

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Pauline Nadege BINAM,

Petitioner,

v.

JASON STREEVAL, Warden, Stewart
Detention Center; LADEON FRANCIS, Field
Office Director, Atlanta Field Office, U.S.
Immigration and Customs Enforcement;
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 United
States, *in their official capacities*,¹

Respondents.

Case No.. 4.25-cv-00515-CDL-AGII

**OBJECTIONS TO REPORT AND
RECOMMENDATION**

Petitioner Pauline Nadege Binam (“Ms. Binam”) is a native and citizen of Cameroon. She has lived in the United States since she was two years old, when she entered the United States on a B-2 tourist visa in 1992. Ms. Binam respectfully makes the following objections to the Report and Recommendation (“Report”) entered in this matter on March 25, 2026. *See* Doc. 16. For the reasons stated below, the Report should not be followed, and Ms. Binam’s habeas petition should be granted.

¹ The Report asserts that *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) requires dismissal of all Respondents except Warden Streeval, the immediate custodian. But *Rumsfeld* did not so hold, *see id.* at 435 n. 8, and many courts, including in this district, have recognized federal officials with responsibility over detention facilities as proper respondents in habeas claims. *See E.D.Q.C. v. Warden, Stewart Detention Center*, 789 F.Supp.3d 1234, 1242 n. 4 (M.D. Ga. 2025); *Masingene v. Martin*, 424 F.Supp.3d 1298, 1301-02 (S.D. Fla. 2020).

STANDARD OF REVIEW

This Court's review is *de novo*. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.").

"In Section 2241 proceedings, the familiar standards of Rule 12(b)(6) of the Federal Rules of Civil Procedure apply to motions to dismiss." *Gonzalez v. Rokosky*, 2023 WL 10552936, at *2 (S.D.W.V. Nov. 21, 2023); *see also* Fed R. Civ. P. 81 (Federal Rules apply to proceedings for habeas corpus if they do not conflict with specific habeas rules). FRCP 12(b)(6) requires district courts to "accept[] the facts alleged in the complaint as true, drawing all reasonable inferences in the plaintiff's favor." *Keating v. City of Miami*, 598 F.3d 753, 763 (11th Cir. 2010).

I. Ms. Binam has demonstrated that ICE violated its own regulations governing revocation of an OSUP.

ICE unequivocally violated its own regulations when it re-detained Ms. Binam without providing her notice upon revocation of her OSUP or a prompt informal interview. The majority of district courts, addressing procedural deficiencies with materially similar facts, have recognized

that such failures amount to serious regulatory violations warranting release.² In ignoring this body of precedent, the Report allows Respondents to keep Ms. Binam confined in violation of law. Further, the Report runs the risk of incentivizing Respondents to violate other noncitizens' due process rights if ICE believes that it can transfer detainees to Stewart or other detention facilities in this jurisdiction where it may evade accountability.

a. Ms. Binam demonstrated that ICE failed to provide notice “upon revocation” or a prompt informal interview.

1. *Respondents’ brief encounter with Petitioner at Stewart occurred well after its decision to revoke her OSUP and lacked particularity, clearly violating the regulations.*

The Report errs by finding that the notice given to Ms. Binam was done so “upon revocation,” and that an interview was provided “promptly,” as required by the regulations. *See* 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)(2).³ Respondents’ flimsy attempt to feign compliance with

