IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JIDIER ANTONIO SAAVEDRA,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:25-CV-502-CDL-CHW**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,	:	
	:	
	:	
Respondent.	:	

RESPONSE TO PETITION

On December 22, 2025, Petitioner filed an application for a writ of habeas corpus (the "Petition"). ECF No. 1. On December 23, 2025, Respondent was directed to file a comprehensive response within twenty-one days. ECF No. 6. This is Petitioner's second habeas petition in 2025. Petitioner's first case, No. 4:25-cv-244-CDL-CHW, was dismissed as premature. *See* Report and Recommendation, No. 4:25-cv-244, ECF No. 8, 2025 WL 3777151 (M.D. Ga. Oct. 14, 2025), *report and recommendation adopted*, ECF No. 13, 2025 WL 3776726 (M.D. Ga. Dec. 31, 2025). Petitioner filed this subsequent petition based upon his continued detention pending removal from the United States. *See* ECF No. 1.[1] Respondent now files this response and shows the Court that the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of Cuba. Declaration of Deportation Officer Marilyn Guerra ("Guerra Decl.") ¶ 3 & Ex. A. On March 28, 1980, Petitioner was admitted into the United

[1] Petitioner filed a third petition on January 5, 2026. *See Saavedra v. Warden, Stewart Det. Ctr.*, No. 4:26-cv-10-CDL-CHW, ECF No. 1 (M.D. Ga. Jan. 5, 2026). The Court consolidated the third petition into this case because of their substantial similarity. *Id.* at ECF No. 6 at 2.

States as a lawful permanent resident ("LPR"). *Id.*

On May 7, 2014, Petitioner was convicted of Possession of a Schedule IV Substance and Attempt to Obtain Controlled Substances by Fraud, both 3rd Degree Felonies, in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida Circuit Court. Guerra Decl. ¶ 4 & Ex. B. On the same day, Petitioner was convicted (in a separate criminal case) of Fraudulent Use of a Personal Identification and Attempt to Obtain Controlled Substances by Fraud, also both 3rd Degree Felonies, in the same court. *Id.* ¶ 5 & Ex. C. On June 3, 2014 (but ordered *nunc pro tunc* to May 7, 2014), Petitioner was convicted of Trafficking Hydrocodone, a 1st Degree Felony, and Possession of a Schedule IV Controlled Substance, a 3rd Degree Felony. *Id.* ¶ 6 & Ex. D.

For each of the above listed criminal cases, Petitioner was sentenced to 5 years in state prison to run concurrently with each other. *Id.* ¶¶ 4-6 & Ex. C at 2. During Petitioner's term of incarceration, Immigration and Customs Enforcement ("ICE") placed a detainer on Petitioner on April 24, 2017. Guerra Decl. ¶ 7 & Ex. E. On April 9, 2018, Petitioner was taken into ICE/Enforcement and Removal Operations ("ERO") custody and served with a Notice to Appear ("NTA") charging him with inadmissibility pursuant to Immigration and Nationality Act ("INA") sections 237(a)(2)(A)(ii), 237(a)(2)(B)(i) and 237(a)(2)(A)(iii) (8 U.S.C. §§ 1227(a)(2)(A)(ii), (a)(2)(B)(i), and (a)(2)(A)(iii)) and placed Petitioner into removal proceedings pursuant to INA § 240 (8 U.S.C. § 1229a). *Id.* ¶ 7 & Ex. E.

On August 8, 2018, an Immigration Judge ("IJ") ordered Petitioner removed from the United States. *Id.* ¶ 8 & Ex. F. Petitioner appealed the removal order to the Board of Immigration Appeals ("BIA"), and on January 4, 2019, the BIA issued its decision dismissing Petitioner's appeal. *Id.* ¶ 9. The Fifteenth Judicial Circuit granted Petitioner's request for post-conviction relief, following which, on June 18, 2019, the Department of Homeland Security ("DHS") moved to

reopen and terminate Petitioner's removal proceedings. *Id.* ¶ 10. On August 21, 2019, DHS's motion was granted. *Id.*

