

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Aleksandr SNETKOV,

Petitioner,

v.

Kristi Noem et al.,

Respondents-Defendants.

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Case No. 5:25-cv-1761

MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

Petitioner Aleksandr Snetkov (“Mr. Snetkov”) respectfully request this Court to issue a temporary restraining order and preliminary injunction preventing Respondents from removing him from the United States and ordering him released from Respondents’ custody.

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INTRODUCTION

Mr. Snetkov is a 43-year-old stateless man born in the Soviet Union in the city of Chişinău, in modern day Moldova. He fled Moldova as a religious refugee in 1997 when he was 14 years old and traveled from Moldova, via Moscow, to the U.S., where he has resided ever since. As a young man in the U.S., he was convicted of several crimes, including possession of stolen property, minor in possession of liquor, forgery and assault. He was ordered removed in 2007.

Immigrations and Customs Enforcement (“ICE”) has detained Mr. Snetkov four times for a total of 10 months and counting. Each time he was released on an Order of Supervision (“OSUP”) following a determination by Respondents that it was not significantly likely he would be removed from the United States in the reasonably foreseeable future, and that his continued detention would therefore be unlawful under the Supreme Court’s holding in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Despite complying with the check-in requirements for the prior 14 years, Mr. Snetkov’s was detained for the fourth time at a routine ICE check-in on November 17, 2025. During his check-in, an officer told him, “You’re a criminal and you need to be locked up.” The officer provided no other explanation for the re-detention, provided no documents explaining the re-detention, failed to conduct any interview of Mr. Snetkov and failed to ask any questions about the likelihood that he would be removed to Moldova or any other country. Mr. Snetkov’s attempts to ask questions were rebuked. When he tried to call his wife to let her know he was being detained, the officer took the phone from his hands and hung up.

Since his last conviction in 2008, Mr. Snetkov has turned his life around. He has not committed any crime, has found God, become a skilled welder, and started a family. In 2021, he married his wife, a U.S. citizen, who gave birth to the couple's U.S. citizen daughter that year. He has become a professional welder who takes part in welding competitions and is a member of Iron Workers Local 66. He is a born-again Christian and has found peace in gardening, which has become his favorite pastime. He attended check-ins regularly from 2011 to the present.

This Court can order Mr. Snetkov's release because (1) Respondents deprived him of his liberty without a hearing and revoked his OSUP without following the appropriate procedures, and (2) because Respondents have tried and failed three times to secure his removal to Moldova and have detained him for well over the six month limit set by the Supreme Court in *Zadvydas*. The OSUP revocation violates Mr. Snetkov's constitutional and statutory rights under the Fifth Amendment, the Administrative Procedure Act and the doctrine elaborated by the U.S. Supreme Court in *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954). His indefinite detention without a likelihood of removal likewise violates the Fifth Amendment's substantive due process prohibition on indefinite detention.

LEGAL STANDARD

A party seeking a temporary restraining order or preliminary injunction must establish that (1) they are likely to succeed on the merits; (2) they are likely to suffer irreparable harm in the absence of preliminary relief; (3) the balance of equities tip in their favor; and (4) an injunction is in the public interest. *Winter v. Nat. Res. Def.*

Council, Inc., 555 U.S. 7, 20 (2008); *see also* *Speaks v. Kruse*, 445 F.3d 396, 399-400 (5th Cir. 2006). “The first two factors are the most critical.” *Valentine v. Collier*, 956 F.3d 797, 801 (5th Cir. 2020). When the government is the opposing party, the final two factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

ARGUMENT

The Court should issue a temporary restraining order and preliminary injunction granting Mr. Snetkov’s release from detention.

I. Mr. Snetkov Is Likely to Succeed on the Merits.

Petitioner is likely to succeed on the merits of his claims that his re-detention by ICE violated 8 C.F.R. §§ 241.13(i)(2)-(3) and, separately, his Fifth Amendment due process rights, as well as his claim that there is not a significant likelihood that he will be removed from the U.S. in the reasonably foreseeable future and that his indefinite detention violates his substantive due process rights.

A. ICE’s re-detention of Mr. Snetkov without a showing of changed circumstances or an opportunity to contest this showing violated 8 C.F.R. §§ 241.13(i)(2)-(3).

Before turning to Petitioner’s constitutional claims, this Court may find that Petitioner’s re-detention was not authorized by 8 C.F.R. §§ 241.13(i)(2)-(3). *See Califano v. Yamasaki*, 442 U.S. 682, 692 (1979) (“A court presented with both statutory and constitutional grounds to support the relief requested usually should pass on the statutory claim before considering the constitutional question.”).

