

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

Shi Ying HUANG)	
)	Case No. 3:25-cv-00730-DB
Petitioner,)	
)	PETITIONER'S REPLY TO
v.)	FEDERAL RESPONDENT'S
)	RESPONSE IN OPPOSITION
Unknown Name, Superintendent, ERO El Paso)	TO PETITIONER'S WRIT OF
Camp East Montana;)	HABEAS CORPUS
Mary De Anda-Ybarra, Field Office Director,)	
ICE El Paso Field Office;)	
Todd Lyons, Acting Director, U.S.)	
Immigration and Customs Enforcement;)	
Kristi Noem, Secretary of the)	
U.S. Department of Homeland Security;)	
Pamela Bondi, Attorney General of the U.S.;)	
)	
Respondents.)	
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INTRODUCTION

Petitioner, by and through her undersigned counsel, hereby files this reply to the Federal Respondents' Response in Opposition to Petitioner's Writ of Habeas Corpus. *See* ECF No. 5. For the reasons set forth below, this Court should grant Petitioner' Writ of Habeas Corpus.

ARGUMENT

A. Respondents Do Not Have A Travel Document for Ms. Huang

Petitioner filed this petition for a writ of habeas corpus challenging the unlawful revocation of her release on an order of supervision ("OSUP") and her continued detention without belief that her removal from the United States is reasonably foreseeable. In Response, Respondents allege that there is no good reason to believe that removal is unlikely in the reasonably foreseeable future as "ERO initiated a Travel Document Request with the General Consulate of China in Washington

D.C.” See ECF no. 5-1, ¶16. To date, no travel document has yet issued. Respondents cite to its own statistics to demonstrate that “297 Chinese nationals were successfully removed to India FY2025 in Q1” to propose that Ms. Huang’s removal is reasonably foreseeable. See ECF No. 5. These statistics ignore how long Chinese nationals remained in custody before they were removed, and how long it took for China to issue travel documents. By the Government’s own statistics, 1,318 Chinese nationals were detained in the category of “other immigration violator” in FY2025 thus far, but removal was only effectuated 297 times. *See* ICE Enforcement and Removal Statistics, <https://www.ice.gov/statistics> (filtered by nationality and last accessed Jan. 8, 2026). Respondents further claim that FY2024 demonstrated an increase in removal of Chinese nationals compared to prior years, and that 517 Chinese nationals were removed. *See* ECF No. 5. However, in FY2024, 2,137 Chinese nationals were detained for immigration violations, resulting in a removal rate of less than 25%. To claim that removal is likely in the foreseeable future because 297 removals took place in FY2025 is irresponsible, given that more 1,000 other Chinese nationals were detained, but not removed. Just because ICE “anticipates no impediments to removal once the document is issued” does not mean that removal is likely. At this point in time, more than 3 months have passed since ICE initiated the request for the travel document, and the Government does not yet have a travel document.

B. Respondents Offer No Response to Petitioner’s Claim that They Failed to Comply with Revocation Procedure

Respondents failed to comply with the governing regulations when revoking Petitioner’s OSUP and in its Response, the Government does not, nor could it, argue that it had complied with proper revocation protocol. Pursuant to 8 C.F.R. § 241.13(h)(4)(i)(2), (3), Respondents must provide a noncitizen with notice of the reasons for the revocation, must provide the noncitizen with an informal interview, and must provide the noncitizen with the opportunity to submit any

evidence or information that he or she believes shows there is no significant likelihood he or she will be removed in the reasonably foreseeable future. Failure to provide the notice of the reasons for the revocation or failure to provide an informal interview violates the detainee's due process rights and requires immediate release on OSUP. *See Ceesay v. Kurzdorfer*, 781 F.Supp.3d 137, 163-65, 166 (W.D.N.Y. May 2, 2025) (collecting cases, concluding that the failure to provide the informal interview violated the detainee's due process rights, and concluding that the detainee was entitled to immediate release); *see also K.E.O. v. Woosley*, 2025 WL 2553394, *5-7 (W.D. Ky. Sept. 4, 2025) (ordering release for failure to provide informal interview); *Santamaria Orellana v. Baker*, 2025 WL 2841886, *7 (D. Md. Oct. 7, 2025) (failure to provide interview violates due process); *Delkash v. Noem*, 2025 WL 2683988, *5-7 (C.D. Cal. Aug. 28, 2025) (noting requirement for notice and informal interview and granting immediate release).

