of his detention and the lack of evidence that there is a bar of removal to Cuba are addressed *supra* in sec. C.

When ICE revokes release of an individual under 8 C.F.R. § 241.4(l), ICE must conduct an "informal interview" to advise the individual of the basis for revocation and must also serve the individual with a written notice of revocation. *Id.* If ICE determines revocation remains appropriate after conducting the informal interview, then ICE will provide notice to the individual of a further custody review that "will ordinarily be expected to occur within approximately three months after release is revoked." 8 C.F.R. § 241.4(l)(3).

However, ICE is not required to "conduct a custody review under these procedures when [ICE] notifies the alien that it is ready to execute an order of removal." 8 C.F.R. § 241.4(g)(4); *Rodriguez-Guardado*, 271 F. Supp. 3d at 335. Further, if ICE determines in its "judgment [that] travel documents can be obtained, or such document is forthcoming, the alien will not be released unless immediate removal is not practicable or in the public interest." 8 C.F.R. § 241.4(g)(3).

ICE complied with the POCR Regulations to arrest Petitioner

Here, the Assistant Field Office Director ("AFOD") issued Petitioner a written revocation notice on November 15, 2025, explaining that ICE was revoking his release pursuant to its discretion under 8 C.F.R. §§ 241.4(l)(2)(i)-(iv). *See* Exh. I. Per the revocation notice, Petitioner was notified that he "will promptly be afforded an informal interview and the opportunity to respond to the reasons for the revocation and to provide evidence to demonstrate that your removal is unlikely." *Id.* Moreover, Petitioner was given notice of the reasons for revocation, was provided an interview and had opportunity to respond to the revocation. Exh. F ¶ 13.

In revoking Petitioner's supervised release, ICE complied with the regulation that allows revocation when ICE determines that it "is appropriate to enforce a removal order . . . against an alien" and when ICE finds that the "purposes of release have been served." 8 C.F.R. § 241.4(l)(2). When ICE "determined that revocation was necessary to initiate [] removal … [n]o further

justification was required." *Doe v. Smith*, No. 18-cv-11363-FDS, 2018 WL 4696748, at *11 (D. Mass. Oct. 1, 2018). The regulation does not require the AFOD "to make a formal determination that his revocation was in the public interest[,]" instead, the AFOD has "discretion to determine when revocation is appropriate." *Id.* The regulation provides a "short and straight path for immigrants whom the government is ready and able to remove." *Alam v. Nielsen*, 312 F. Supp. 3d 574, 582 (S.D. Tex. 2018). As such, ICE has ample justification per its regulation to revoke release. *See Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *5 (S.D. Fla. Sept. 9, 2025) (holding that § 241.4(l) provides government has "extraordinarily broad discretion to revoke an OSUP" under similar circumstances); *Barrios*, 2025 WL 2280485, at *4 (noting the broad discretion afforded to revoke an OSUP when effectuating an order of removal and that such a decision is not subject to judicial review under §1252(g)).

Courts routinely conclude that compliance with the POCR regulations protect an individual's constitutional rights while detained while executing a removal order. *See, e.g., Moses v. Lynch*, No. 15-cv-4168, 2016 WL 2636352, at *4 (D. Minn. Apr. 12, 2016) ("When immigration officials reach continued-custody decisions for aliens who have been ordered removed according to the custody-review procedures established in the Code of Federal Regulations, such aliens receive the process that is constitutionally required."); *Portillo v. Decker*, No. 21-cv-9506 (PAE), 2022 WL 826941, at *6 (S.D.N.Y. Mar. 18, 2022) (collecting cases supporting the conclusion that the POCR framework has routinely been deemed constitutional and noting that petitioner had not "cite[d] legal authority in support of his generalized laments about the administrative process").

Because Petitioner does not demonstrate that ICE violated any specific procedures under the applicable regulations—§ 241.4— Count II fails and his petition should be denied. *See, e.g.*, *Perez v. Berg*, No. 24-cv-3251 (PAM/SGE), 2025 WL 566884, at *7 (D. Minn. Jan. 6, 2025),

report and recommendation adopted, No. 24-cv-3251 (PAM/ECW), 2025 WL 566321 (D. Minn. Feb. 20, 2025) (finding no due process violation "[a]bsent an indication that ICE failed to comply with its regulatory obligations in some more specific way"); *Doe*, 2018 WL 4696748, at *7 (dismissing habeas claim where "there was no regulatory violation" in connection with custody reviews).

E. Like Count II, Count III also fails because DHS followed regulations governing revocation.

In Count III, Petitioner claims that DHS regulations strictly govern the revocation of an Order of Supervision and require notice of the reasons for revocation and a prompt informal interview affording him the opportunity to respond to the reasons for revocation as stated in the notification. Specifically, he claims he was not given (1) notice of the reasons for revocation, (2) no interview and (3) no opportunity to respond to reasons for revocation. These points are all addressed in the analysis of Count II. Nevertheless, to reiterate, Petitioner was given notice of the reasons for revocation, was provided an interview and had opportunity to respond to the revocation. Exh. F ¶ 13. Thus, DHS followed its regulations in effectuating the revocation. Consequently, Count III and the entire Petition are without merit.

F. CONCLUSION

Based upon the foregoing, the Petition should be dismissed because the Court lacks jurisdiction, and because his detention is lawful under 8 U.S.C. § 1231(a)(6).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 14, 2025, I electronically filed the foregoing with the Clerk of Court using CM/ECF.

Respectfully submitted,

JASON A. READING QUIÑONES
UNITED STATES ATTORNEY

By: */s/ Francisco Armada*
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