The regulations implementing 8 U.S.C. § 1231 provide that once ICE releases a non-citizen on an OSUP, ICE’s ability to re-detain that non-citizen is governed by

its own regulations. Relevant here, 8 C.F.R. § 241.13(i)(2) provides for “[r]evocation for removal” when, “on account of changed circumstances, the Service determines that there is a significant likelihood that the [non-citizen] may be removed in the reasonably foreseeable future.” ICE’s own regulations thus place the burden on ICE to show changed circumstances that make removal significantly likely in the reasonably foreseeable future. In addition, 8 C.F.R. § 241.13(i)(3) provides that “[u]pon revocation, the [non-citizen] will be notified of the reasons for revocation of his or her release” and afforded an opportunity to “respond to the reasons for revocation stated in the notification” at an informal interview.

The procedures implementing 8 U.S.C. § 1231 must be followed. See *Bonitto v. Bureau of Immigration & Customs Enforcement*, 547 F. Supp. 2d 747, 756 (S.D. Tex. 2008) (conditionally granting habeas corpus where post-removal custody review procedures were not followed). District courts regularly find that “[d]etention beyond the removal period may be maintained only upon compliance with applicable process.” *Misirbekov v. Venegas*, 796 F.Supp.3d 436 (S.D. Tex. Aug. 25, 2025); *Trejo v. Warden of ERO El Paso E. Montana*, No. 25-cv-401, 2025 WL 2992187, at *10 n 3 (W.D. Tex. Oct. 24, 2025) (considering the government’s failure to follow its own regulations in holding detainee’s due process rights were violated). Where ICE has failed to follow its own regulations when re-detaining a non-citizen, “the detention is unlawful and the petitioner’s release must be ordered.” *Constantinovici v. Bondi*, No. 3:25-cv-02405, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 2025) (quoting *Rokhfirooz v. Larose*, No. 25-cv-2053, 2025 WL 2646165, at *4 (S.D.

Cal. Sept. 15, 2025); *Hoac v. Becerra*, No. 2:25-cv-01740, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner was likely to succeed on his unlawful re-detention claim because “there is no indication that an informal interview was provided”); *Rombot v. Souza*, 296 F. Supp. 383, 388 (D. Mass. 2017) (holding that ICE’s failures to follow its own regulations rendered the petitioner’s detention unlawful).

ICE unequivocally failed to provide notice to Mr. Snetkov as required by the regulations governing revocation of supervised release and the minimum constitutional standards of due process. Under 8 C.F.R. § 241.13(i)(3), when revoking supervised release ICE must provide contemporaneous written notice stating the reasons for revocation. No such notice was provided, nor did ICE identify any individualized, changed circumstances or articulate any factual basis for concluding removal had become significantly likely in the reasonably foreseeable future. Rather, ICE merely told Mr. Snetkov, “You’re a criminal, you need to be locked up.” Pet. ¶ 3. This is not a valid reason for re-detaining a non-citizen who has complied with OSUP requirements for 14 years and has abstained from unlawful activity. Even following his re-detention, Mr. Snetkov did not receive any notice explaining the reasons for revocation. The “process” ICE used here does not satisfy the regulation’s requirement of a timely, reasons, written notice “upon revocation.”

Courts in this District and across the country have recently found Petitions are likely to succeed under similar circumstances. *See, e.g., Trejo*, 2025 WL 2992187, at *7; *Lopez-Arevalo v. Ripa*, No. 25-cv-337, 2025 WL 2691828, at *10-11 (W. D. Tex.

Sept. 22, 2025); *Hoac*, 2025 WL 1993771, at *1 (government had no travel document for petitioner); *Phan v. Becerra*, No. 2:25-cv-01757, 2025 WL 1993735, at *1 (E.D. Cal. July 16, 2025) (same); Thus, Petitioner is likely to show that his re-detention is unlawful because ICE failed to follow the requirements of 8 C.F.R. § 241.13(i)(2)-(3).