On October 4, 2019, Petitioner was convicted in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida Circuit Court of the following: (1) possession of hydrocodone in violation of Florida Statute 893.13(6); (2) possession of marijuana with the intent to deliver in violation of Florida Statute 893.16(6); (3) fraudulent use of personal identification in violation of Florida Statute 817.568(2)(a); (4) attempt to obtain a controlled substance by fraud in violation of Florida Statute 893.13(7)(a); and (5) felon in possession of a firearm in violation of Florida Statute 790.23. Guerra Decl. ¶ 11 & Ex. G. On or about October 22, 2019, DHS issued an NTA to Petitioner charging Petitioner as being inadmissible pursuant to INA Section 237(a)(2)(A)(ii), (a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(C) (8 U.S.C. § 1227(a)(2)(A)(ii), (a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(C)) based on the October 4, 2019 convictions. *Id.* ¶ 12. On November 15, 2019, the IJ issued a written order on removability sustaining all of the charges except the charge based on INA Section 237(a)(2)(A)(iii) for having been convicted of an aggravated felony, an offense related to illicit trafficking of a controlled substance. *Id.* ¶ 12 & Ex. H.

On January 9, 2020, Petitioner appeared before the IJ for an individual merits hearing at which time Petitioner withdrew all applications for relief without prejudice. Guerra Decl. ¶ 13 & Ex. I. The IJ ordered Petitioner removed to Cuba. *Id.* The parties agreed that DHS would not oppose a motion to reopen Petitioner's case if filed by Petitioner upon imminent removal to Cuba. *Id.* On January 21, 2020, Petitioner was released from ICE/ERO custody under an Order of Supervision. *Id.* ¶ 14 & Ex. J. On July 27, 2021, Petitioner failed to report to a scheduled office visit with ICE/ERO. *Id.* ¶ 14.

On March 17, 2025, ICE/ERO encountered Petitioner at the Coweta County Sheriff's Office and he was taken into ICE/ERO custody. *Id.* ¶ 15. Petitioner is detained pursuant to INA Section 241(a) (8 U.S.C. § 1231(a)). *Id.* On January 9, 2026, Petitioner was served with a Notice of Removal, informing him that ICE/ERO intends to remove him to Mexico. *Id.* ¶ 16 & Ex. K. On January 13, 2026, ICE/ERO revoked Petitioner's OSUP and served him with a Notice of Revocation of release letter due to changed circumstances in his case and violation of the terms of release by his failure to report on July 27, 2021. *Id.* ¶ 17 & Ex. L.

All appropriate checks have been completed, and Petitioner is ready to be removed to Mexico. Guerra Decl. ¶ 18. Since Petitioner is subject to a final order of removal, there is a significant likelihood of his removal to Mexico in the reasonably foreseeable future. *Id.* Mexico is open for international travel, and ICE/ERO is currently removing aliens to Mexico. *Id.*

LEGAL STANDARDS

Since Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court's final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the "removal period," detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is "reasonably necessary" to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, "may be detained beyond

the removal period"). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. "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." *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that "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." 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52).

ARGUMENT

In his Petition, Petitioner argues that his detention is unlawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001) and the Due Process Claus of the Fifth Amendment. ECF No. 1 at 7 (Count 1), 8-9 (Count 5), and 9-10 (Count 6). In addition, Petitioner argues that he must be given notice and an opportunity to contest third country removal. *Id.* at 10 (Count 7). Petitioner also argues that his order of supervision was revoked without compliance with the proper regulations. *Id.* at 7

(Count 2). Plaintiff's claims are without merit and should be denied.[2]

I. Petitioner is likely to be removed to Mexico imminently.

First, Petitioner's *Zadvydas* claim fails because his removal is likely in the reasonably foreseeable future. Petitioner has been served with a notice of removal indicating ICE/ERO's intent to remove him to Mexico. Guerra Decl. ¶ 16 & Ex. K. All appropriate checks have been completed, and Petitioner is ready to be removed to Mexico. *Id.* ¶ 18. Mexico is open for international travel, and ICE/ERO is currently removing aliens to Mexico. *Id.* With this set of current circumstances, Petitioner cannot show that his removal is not likely in the reasonably foreseeable future. *See Akinwale*, 287 F.3d at 1052. Thus, he cannot make out a *Zadvydas* claim which is premised on *indefinite detention* with no end in sight. Here, the end of Petitioner's detention is imminent. His *Zadvydas* claim should be denied.