² District courts nationwide continue to order habeas petitioners immediately released where the government failed to strictly adhere to the OSUP revocation process, even where there may be a basis for revocation. The Report fails to acknowledge the overwhelming weight of persuasive authority in Petitioner’s favor. *See, e.g., S.O.A. v. Olson*, 2026 WL 836123 (E.D. Ky. Mar. 26, 2026); *Ghiassi v. Murray*, 2026 WL 833776 (E.D. Cal. Mar. 26, 2026); *Tuan Minh Bui*, 2026 WL 788947 (W.D. Okla. Mar. 20, 2026); *Fuentes v. Ripa*, 2026 WL 717983 (M.D. Fla. Mar. 16, 2026); *Muniz de la Cerda v. Bondi*, 2026 WL 784972 (W.D. Tex. Mar. 5, 2026); *Rodriguez Romero v. Ladwig*, 2026 WL 321437 (M.D. La. Feb. 6, 2026); *Banega v. Warden*, 2026 WL 234042 (M.D. Fla. Jan. 29, 2026); *Zhang v. Bondi*, 2026 WL 42778 (S.D.N.Y. Jan. 7, 2026); *Zhang v. Genalo*, __ F.Supp.3d __, 2025 WL 3733542 (E.D.N.Y. Dec. 28, 2025); *Diallo v. Joyce*, 2025 WL 3718477 (S.D.N.Y. Dec. 23, 2025); *Funes v. Francis*, __ F. Supp.3d __, 2025 WL 3263896 (S.D.N.Y. Nov. 24, 2025); *Garcia-Aleman v. Thompson*, 2025 WL 3534806 (W.D.T.X. Nov. 24, 2025); *J.L.R.P. v. Wofford*, 2025 WL 3190589 (E.D. Cal. Nov. 14, 2025); *Cifuentes Rivera v. Arnott*, (W.D. Mo. Oct. 7, 2025); *Grigorian v. Bondi*, 2025 WL 2604573 (S.D. Fla. Sept. 9, 2025); *K.E.O. v. Woosley*, 2025 WL 2553394 (W.D. Ky. Sept. 4, 2025); *Sarail A. v. Bondi*, __ F.Supp.3d __, 2025 WL 2533673 (D. Minn. Sept. 3, 2025); *see also Morales Sanchez v. Bondi*, __ F.Supp.3d __, 2025 WL 3651899 (C.D. Cal. Dec. 5, 2025) (granting motion to enjoin unlawful detention where ICE violated OSUP revocation regulations).

³ As the Report notes, *see* Doc. 16, p. 13, the Notice cited both §§ 241.4 and 241.13 to justify Ms. Binam’s re-detention. Both statutory provisions require notice upon revocation and a prompt informal interview to ensure that detained noncitizens are afforded the minimal due process

the OSUP revocation regulations came fifteen days after she was transferred to Stewart—only after Ms. Binam pointed out their failure to do so in her Amended Complaint—and *eighty* days after ICE constrained her liberty by placing her under an ICE hold in South Carolina.

Section 241.4(*I*) was “designed to give noncitizens the minimal elements of due process—notice and an opportunity to be heard—and to do so *close in time to the infringement of their liberty interest*.” *Funes v. Francis*, 810 F.Supp.3d 472, 499 (S.D.N.Y. 2025) (emphasis added). District courts around the country continue to hold that “upon revocation” implies a very specific and limited timeframe for provision of notice. In *Funes*, for example, the court found that even where notice was provided eleven hours post-revocation, that did not satisfy § 241.4(*I*). *See id.* at 494. In *Por M. v. Sec. of Homeland Security*, 2026 WL 776864, at *1 (D. Minn. Mar. 19, 2026), the court found that a four-day lapse between re-detention and provision of notice violated § 241.13(i)(3)’s “upon revocation” requirement. Many courts have ruled similarly.⁴ In contrast, the Report improperly lowers the bar from whether notice is provided “upon revocation” to whether notice is provided “at all.”⁵ Doc. 16, p. 8. But that reading is not supported by the text of the

required. *See* § 241.4(*I*)(1-2); § 241.13(i)(3).

⁴ *See, e.g., Constantinovici v. Bondi*, 806 F. Supp. 3d 1155, 1165-66 (S.D. Cal. 2025) (granting release where, among other procedural violations, revocation notice was given weeks after petitioner’s re-detention and days after filing of habeas petition); *M.S.L. v. Bostock*, No. 6:25-cv-01204-AA, 2025 WL 2430267, at *11 (D. Ore. Aug. 21, 2025) (explaining that “§ 241.4(*I*) requires that when a noncitizens’ release is revoked, she is to be notified of the reason ‘upon revocation,’ and not after nearly a month in detention).