B. ICE's re-detention of Mr. Snetkov without a pre-deprivation hearing violated his Due Process rights.

There can be no doubt that Mr. Snetkov is entitled to the protections of the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“[T]he Due Process Clause applies to all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.”). “The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Where a petitioner such as Mr. Snetkov, has been at liberty for years and complied with his ICE reporting requirements, district courts have granted temporary restraining orders and preliminary injunctions holding “that due process requires a hearing before an IJ prior to re-detention.” *See Romero v. Kaiser*, No. 22-cv-02508, 2022 WL 1443250, at *2 (N.D. Cal. May 6, 2022); *see also Sun v. Santacruz*, No. 5:25-cv-02198, 2025 WL 2730235, at *3 (C.D. Cal. Aug. 26, 2025) (collecting cases that enjoined “the government from re-detaining petitioners at in-person check-in appointments” without first providing a hearing before an immigration judge). Mr. Snetkov, however, never received this process. Mr. Snetkov seeks a preliminary injunction that returns him to the status quo of his prior ICE custody—i.e., released on his previous OSUP. *Boire v. Pilot Freight Carriers, Inc.*,

515 F.2d 1185, 1194 (5th Cir. 1975) (“the status quo to be preserved is the last uncontested status which preceded the pending controversy.”) (cleaned up).

Court analyze procedural due process claims in two steps. First, the Court must determine if Mr. Snetkov has a protected interest in his continued liberty. When the government deprives someone of a liberty interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989) (citation omitted). If so, the Court then uses the three-factor *Mathews* framework to determine what process is due. *Trejo*, 2025 WL 2992187 at *7; *Martinez v. Noem*, No. 5:25-cv-1007, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). This Court should find that Mr. Snetkov is likely to succeed on the merits of his procedural due process claim.

1. Mr. Snetkov has a protected interest in continued liberty.

“[I]ndividuals who have been released from custody, even where such release is conditional, have a liberty interest in their continued liberty.” *Morrissey v. Brewer*, 408 U.S. 471, 482 (1997). Respondents issued Mr. Snetkov an OSUP after necessarily determining that (1) he was not removable in the foreseeable future, and (2) he was not a flight risk or a danger to the community. *See* 8 C.F.R. § 241.4(d). Mr. Snetkov has remained released since this 2011 determination. As someone released from civil immigration detention for the past several years, Mr. Snetkov not only holds a protected liberty interest in his release, that interest has increased over time. *Trejo*, 2025 WL 2992187 at *9.

2. The *Mathews* factors weigh in favor of releasing Mr. Snetkov.

Because Mr. Snetkov possessed a liberty interest in his release, the Court must consider the following three factors to determine what process Mr. Snetkov was owed prior to his re-detention: (1) “the private interest that will be affected by the official action”; (2) “the risk of erroneous deprivation of such interest through the procedures used, and the probative value, if any, of additional or substitute procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335. District Courts in the Fifth Circuit have found that all three factors weighed in favor of petitioners in circumstances similar to Mr. Snetkov’s. *See Trejo*, 2025 2992187 at *7; *Villanueva v. Tate*, No. 25-cv-3364, 2025 WL 2774610, at *10-11 (S.D. Tex. Sept. 26, 2025).

i. Mr. Snetkov’s private interest is strong.

Mr. Snetkov is similarly situated to those who have been found to have “a liberty interest in his continued release under his Order of Supervision.” *Villanueva*, 2025 WL 2774610 at *11. “He has been free under that Order for over eight years [here, 14]. He has a job and a family. He has complied with all of the terms of his Order of Supervision. There is no principled reason to find that [petitioner] does not have an overwhelming liberty interest in his continued release that may not be removed without due process.” *Id.* Mr. Snetkov was issued an OSUP by ICE after the agency determined that he was neither a flight risk nor a danger to the community. *See* 8 C.F.R. § 241.4(d) (ICE “may release” a person if their “release will not pose a

danger to the community or to the safety of other persons or to property or a significant risk of flight pending” their “removal from the United States.”). Mr. Snetkov’s community ties and family circumstances plainly indicate that he is not a flight risk or a danger to the community. *Villanueva*, 2025 WL 2774610 at *11. This factor weighs heavily in Mr. Snetkov’s favor.

ii. Mr. Snetkov’s re-detention erroneously deprived him of his liberty.

