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IN THE UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

NABIL MOHAMMED AHLAT,

Petitioner,

v.

PAMELA BONDI, Attorney General of the U.S.; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; BRIAN HENKE, Director of Salt Lake City Field Office, U.S. Citizenship and Immigration Services; RYAN ARBON, Weber County Sheriff; and the U.S. Immigration and Customs Enforcement,

Respondents.

MOTION TO
ALTER OR AMEND JUDGMENT
PURSUANT TO RULE 59(e)

Case No. 1:25-cv-199 AMA

Petitioner Nabil Ahlat sought a writ of habeas corpus, identifying several legal problems with his rearrest by ICE. The court rejected his legal theories, which Mr. Ahlat will pursue on appeal. One of these legal rulings, however, was based on an erroneous factual finding that he asks the court to reconsider. Specifically, the court ruled that revocation of release was governed by 8 C.F.R. § 241.4(e) because “[n]othing in the documents provided to the Court indicates that” Mr. Ahlat was released after “a determination under [section 241.13] that there is no significant

likelihood of removal in the reasonably foreseeable future.” (ECF No. 19 at 6.) The court should reconsider this ruling because Mr. Ahlat *did* allege that this was the reason for his release in 2012, and the government did not dispute that fact. The court should vacate its decision and either grant relief or give Mr. Ahlat the chance to conduct discovery in support of his claims.

ARGUMENT

I. It was “not disputed”¹ that Petitioner was released in 2012 under *Zadvyas* because removal was not likely in the reasonably foreseeable future.

At issue here is the court’s conclusion that “Petitioner was released pursuant to section 241.4(e).” (ECF No. 19 at 6.) In reality, there was no evidence in the record to support a finding that Mr. Ahlat was released under § 241.4. (*Cf.* ECF No. 21 at 28 (noting the lack of any mention in the release paperwork that it was done under § 241.4).) Rather, this conclusion was a logical inference from another finding of fact: “Nothing in the documents provided to the Court indicates that” ICE ever determined that there was “no significant likelihood of removal in the reasonably foreseeable future.” (ECF No. 19 at 6.) Thus, the court reasoned, if release was not granted under § 241.13, it must have been granted under § 241.4, which would mean that § 241.4 governed the revocation decision.

The problem with this reasoning is that the undisputed record does establish that Mr. Ahlat was released only after ICE determined that there was no significant likelihood of removal in the reasonably foreseeable future. In deciding whether to dismiss a § 2241 petition on the pleadings, the court must “accept[] the factual allegations in the [petition] as true and construe[] the pleadings in the light most favorable to the [petitioner].” *Santos Barrera v. Semaia*, 2025 WL 2684198, at *3 (C.D. Cal. Mar. 5, 2025).

¹ (ECF No. 21 at 32.)

In his petition, Mr. Ahlat claimed, and the government did not dispute, that he was released in 2012 pursuant to *Zadvydas*. In his recitation of the background facts, he stated: “After spending months in immigration custody [following the CAT ruling], it was clear that was no reasonable likelihood that he could be removed. On information and belief, Mr. Ahlat was released from immigration custody without being deported as required by *Zadvydas v. Davis*, 533 U.S. 678 (2001).” (ECF No. 1 at 6; *see also id.* at 1 (“He was subsequently released from immigration ICE custody pursuant to *Zadvydas*.”); *id.* at 3 (Respondents “released him in approximately 2012 pursuant to *Zadvydas*.”).)

In connection with Claim 1, he asserted as a matter of fact: “Here, the immigration court granted deferral of removal in 2012, and after several more months in immigration custody, Mr. Ahlat was subsequently released under *Zadvydas* because it was clear that removal was not likely in the reasonably foreseeable future.” (*Id.* at 9 (emphasis added).) Mr. Ahlat continued to assert that he had been released under *Zadvydas* because there was no likelihood that he could be removed in the reasonably foreseeable future. (*See, e.g.*, ECF No. 16 at 1.) And when asked for specific evidence of this, Mr. Ahlat proffered that the immigration attorney who represented him in 2012 would testify that he was released because deportation was unlikely. (ECF No. 21 at 28.)

The government agreed. In its written response, the government did not deny that Mr. Ahlat was released in 2012 because prompt deportation was unlikely or that *Zadvydas* prevented ongoing detention. It acknowledged that the 2012 release was *Zadvydas* by referring to this arrest as “the second time”: “Petitioner’s detention does not violate *Zadvydas* because he has not been detained *this second time* for more than six months. Because ICE re-detained Petitioner on December 15, 2025, the presumptive *Zadvydas* 6-month detention limit has only begun to run.” (ECF No. 13 at 10 (emphasis added).) The government did not dispute that the 2012 release was

based on *Zadvydas*—its only argument was that *Zadvydas* gave it another six months to detain Mr. Ahlat when it held him for removal “the second time.”