⁵ The Report points out that § 241.4(*I*)(1) does not specify that the notice must be written. *See* Doc. 16, p. 8. While that specific provision may not specify as much, 241.4(d) requires that a copy of *any* decision to detain a noncitizen must be provided to them, and both § 241.4(*I*)(1) and § 241.13(i)(3) contemplate noncitizens responding to the reasons “stated in the notification.” *Id.* “That is a clear indication that the regulation requires a written notification.” *Tran v. Noem*, 2025 WL 30005347, at *3 (S.D. Cal. Oct. 27, 2025); *see Luc Quy Tran v. Warden*, 2026 WL 672969, at *6 (M.D. Fla. Mar. 10, 2026) (noting that §§ 241.4(*I*)(1) and 241.13(i) strike the balance of due process protections “by guaranteeing written notice and an informal interview”).

regulation and would render the regulation essentially useless as a guarantor of minimal due process.

Furthermore, the Report dismisses the fact that when Respondents finally brought Ms. Binam the Notice of Revocation, she was not allowed to fully read the document or retain a copy as required by Section 241.4(d). *See* Doc. 15, p. 7; Doc. 15-1 ¶¶ 4-9. As explained above, and as many courts have held, a weeks-long delay in providing notice cannot reasonably be considered “upon revocation.” But even if it could, Respondents still failed to provide Ms. Binam with adequate notice, because they did not allow her to read enough of the document to understand and be able to respond to the purported reasons for the revocation. When Ms. Binam informed the ICE Officer that she would not sign the document without reading it first, “he took the piece of paper back from [her]” before she could finish reading, a fact that was undisputed in Respondents’ briefing. Doc. 15-1. The Report fails to address this or to draw the reasonable inference in Ms. Binam’s favor—as the Court is required to do when ruling on a Motion to Dismiss (*see* Fed. R. Civ. P. 12(b)(6); Fed R. Civ. P. 81)—that she could not possibly have received adequate notice comporting with due process or the regulations designed to ensure it.

Next, the Report fails to contend with the lack of any particularized finding of changed circumstances in Ms. Binam’s case, as required for the revocation of an OSUP under § 241.13(i)(2). *See, e.g., Kong v. United States*, 62 F.4th 608, 619-620 (1st Cir. 2023) (requiring *individualized* finding that deportation has become significantly likely in the reasonably foreseeable future to justify re-detention under § 241.13(i)). The “boilerplate” language in the Notice of Revocation that “simply mirrored the language” of the statute is insufficient to comply with the regulatory requirement that a noncitizen be notified of the reasons for revocation. *See* Doc. 15, p. 8 (citing *Sarail A. v. Bondi*, 803 F.Supp.3d 775 (D. Minn. 2025) and *Perez-Escobar v.*

Moniz, 792 F.Supp.3d 224 (D. Mass. 2025), which found such boilerplate, unspecific language to be insufficient under Section 241.4(l)(1).)

The Report attempts to distinguish *Sarail A.* by pointing out that here, the Notice “at least” stated that “[Ms. Binam]’s case was currently under review by Cameroon for the issuance of a travel document.” Doc. 16, n. 2. But courts across the country have held that this sort of vague, conclusory language is insufficient to demonstrate a significant likelihood of removal in the reasonably foreseeable future or to comport with the OSUP revocation regulations. *See, e.g., Nguyen v. Hyde*, 788 F.Supp.3d 144, 152 (D. Mass. 2025) (finding insufficient basis for continued detention where government asserted “changed circumstances” and that petitioner’s “case is under current review” by his native country). “[D]istrict courts have repeatedly found that the ‘mere request of a travel document by ICE is not a changed circumstance supporting re-detention under § 241.13.’” *S.O.A. v. Olson*, 2026 WL 836123, at *5 (E.D. Ky. Mar. 26, 2026) (quoting *Choy v. Woosley*, 2026 WL 324601 (W.D. Ky. Feb. 6, 2026)). Because Respondents’ sole given reason for re-detaining Ms. Binam is the vague, conclusory assertion that her case is under review for issuance of a travel document, this Court should easily conclude that Respondents have failed to show adherence to the due process requirements of 8 C.F.R. § 241.4(l) and 8 C.F.R. § 241.13(i)(2).