Moreover, notice of the reasons for the revocation of release must be provided before re-detaining an individual on an OSUP, to provide timely notice of the reasons for the re-detention. *See Zhu*, 2025 WL 2452352 at *9 (noting that the regulations and Due Process Clause require that the process required for revoking a release must happen before a non-citizen is re-detained and ordering immediate release). Failure to provide a detainee with meaningful notice of the reasons for the revocation deprives her of the opportunity to be heard on why she should remain at liberty. *See e.g., Perez-Escobar v. Mariz*, --- F. Supp.3d ----, 2025 WL 2084102, * 2 (D. Mass. July 24, 2025) (finding that a Notice of Revocation that stated that there is a significant likelihood of removal in the reasonably foreseeable future, that the purpose of release had been served, and that it was appropriate to enforce the removal order "does not identify any specific changed circumstances" and fails to give the petitioner "meaningful notice of the basis for its revocation" and ordering the petitioner's immediate release).

In this case, the Notice of Revocation served on Petitioner is signed by an Acting Field Office Director in New England, who is not an official authorized to revoke Petitioner's release. *See Rombot v. Souza*, 296 F.Supp.3d 383, 385 (D. Mass. Nov. 8, 2017); *Ceesay*, 781 F.Supp.3d at 162; *Santamaria Orellana*, 2025 WL at *5-6; *Zhu v. Genalo*, --- F.Supp.3d ----, 2025 WL 242352, * 8 (S.D.N.Y. Aug. 26, 2025). In addition, the Notice is vague, referencing general "changed circumstances" that make Petitioner's removal foreseeable, without specifying what those circumstances are. *See Perez-Escobar v. Mariz*, 2025 WL 2084102 at * 2. The Notice was served after Petitioner had already been arrested, depriving her of timely notice of any reasons for his arrest. *See Zhu*, 2025 WL 2452352 at *9. Finally, Petitioner has not been provided with an informal interview, in violation of the governing regulations. *See Ceesay*, 781 F.Supp.3d at 163-165, 166; *K.E.O.*, 2025 WL 2553394 at *5-7; *Santamaria Orellana*, 2025 WL 244087 at *7; *Delkash*, 2025 WL 2683988 at *5-7. Accordingly, Respondents failed to follow the proper procedures when revoking Petitioner's release.

C. Continued Detention Violates Ms. Huang's Due Process Rights

Once a non-citizen has a protected liberty interest, the *Mathews* test applies to determine what procedural protections are due before immigration officials can re-detain the non-citizen. Under that test, this Court must weigh: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of procedural safeguards; and (3) the government's interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

1. The Private Interest Affected

As to the first element, "[t]he interest in being free from physical detention' is 'the most elemental of liberty interests.'" *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025) (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). In this case,

the private interest at stake is clearly weighty – Petitioner’s liberty has been severely curtailed while she has remained in ICE custody after Respondents failed to follow proper revocation protocol. Various courts in the Fifth Circuit have recognized the protected liberty interests of noncitizens on Orders of Supervision, particularly where the noncitizens have complied with supervision conditions and remained at liberty for extended periods. In *Trejo v. Warden*, the Western District of Texas found that a noncitizen who had been released under an order of supervision and “remained at liberty in United States for more than six years” possessed a “significant liberty interest.” *Trejo v. Warden of ERO El Paso East Montana*, --- F.Supp.3d ---- (2025). In *Villanueva v. Tate*, the Southern District of Texas held that a noncitizen had “a liberty interest in his continued release under his order of supervision.” *See Villanueva v. Tate*, --- F.Supp.3d ---- (2025). The court emphasized that the noncitizen had complied with all terms of supervision for eight years before Immigration and Customs Enforcement (ICE) re-detained him (*Villanueva v. Tate*, --- F.Supp.3d ---- (2025)).

Here, Ms. Huang has been residing in the United States since 1999, and has been compliant with the conditions of her order of supervision since she was first placed on it over 14 years ago. Like the Petitioner in *Trejo*, Petitioner here has been at liberty for many years, a fact that Respondents failed to contend with in both cases.