The risk of erroneous deprivation is high where ICE claims the power to revoke a release determination at any time without either a hearing before or additional oversight from a neutral adjudicator. *Villanueva*, 2025 WL 2774610, at *11 (holding that where government violates OSUP regulations, “[t]he risk of an arbitrary and erroneous deprivation . . . is undeniably significant.”). Indeed, Mr. Snetkov has been living the consequences of such an erroneous deprivation since he was re-detained without any hearing or oversight from a neutral adjudicator. Furthermore, any post-detention procedural safeguards that ICE may offer Mr. Snetkov now are insufficient because they do no more than request that ICE “reconsider the agency’s unilateral detention decision’ without any requirement that a neutral party review that decision.” *Sun v. Santacruz*, No. 25-cv-02198, 2025 WL 2730235, at *6 (C.D. Cal. Aug. 26, 2025) (quoting *Guillermo M.R. v. Kaiser*, No. 25-cv-05436, 2025 WL 1983677, at *7 (N.D. Cal. July 17, 2025); see also 8 C.F.R. § 241.4. Thus, this Court should grant Mr. Snetkov’s release so that his custody re-determination can be properly heard by an Immigration Judge (if ICE wishes to re-detain him) without the unlawful

constraint on his liberty and the continued infliction of irreparable harm. *See infra* at II.

- iii. The government's interest in re-detaining Mr. Snetkov without a hearing is low.

Immigration civil detention must be “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690. When detention is untethered to Respondents' regulatory goals of ensuring appearance at immigration hearings and preventing danger to the community, the detention violates to process. *Id.* at 690-92. ICE previously determined that Mr. Snetkov is neither a flight risk nor a danger to the community when the agency issued him an OSUP in 2023. *See* 8 C.F.R. § 241.4(d) (requiring ICE to determine whether a non-citizen is a flight risk or danger to the community prior to releasing them from detention); *Sun*, 2025 WL 2730235, at *6 (finding respondents' interest is low where they previously determined petitioner was neither a flight risk nor a danger to the community). Respondents cannot now refute that their interests have changed based on these factors.

The government's interest in preventing flight risk “is weak or nonexistent where removal seems a remote possibility at best.” *Zadvydas*, 533 U.S. at 690. In 2023, Respondents issued Mr. Snetkov an OSUP after determining that his removal was impossible. Pet. ¶ 2. It has failed to remove him on three prior occasions. *Id.* at ¶5. Respondents have not shown any changed circumstances such that Mr. Snetkov is now removable and cannot claim he is a flight risk. Separately, district courts have repeatedly found “that the government's interest in re-detaining [a non-citizen] is ‘low, particularly’” where he “has long complied with his reporting requirements.”

Diaz v. Kaiser, No. 3:25-cv-05071, 2025 WL 1676854, at *3 (N.D. Cal. June 14, 2025). Mr. Snetkov has always complied with the conditions of his release and has not missed a check-in. Pet. ¶ 2. Mr. Snetkov's strong support system, including his U.S. citizen wife and child, which also weighs against him being a flight risk. See *Andreasyan v. Gonzalez*, 446 F. Supp. 2d 1186, 1190 (W.D. Wash. 2006) (finding significant community ties weighed in favor of petitioner not posing a flight risk and ordering ICE to impose supervised release pursuant to 8 C.F.R. § 241.5).

The government's second regulatory goal of protecting the community is "limited to especially dangerous individuals and subject to strong procedural protections." *Zadvydas*, 533 U.S. at 691. Again, Respondents have already determined that Mr. Snetkov is not a danger to the community and, since his release, he has only strengthened his connection with his family and community. Respondents have provided no evidence to suggest that Mr. Snetkov is now a danger to the community. Because Mr. Snetkov is not presently removable, a flight risk, or a danger to the community, this factor also weighs in his favor.

Each *Mathews* factor weighs in Mr. Snetkov's favor. This Court should return him to the status quo and order his release.

C. Mr. Snetkov's Indefinite Detention Violates His Fifth Amendment Substantive Due Process Rights

Mr. Snetkov is likely to succeed on the merits of his claim that his continued detention violates the Fifth Amendment Due Process Clause.

The "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary,

or permanent.” *Zadvydas*, 533 at 690. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Id.*

Detention for non-criminal purposes is only allowed “in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotations and citations omitted). With respect to immigration detention, the Supreme Court has recognized two special justifications: preventing flight risk and preventing danger to the community. *See id.*

The Supreme Court has held that the Immigration and Nationality Act (“INA”) “limits a[non-citizen’s] post-removal detention period to a period reasonably necessary to bring about that [non-citizen’s] removal from the United States. It does not permit indefinite detention.” *Id.* at 689; *see id.* at 699 (“Whether a set of circumstances amounts to detention within, or beyond, a period reasonably necessary to secure removal is determinative of whether the detention is, or is not, pursuant to statutory authority.”).