At the hearing, the government again acknowledged that ICE determined to release Mr. Ahlat in 2012 because it could not deport him in the reasonably foreseeable future. “[S]ome key facts here are not disputed,” the government said. (ECF No. 21 at 32.) Specifically, after the removal order to Jordan was deferred under CAT, ICE followed “a process” to determine whether he could be removed notwithstanding the unavailability of Jordan as a destination. (*Id.* at 33.) “[T]hat determination was made here,” and ICE “got to the point where they either had to remove him or they had to release him on supervision.” (*Id.*)

Put otherwise, ICE determined in 2012 that it had to release Mr. Ahlat because he could not be removed in the reasonably foreseeable future. In this way, the government acknowledged that the very fact that Mr. Ahlat asserted in his petition—ICE released him in 2012 because there was no reasonably foreseeable prospect of removal. In short, the parties agreed that Mr. Ahlat was released in 2012 because *Zadvydas* prevented additional time in custody *because removal was not likely in the reasonably foreseeable future.*

The court should reconsider its finding that the record has no evidence that Mr. Ahlat was released because ICE could not deport him.

II. Release under *Zadvydas* is governed by 8 C.F.R. § 241.13, not 241.4.

This factual error led to a legal one. Notwithstanding the parties’ consensus that Mr. Ahlat had been released because he couldn’t be deported in the reasonably foreseeable future, the parties disagreed about the legal and constitutional limits on revoking a *Zadvydas* release. The government argued that revocation of release was a discretionary act that was governed by 8 C.F.R. § 241.4(l). (ECF No. 13 at 8.) Under this regulation, the government argued, revocation was a matter of unreviewable discretion. (*Id.* at 6 (citing 8 U.S.C. § 1252(a)(2)(B)(ii).)

Ultimately, this court agreed that revocation was governed by § 241.4(l), and as the court applied this statute, Mr. Ahlat's petition was premature because that regulation contemplates a process that is "ordinarily . . . expected to occur within approximately three months after release is revoked." (ECF No. 19 at 12 (citing 8 C.F.R. § 241.4(l)(3).) Thus, "as Petitioner has only been detained for one month, ICE still has two months to give Petitioner an informal interview and to commence this review process before it can be truly established that ICE has violated its regulations to a potentially constitutional magnitude." (*Id.*)

It is the decision to apply § 241.4(l)(3) that Mr. Ahlat asks the court to reconsider. Mr. Ahlat urges the court to find that revocation in this case is governed by 8 C.F.R. § 241.13(i). The regulations are clear that § 241.13—not § 241.4—applies when an individual is released under *Zadvydas*. In § 241.4, we see: "The custody review procedures in this section do not apply after the Service has made a determination, pursuant to the procedures provided in 8 C.F.R. 241.13, that there is no significant likelihood that an alien under a final order of removal can be removed in the reasonably foreseeable future." 8 C.F.R. § 241.4(b)(4).

The court acknowledged the companion language in § 241.13, which "provides that 'Section 241.4 shall continue to govern the detention of [noncitizens] under a final order of removal . . . unless the Service makes a determination under [section 241.13] that there is no significant likelihood of removal in the reasonably foreseeable future.'" (ECF No. 19 at 6 (quoting § 241.13(b)(1)).)

It is here that the court misconstrued the factual record in a way that supports reconsideration:

Nothing in the documents provided to the Court indicates that such a determination under section 241.13 was made upon Petitioner's release. Instead, based on the record, it appears to the Court that Petitioner was released pursuant to section 241.4(e), which "does not require ICE to determine the likelihood of removal."

Petitioner's supervision would, then, have been revoked pursuant to section 241.4(l).

(Id.)

To the contrary, Mr. Ahlat has consistently asserted—and the government has “not disputed”—that his release in 2012 was required by *Zadvydas* because ICE “had detained him long enough and got to the point where they either had to remove him or they had to release him on supervision.” (ECF No. 21 at 33.) Put otherwise, release in 2012 was not an act of discretion under § 241.4 but a constitutionally required act under *Zadvydas*, given ICE’s “determination” that there was no significant likelihood of removal in the reasonably foreseeable future. (*See id.*) This determination is precisely what invokes § 241.13, and by its own terms, § 241.4 is inapplicable to releases made after such determination. The court should reconsider its finding “that 8 C.F.R. § 241.4 is the regulation applicable to this matter.” (ECF No. 19 at 7.)

III. The court should grant relief because the government did not comply with § 241.13.

The finding that § 241.4 governed was central to the dismissal of Claim 3 because the court relied on the three-month review period in § 241.4(l)(3) to conclude that the claim was not “ripe for review.” (ECF No. 19 at 12.) Thus, the court should vacate its decision and make the following findings:²

- ICE released Mr. Ahlat in 2012 because it determined that it could not remove him in the reasonably foreseeable future;
- This release, as well as its subsequent revocation, were governed by 8 C.F.R. § 241.13, which requires procedural protections (notice and a hearing) before release can be revoked. 8 C.F.R. § 241.13(i)(3).