2. The Risk of Erroneous Deprivation and Probable Value of Procedural Safeguards

In addition, the risk of erroneous deprivation is high. When Respondents paroled Petitioner after her entry into the country in 1999, they did so because they determined she was not a flight risk or a danger to the community. *See e.g., Fernandez Lopez v. Wofford et al*, No. 1:25-cv-01226-KES-SKO, 2025 WL 2959319 at *4 (E. D. Cal. Oct. 17, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)). Prior to her re-detention in December 2025, Petitioner had no notice of Respondents’ intention to

re-detain her and no opportunity to contest that action. In the time that she has been in ICE custody, she has not received a bond or custody redetermination hearing, and the regulations strip an immigration judge of any authority to release her on bond, cutting off any avenue for review of her custody status in the existing immigration court framework. Because the private interest in freedom from immigration detention is substantial, due process requires the government to bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community before re-detaining her. *See e.g., Fernandez Lopez*, 2025 WL 2959319 at *8; *J.S.H.M. v. Wofford*, 2025 WL 2938808, *16 (E.D. Ca. Oct. 16, 2025) (unpub); *Abduraimov v. Andrews*, No. 1:25-cv-00843-EPG-HC 2025 WL 2912307 at *9 (E.D. Cal. Oct. 14, 2025); *Mata Velasquez v. Kurzdorfer*, --- F.Supp.3d ----, 2025 WL 1953796, *17 (W.D.N.Y. July 16, 2025) (detention of parolee without a reasoned explanation or changed circumstances and without a meaningful opportunity to be heard violates due process).

3. The Government's Interest

The government's interest in re-detaining Petitioner without first providing notice and a custody hearing is minimal. *See e.g., K.E.O. v. Woosley*, 2025 WL 2553394, *5-7 (W.D. Ky. Sept. 4, 2025) (ordering release for failure to provide informal interview); *Santamaria Orellana*, 2025 WL 244087 at *7 (failure to provide interview violates due process); *Delkash v. Noem*, 2025 WL 2683988, *5-7 (C.D. Cal. Aug. 28, 2025) (noting requirement for notice and informal interview and granting immediate release); *Fernandez Lopez*, 2025 WL 2959319 at *6; *J.S.H.M.*, 2025 WL 2938808 at *18; *Noori*, 2025 WL 2800149 at *11 ("Respondents did not provide Petitioner individualized notice and reasoning prior to his arrest and detention on June 12, 2025 and have presented no legitimate reason for why those decisions were made. Any governmental interest of efficient administration of immigration laws . . . does not outweigh these first two factors."). Bond

hearings are a routine part of immigration court proceedings, and thus, requiring one *before* Respondents re-detain Petitioner imposes a minimal cost to the government. *See Doe v. Becerra*, --- F.Supp.3d ----, 2025 WL 691664, *6 (E.D. Ca. March 3, 2025). Petitioner is represented by counsel and has a demonstrated record of compliance on her Order of Supervision. There is no reason to think that her compliance will change if she is released pending a pre-deprivation custody hearing. Indeed, Ms. Huang has no criminal record in the United States, and she is the primary caretaker of her terminally ill husband and her two United States Citizen children. It strains credulity to suggest that she is a danger to the community or a flight risk, when her primary daily activity is ensuring the proper care of a spouse with metastatic recurrent colon adenocarcinoma. Thus, all three *Mathews* favor Petitioner, and she has established a likelihood of success on her procedural due process claims.

CONCLUSION

For the foregoing reasons, the government unlawfully revoked her Order of Supervision and continues to unlawfully detain her. This Court should order immediate release on an OSUP until such time as ICE complies with the regulations governing revocation of her release, including a showing that her removal is reasonably foreseeable and will be based on an enforceable removal order.

Respectfully Submitted
Shi Ying Huang, Petitioner
By and through:

s/ Annelise M. Jatoba de Araujo

Annelise M. Jatoba de Araujo
Annelise Araujo Law, LLC
260 Franklin Street, Suite 520
Boston, MA 02110
T: 617-716-6400
C: 419-494-3051