“A [non-citizen] may be held in confinement *until* it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701 (emphasis added). “[I]f removal is not reasonably foreseeable, the [habeas] court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699. This rule applies to both once-lawful permanent residents and inadmissible non-citizens. *See Clark v. Martinez*, 543 U.S. 371, 378 (2005).

Here, Mr. Snetkov has been detained for a total of 10 months combined, far beyond the six-month period beyond which detention loses the presumption of constitutionality. *Zadvydas*, 533 U.S. at 701. Courts in this Circuit have rejected the notion that the detention clock restarts upon each release from detention, instead opting to treat detention time in the aggregate. *See Villanueva*, 2025 WL 2774610 at *10 (quoting *Chen v. Holder*, No. 14-cv-2530, 2015 WL 13236635, at *2 (W.D. La. Nov. 20, 2015) (“Surely, under the reasoning of *Zadvydas*, a series of releases and re-detentions by the government, while technically not in violation of the presumptively reasonable jurisprudential six month removal period, in essence results in an indefinite period of detention, albeit executed in successive six month intervals.”) (cleaned up)).

Moreover, Respondents have tried and failed three times to secure his removal to Moldova. This time, Respondents have not even bothered to ask Mr. Snetkov to sign a travel document request. Given that there is no substantial likelihood that Mr. Snetkov will be removed in the reasonably foreseeable future, he is likely to succeed on the merits of his Fifth Amendment claim that his continued detention unlawfully violates his substantive due process rights under *Zadvydas*.

II. Absent a TRO and Preliminary Injunction, Mr. Snetkov will suffer irreparable harm.

Absent a TRO and preliminary injunction, Petitioner will continue to suffer irreparable harm as a result of his unlawful detention.

“The loss of [constitutional] freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Opulent Life Church v. City of Holly*

Spring, Miss., 697 F.3d 279, 295 (5th Cir. 2012); *see also* Charles Alan Wright & Arthur R. Miller, 11A Federal Practice and Procedure § 2948.1 (3d ed. 1998) (“When an alleged deprivation of a constitutional right is involved, . . . most courts hold that no further showing of irreparable injury is necessary.”). “In the immigration context, unlawful detention is a sufficient irreparable injury.” *Arias Gudino v. Lowe*, No. 1:25-cv-00571, 2025 WL 1162488, at *13 (M.D. Pa. Apr. 21, 2025).

Absent a temporary restraining order and a preliminary injunction, Mr. Snetkov will continue to suffer irreparable harm that cannot be remedied by monetary damages or post hoc relief. The core injury is the ongoing deprivation of his physical liberty, which courts have long recognized as a paradigmatic irreparable harm. Each additional day of confinement inflicts non-compensable losses on Mr. Snetkov’s autonomy, dignity, and ability to care for himself and his family. An injunction is therefore necessary to prevent ongoing and escalating harms to Mr. Snetkov’s liberty and family that cannot be remedied absent immediate judicial intervention.

III. The balance of equities tip in Mr. Snetkov’s favor and a TRO is in the public interest.

Because the government is a party, the last two factors are considered together. *Nken*, 556 U.S. at 435. The balance of equities is in Mr. Snetkov’s favor and release is in the public interest. The government, at the time it released Mr. Snetkov from detention on OSUP, determined that he posed neither a danger to the community nor a flight risk, a determination that was proven correct by Mr. Snetkov’s 14 subsequent years of lawfulness and attendance at all ICE check-ins. Mr.

Snetkov has demonstrated that this factor tips in his favor because “[A]n injunction protecting Petitioner[s]’ interest in being free from unconstitutional detention is in the public interest.” *Nuziard v. Minority Bus. Dev. Agency*, 676 F. Supp. 3d 473, 485 (N.D. Tex. 2023). Therefore, the remaining two *Nken* factors militate strongly in Mr. Snetkov’s favor.

CONCLUSION

For the foregoing reasons, the Court should grant Petitioner’s Motion for a Temporary Restraining Order and Preliminary Injunction.

Dated: December 16, 2025

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**Pro Hac Vice* forthcoming

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule CV-7(G), the undersigned affirms that it was not possible for counsel for Petitioner to arrange a conference with counsel for the Respondents before filing this motion, because no attorney has noticed an appearance in this matter yet for Respondents. Counsel for Petitioner will arrange a conference as quickly as is practicable as soon as the U.S. Attorney's Office notices appearances in this case.

/s/ Eric Lee
Eric Lee
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2025, counsel for Petitioner provided a copy of this Motion for a Temporary Restraining Order and Preliminary Injunction by email to the following individuals:

Justin R. Simmons
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