² If the court is not persuaded that the allegations in Mr. Ahlat’s petition are true, the remedy at this stage of the case is not to dismiss the petition but to hold an evidentiary hearing. At the pleading stage, the court must accept Mr. Ahlat’s allegations as true.

- The government has not afforded Mr. Ahlat the benefit of these procedures.
- Thus, Respondents illegally took Mr. Ahlat into ICE custody, and he must be released.

If § 241.13 controls, it should be clear that Mr. Ahlat is entitled to relief. Respondents have done nothing to comply with § 241.13(i)(3).

“Courts have found that when the Government fails to follow its own regulations when revoking release, the detention is unlawful, and the petitioner's release must be ordered.” *Kiwana v. LaRose*, 2026 WL 102661, at *6 (S.D. Cal. Jan. 14, 2026) (citing cases).

ICE, like any agency, “has the duty to follow its own federal regulations.” To be sure, not every procedural misstep raises a constitutional issue. However, where an immigration “regulation is promulgated to protect a fundamental right derived from the Constitution or a federal statute,” like the opportunity to be heard, “and [ICE] fails to adhere to it, the challenged [action] is invalid.”

Rombot v. Souza, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (internal citations omitted).

Failure to comply with § 241.13(i)(3) is an adequate reason to grant habeas relief to a petitioner whose *Zadvydas* release was revoked. *See, e.g., Kiwana*, 2026 WL 102661 at *6-7; *Sarail A. v. Bondi*, 803 F. Supp. 3d 775, 779 (D. Minn. Sept. 3, 2025) (holding that authority under 28 U.S.C. § 2241 “includes the release of detained noncitizens when ICE fails to follow its own regulations”) (citing cases).

This court should hold that Respondents’ failure to provide *any* of the requirements of § 241.13(i) makes this detention unlawful, and it should order them to release Mr. Ahlat. This order need not be permanent, for Respondents can yet comply with § 241.13(i). But unless and until they have done so, they cannot lawfully revoke Mr. Ahlat’s release under *Zadvydas* and § 241.13(i).

IV. Granting relief in this case does not impair Respondent's ability to execute the 2012 removal order.

Mr. Ahlat acknowledges the court's concern at the hearing that prolonging this litigation could prevent Respondents from facilitating his removal, which could have the perverse effect of prolonging his time in custody on the immigration case. (ECF No. This concern is misplaced. The government has correctly argued that Mr. Ahlat cannot use habeas to challenge the removal order previously entered in his case, and he makes no such challenge here.³ Nothing about this proceeding impairs ICE's ability to execute the removal order already issued.

The outcome of this proceeding will determine only where Mr. Ahlat will sleep while ICE undertakes that process—at home as a free man, or in jail as a detainee. If Mr. Ahlat is correct about what happened in 2012 and that there has been no material change since then, he should be allowed to remain in the community while ICE makes that effort. If the government is correct that there has been a material change—either by showing changed circumstances or a violation of release conditions—then ICE may follow its own regulations to take him back into custody.

The role for this court is simply to decide whether the government has lawfully detained him. Mr. Ahlat has been arrested without any of the procedural protections in § 241.13(i)(3), and there are no changed circumstances that would support his rearrest even if procedures had been provided to him. The government offers no evidence to refute these claims.⁴

³ He does not concede that habeas is unavailable to challenge his removal to a third country without due process, but he recognizes that the court rejected his argument on that point, and he does not here ask the court to reconsider that ruling. To the extent he desires to further litigate that issue, he will do so on appeal.

⁴ The fact that Mr. Ahlat has been charged with a crime is not evidence that he committed a crime. He maintains his innocence and enjoys a constitutional presumption thereof. He does not here dispute the government's suggestion that it is his *conduct*, not a conviction, that threatens

CONCLUSION

Mr. Ahlat respectfully asks the court to reconsider its conclusion that ICE did not determine that removal was unlikely before it released Mr. Ahlat in 2012. The evidence is undisputed that this is precisely why he was released, so he should have been given the procedural protections in § 241.13(i)(3) before ICE revoked his release. It is also undisputed that the government has followed none of the procedures required by this regulation. Pursuant to Rule 59(e), the court should vacate its decision and grant relief.

DATED this 13th day of February 2026.

/s/ Benjamin C. McMurray
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his liberty under § 241.13(i). (ECF No. 21 at 34.) However, the government has made no proffer, let alone offer *evidence*, of what facts it believes would support revocation under § 241.13(i)(1).

Furthermore, whatever “logical conclusion” one might draw from the timing of his detention by ICE (*see id.*), even the government could not keep straight why ICE had rearrested Mr. Ahlat. In its written argument, the government claimed ICE arrested him under its “statutory authority to execute a valid removal order.” *Cf.* 241.13(i)(2). (ECF No. 13 at 8.) Respondents cannot prevail by sending counsel to court to hypothesize about the legal basis for their actions. Respondents’ failure to give notice of why they were revoking release makes it impossible for Mr. Ahlat to get relief through the regulatory process. This court must grant relief.