II. Petitioner's claim regarding notice and an opportunity to be heard on third country removal is not ripe.

Petitioner argues that in the event ICE/ERO intends to remove him to a country other than Cuba, he must be given the appropriate notice and opportunity to contest that removal. ECF No. 1-1 at 10 (Count 7). Petitioner's request came prior to service on him of the notice of removal, indicating ICE/ERO's intent to remove Petitioner to Mexico. *See* Guerra Decl. Ex. K. Now that Petitioner has been notified of ICE's intent, it is up to Petitioner to assert his claimed right to reopen his removal proceedings with the Immigration Court. As Petitioner has not yet been

[2] Plaintiff also raises two claims about procedural "defects" in his earlier petition. *See* ECF No. 1 at 8 (Counts 3 and 4). These claims should be dismissed because they are not cognizable in habeas and do not state claims upon which relief can be granted. First, Petitioner argues that Respondent's declaration was unsigned in the first case. Count 3. That issue was rectified shortly after the motion to dismiss was filed in that case. *See Saavedra v. Warden*, No. 4:25-cv-244, ECF No. 6 (M.D. Ga. Aug. 25, 2025). Second, Petitioner argues that Respondent did not address Petitioner's argument in the first case, but this was because Respondent raised a procedural defect via a motion to dismiss, which the Court agreed with, nullifying any need to respond to the substance of Petitioner's claims. *See id.* at ECF No. 8.

removed to Mexico, he has ample opportunity to assert a valid claim. This Court, however, is not the proper forum in which to raise those objections. He must do so before the Immigration Court in the first instance, and only if he were denied any opportunity to raise such objections would this Court potentially have jurisdiction to consider a claim on that basis. To be clear, Respondent does not intend to suggest that Petitioner could appeal to this Court or otherwise challenge a determination by the Immigration Court rejecting any such challenge in this Court, but only that this Court might be able to consider a habeas challenge to a complete rejection of the opportunity to raise objections. *See* 8 U.S.C. § 1252(b)(9) & (a)(5). Thus, Petitioner's Claim 7 preemptively seeking the opportunity to challenge his removal to any country other than Cuba should be denied, as Petitioner has not shown that he has not been or will not be afforded an opportunity to challenge that possible removal.[3]

III. Petitioner's OSUP revocation claims are without merit.

In Count 2, Petitioner argues that ICE/ERO failed to comply with a number of its own regulations in connection with the revocation of his Order of Supervision ("OSUP"). Pet. 7. Petitioner raises this claim as a procedural due process violation. *Id.* Count 2 should be dismissed for three reasons. ***First***, the Court lacks subject matter jurisdiction over Petitioner's claim to the extent he seeks judicial review of ICE/ERO's decision to continue Petitioner's post-final order of removal detention by revoking his OSUP or ICE/ERO's internal consideration of evidence in reaching that decision. ***Second***, Petitioner's claim that he has not received notice and an informal interview related to his OSUP revocation is moot.

[3] In the event Petitioner moves to reopen his proceedings with the Immigration Court and that motion is granted, Petitioner's removal order would no longer be a "final order of removal," and he would no longer be detained pursuant to 8 U.S.C. § 1231(a). In that circumstance, his detention authority would revert to 8 U.S.C. § 1226, and his *Zadvydas* claim would become moot, as *Zadvydas* only applies to prolonged detention post-final order of removal. Based on Petitioner's convictions for controlled substances violations, it is likely that his detention would be mandatory pursuant to § 1226(c) during the pendency of his reopened removal proceedings.

A. The Court lacks jurisdiction to judicially review ICE/ERO's discretionary decision to continue Petitioner's detention by revoking his OSUP.

To the extent Petitioner seeks judicial review of ICE/ERO's decision to revoke his OSUP, his claim should be dismissed for lack of subject matter jurisdiction because it seeks judicial review of an action to execute a removal order under 8 U.S.C. § 1252(g). Further, under 8 U.S.C. § 1252(a)(2)(B)(ii), the Court lacks subject matter jurisdiction to judicially review ICE/ERO's discretionary decision to re-detain Petitioner.

1. The Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(g).

Petitioner challenges ICE/ERO's discretionary decision to revoke his OSUP and re-detain him. Because ICE/ERO revoked Petitioner's OSUP in order to execute his removal order, 8 U.S.C. § 1252(g) deprives the Court of subject matter jurisdiction over these claims.

"Federal courts are not courts of general jurisdiction; they have only the power that is authorized by Article III of the Constitution and the statutes enacted by Congress pursuant thereto." *Bender v. Williamsport Area Sch. Dist.*, 475 U.S. 534, 541 (1986) (citation omitted). "The limits upon federal jurisdiction, whether imposed by the Constitution or by Congress, must be neither disregarded nor evaded." *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978).

The Court lacks jurisdiction over Petitioner's claim under 8 U.S.C. § 1252(g) because it seeks judicial review of an action to execute a removal order. 8 U.S.C. § 1252(g) is a jurisdiction-stripping provision in the INA, which provides that

> [e]xcept as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), . . . 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.

8 U.S.C. § 1252(g). "When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged." *Canal A Media Holding, LLC v. U.S. Citizenship & Imm. Servs.*, 964

F.3d 1250, 1257-58 (11th Cir. 2020). Section 1252(g) applies "to three discrete actions that the Attorney General may take: [the] 'decision or action' to '*commence* proceedings, *adjudicate* cases, or *execute* removal orders.'" *Reno v. American-Arab Anti-Discrimination Comm.* ("*AADC*"), 525 U.S. 471, 482 (1999) (emphasis in original).

ICE/ERO's decision to detain a non-citizen subject to a final order of removal is an action taken to "execute removal order" within the meaning of the section 1252(g) jurisdictional bar.[4] In the context of pre-final order of removal detention, the Eleventh Circuit has held that "securing a[] [non-citizen] while awaiting a removal determination constitutes an action taken to commence proceedings" within the purview of section 1252(g). *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013); *accord. Camarena v. Dir., Immigr. & Customs Enf't*, 988 F.3d 1268, 1274 (11th Cir. 2021) ("[W]e do not have jurisdiction to consider 'any' cause or claim brought by an alien arising from the government's decision to execute a removal order. If we held otherwise, any petitioner could frame his or her claim as an attack on the government's *authority* to execute a removal order rather than its *execution* of a removal order." (emphasis in original)). This Court has reached the same conclusion. *Cho v. United States*, No. 5:13-cv-153-MTT, 2016 WL 1611476, at *7 (M.D. Ga. Apr. 21, 2016) ("Plaintiff's claims that she was falsely arrested when she was transferred into ICE custody . . . 'challenge[] the actions the agents took to commence removal proceedings—exactly the claims that § 1252(g) bars from the subject-matter jurisdiction of federal courts.'" (quoting *Gupta*, 709 F.3d at 1065 (alterations in original))).

Here, ICE/ERO's detention of Petitioner upon revocation of his OSUP was an action taken to execute his removal order because ICE/ERO revoked his OSUP specifically because of changed

[4] Again, Respondent's jurisdictional argument as to 8 U.S.C. § 1252(g) is appropriately limited in scope. 8 U.S.C. § 1252(g) bars only Petitioner's claims seeking review of ICE/ERO's *decision* to re-detain him pursuant to 8 U.S.C. § 1231(a)(6) because it constitutes a "decision or action . . . to . . . execute removal orders." 8 U.S.C. § 1252(g); *AADC*, 525 U.S. at 482.

circumstances in his case and because he "violated the conditions of [his] release [by] fail[ing] to report as instructed according to expired Scheduled office visit appointment on July 27, 2021 at 9:00am." Guerra Decl. Ex. K. Other courts have adopted this view and held that section 1252(g) bars claims arising from ICE/ERO's decision to detain a non-citizen pending execution of a final order of removal. *See Barrios v. Ripa*, No. 1:25-cv-22644, 2025 WL 2280485, at *4 (S.D. Fla. Aug. 8, 2025); *Westley v. Harper*, No. CV 25-229, 2025 WL 592788, at *5-6 (E.D. La. Feb. 24, 2025); *Kareva v. United States*, 9 F. Supp. 838, 844 (S.D. Ohio 2014); *Khorrami v. Rolince*, 493 F. Supp. 2d 1061, 1067-68 (N.D. Ill. 2007). This Court should reach the same conclusion and dismiss that portion of Cout 2 for lack of subject matter jurisdiction.

2. The Court lacks jurisdiction pursuant to 8 U.S.C. § 1252(a)(2)(B)(ii).

Under 8 U.S.C. § 1231(a)(6), ICE/ERO has the discretion to detain Petitioner beyond the ninety-day removal period. Because ICE/ERO is vested with this discretion by statute, 8 U.S.C. § 1252(a)(2)(B)(ii) deprives the Court of subject matter jurisdiction over Petitioner's claims challenging ICE/ERO's discretionary decision to continue his detention by revoking his OSUP.

In the immigration context, 8 U.S.C. § 1252(a)(2)(B)(ii)—promulgated as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA")—limits federal courts' jurisdiction to review discretionary determinations made by ICE/ERO as follows:

> Notwithstanding any other provision of law (statutory or nonstatutory), including section 2241 of Title 28, or any other habeas corpus provision . . . no court shall have jurisdiction to review . . . any other decision or action of the Attorney General or the Secretary of Homeland Security the authority for which is specified under this subchapter to be in the discretion of the Attorney General or the Secretary of Homeland Security[.]

"[*M*]*any* provisions of IIRIRA are aimed at protecting the Executive's discretion from the courts—indeed, that can fairly be said to be the theme of the legislation. *AADC*, 525 U.S. at 486 (emphasis in original) (citations omitted). In promulgating section 1252(a)(2)(B)(ii) specifically, "Congress

barred court review of discretionary decisions only when Congress itself set out [ICE/ERO's] discretionary authority in the statute." *Kucana v. Holder*, 558 U.S. 233, 247 (2010). The Eleventh Circuit recently made clear that section 1252(a)(2)(B)(ii) bars not only "not only the ultimate decision to approve or deny [a discretionary form of relief], but also *actions taken in the course of the decision-making process*[.]" *Kanapuram v. Dir., U.S. Citizenship & Immigr. Servs.*, 131 F.4th 1302, 1307 (11th Cir. 2025) (emphasis added).

Here, Petitioner was ordered removed pursuant to 8 U.S.C. § 1227(a)(2)(A)(ii) and (a)(2)(B)(i) based on his convictions. Guerra Decl. ¶¶ 12-13 & Exs. H, I. Although he was previously released upon an OSUP, under 8 U.S.C. § 1231(a)(6), ICE/ERO retains the discretion to detain non-citizens subject to final orders of removal beyond the 90-day removal period. That subsection provides, in relevant part, that "[a]n alien ordered removed who is . . . removable under [8 U.S.C. §] 1227(a)(2) . . . *may* be detained beyond the removal period[.]" 8 U.S.C. § 1231(a)(6) (emphasis added). The Supreme Court "has repeatedly observed that the word 'may' clearly connotes discretion." *Biden v. Texas*, 597 U.S. 785, 802 (2022) (internal quotations and citations omitted). And the Court has specifically recognized that 8 U.S.C. § 1231(a)(6) "gives the Federal Government discretionary authority in specified circumstances to detain aliens who have been ordered removed from the United States." *Garland v. Aleman Gonzalez*, 596 U.S. 543, 546 (2022) (internal quotations and citation omitted). Thus, by statute—specifically, 8 U.S.C. § 1231(a)(6)—Congress has vested ICE/ERO with the discretionary authority to continue Petitioner's detention beyond the removal period.

Petitioner's claim could be read to challenge ICE/ERO's decision to continue his detention beyond the removal period under 8 U.S.C. § 1231(a)(6) by revoking his OSUP. Pet. 7. But any challenge to that discretionary decision is barred by 8 U.S.C. § 1252(a)(2)(B)(ii). Similarly, to the

extent Petitioner seeks the "evidence justifying his continued detention," in order to challenge that evidence in this Court, that challenge would be barred by 8 U.S.C. § 1252(a)(2)(B)(ii) because that statute also applies to "actions taken in the course of [ICE/ERO's discretionary] decision-making process." *Kanapuram*, 131 F.4th at 1307. Further, following service of the Notice of Revocation, Petitioner has now been notified of the basis for his OSUP revocation. *See* Guerra Decl. Ex. L.

In the immigration habeas context, this Court has held that 8 U.S.C. § 1252(a)(2)(B)(ii) deprives it of jurisdiction over APA and *Accardi* claims seeking judicial review of ICE/ERO's discretionary decision to deny release from custody. *A.M.Y. v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:20-cv-61-CDL-MSH, Order & R. 39-40 (M.D. Ga. Oct. 13, 2020), ECF No. 47 (denying APA and *Accardi* claims seeking judicial review of the denial of parole under 8 U.S.C. § 1182(d)(5)(A) for lack of subject matter jurisdiction), *recommendation adopted*, Order (M.D. Ga. Nov. 4, 2020), ECF No. 49. And faced with similar claims challenging the decision to revoke an OSUP, another court in the Eleventh Circuit recently held that 8 U.S.C. § 1252(a)(2)(B)(ii) deprives district courts of jurisdiction to review ICE/ERO's decision to re-detain a non-citizen subject to a final order of removal by revoking an OSUP. *Barrios*, 2025 WL 2280485, at *4 ("[B]ecause the Attorney General has the discretion to revoke an OSUP, § 1252(a)(2)(B)(ii) also bars review."). This Court should reach this same conclusion and dismiss the Petition to the extent it brings these challenges for lack of subject matter jurisdiction.

C. Petitioner's claims seeking notice and an informal interview are moot.

To the extent Petitioner asserts that ICE/ERO failed to comply with applicable regulations in revoking his OSUP and that these failures amount to violations of due process, that claim is moot. Pet. 7. Specifically, Petitioner lists a number of items that he claims "ICE Failed to [do]" under 8 C.F.R. §§ 241.4 and 241.13, including "serve notice of revocation of supervised release[.]"

Id. To the extent Petitioner claims he is entitled to notice and an interview, the Court should dismiss this claim as moot because ICE/ERO has afforded him this relief.

"Article III of the Constitution limits the jurisdiction of the federal courts to the consideration of 'Cases' and 'Controversies.'" *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1335 (11th Cir. 2001) (quoting U.S. CONST. art. III, § 2). "The doctrine of mootness derives directly from the case-or-controversy limitation because an action that is moot cannot be characterized as an active case or controversy." *Id.* (internal quotations and citation omitted).

"A cause of action becomes moot when it no longer presents a live controversy with respect to which the court can give meaningful relief." *Djadju v. Vega*, 32 F.4th 1102, 1106 (11th Cir. 2022) (internal quotations and citation omitted). "In considering mootness, [courts] look at the events at the present time, not at the time the complaint was filed[.]" *Id.* (citation omitted). "If the injury ceases, or is rendered unamenable to judicial relief, then the case becomes moot and thereby incapable of further Article III adjudication." *Checker Cab Operators, Inc. v. Miami-Dade Cnty.*, 899 F.3d 908, 915 (11th Cir. 2018). Put another way, "[i]f events that occur subsequent to the filing of a lawsuit or an appeal deprive the court of the ability to give the plaintiff or appellant meaningful relief, then the case is moot and must be dismissed." *Al Najjar*, 273 F.3d at 1336 (citation omitted). "Indeed, dismissal is required because mootness is jurisdictional." *Id.* (citation omitted).

Here, in Count Two, Petitioner argues that his OSUP revocation violates due process because ICE/ERO failed to serve him notice under either 8 C.F.R. §§ 241.4 or 241.13. Pet. 7. While the two regulations serve different purposes, they have roughly the same notice requirement: "Upon revocation [of an OSUP], the alien will be notified of the reasons for revocation of his or her release or parole. The alien will be afforded an initial informal interview promptly after his or

her return to [ICE/ERO] custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.13(i)(3).

Petitioner's claims are now moot because ICE/ERO has provided Petitioner written notice of the reasons for his OSUP revocation and an informal interview to respond after his return to custody. On January 13, 2026, ICE/ERO served Petitioner with a Notice of Revocation of Release signed by the Field Office Director. Guerra Decl. ¶ 17 & Ex. L. The Notice states the reason for Petitioner's OSUP revocation: "changed circumstances in [his] case," and additionally because of a violation of the terms of release by his failure to report on July 27, 2021 Guerra Decl. Ex. L. On the same day, after service of the Notice, ICE/ERO conducted an informal interview with Petitioner to afford him the opportunity to respond to those reasons. *Id.* The record from the informal interview documents that Petitioner did not provide a statement or documents. *Id.*

Because ICE/ERO has provided Petitioner notice and an informal interview in accordance with 8 C.F.R. § 241.13(i)(1), Petitioner's claim in Count Two that his OSUP revocation violates due process in the absence of these procedures "no longer presents a live controversy with respect to which the court can give meaningful relief." *Djadju*, 32 F.4th at 1106 (internal quotations and citation omitted). Any purported injury resulting from the OSUP revocation in the absence of these procedures has ceased. *See Checker Cab Operators*, 899 F.3d at 915. Because this claim is now moot, "dismissal is required because mootness is jurisdictional." *Id.* (citation omitted).

CONCLUSION

For the reasons stated herein, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted, this 13th day of January, 2026.

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Respondent's Response with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

JIDIER ANTONIO SAAVEDRA
A# [redacted]
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 13th day of January, 2026.

BY: */s/ Michael P. Morrill*
MICHAEL P. MORRILL
Assistant United States Attorney