This is especially the case where, as here, the Respondents’ evidence shows that the request for a travel document (1) was merely an internal, intra-agency request and (2) was clearly submitted weeks *after* Ms. Binam was transferred to Stewart, and months after she was placed under an ICE hold. By Respondents’ own assertions, *see* Doc. 12-1, Ms. Binam’s case was *not yet* under review by Cameroon on December 22, 2025, when ICE transferred her to Stewart, let alone when it first deprived her of her liberty through an ICE detainer on October 17, 2025. In *S.O.A.*, the court properly concluded that where ICE’s only evidence in support of changed circumstances

was a request for travel documents made weeks after the petitioner was re-detained, it failed to have sufficient evidence of any relevant changed circumstances at the time it actually revoked the OSUP. 2026 WL 836123, at *5.

Put simply, a post-hoc internal agency request for travel documents is not a changed circumstance. *See, e.g., Hall v. Nessinger*, 2026 WL 18538, at *8 (D.R.I. Jan. 2, 2026) (finding that ICE failed to provide the petitioner with sufficient notice of revocation where it summarily stated that his case was “under review by Liberia for the issuance of a travel document” because “Liberia had not actually issued any travel document when he was detained”); *Hoac v. Becerra*, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (“Respondents’ intent to eventually complete a travel document request for Petitioner does not constitute a changed circumstance.”).

Furthermore, courts have been appropriately skeptical where, as appears to have occurred in Ms. Binam’s case, “Respondents waited until Petitioner sought relief from this Court before they provided Petitioner with any of the process required.” *Muniz de la Cerda v. Bondi*, 2026 WL 784972, at *4 (W.D. Tex. Mar. 5, 2026) (“[T]he Government’s burden to furnish evidence demonstrating that removal is likely in the reasonably foreseeable future is not met by pending requests for travel documents alone.”).

2. *Any “interview” provided to the Petitioner on January 5 was insufficient under sections 241.4(l) and 241.13(i).*

The Report also applies the incorrect standard with respect to the interview requirement. Rather than looking at whether Respondents provided Ms. Binam with a *prompt* interview, as required by the relevant regulations, the Report emphasized that “the record does not indicate that Respondent failed to provide an informal interview *at all*.” Doc. 16, p. 8, n. 3 (emphasis in original). But provision of an interview “at all” is not the relevant standard. Rather, sections 241.4(l)(1) and 241.13(i)(2) require that ICE provide an informal interview “promptly” after re-

detaining an individual previously released on an OSUP “to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification.” § 241.4(l)(1); *see Noem v. Abrego Garcia*, 145 S.Ct. 1017, 1019 (2025) (statement of Sotomayor, J.) (emphasizing that 8 C.F.R. § 241.4(l) requires notice and an informal interview to revoke conditional release).

Again, the Report neglects to view the facts in the light most favorable to Ms. Binam or to draw reasonable inferences in her favor. The Report acknowledges that Ms. Binam stated in a sworn affidavit that she was *not* given an opportunity to respond to the reasons for revocation (*i.e.*, that an interview which comported with the regulations did not take place), *see* Doc. 16, pp. 3-4, but then goes on to credit Respondents’ account “that an informal interview took place on January 5.” Doc. 16, p. 8, n. 3. Ms. Binam is adamant that ICE “did not tell [her] why they were revoking [her] release or give [her] a chance to say anything about why they should not.” Doc. 15-1; *see also* Doc. 12-7 (blank space on section of Alien Informal Interview document asking about oral statement provided by detainee).⁶ The Report acknowledges that this factual dispute matters for the resolution of Respondents’ motion to dismiss, but then inverts the presumption required by the federal rules at the motion to dismiss stage by improperly drawing inferences in Respondents’ favor to conclude that an interview had in fact taken place. *See* Doc. 16, p. 8, n.3.

Even if ICE’s hasty visit to Ms. Binam on January 5 could be considered a sufficient “interview” under the regulations, it would still fail to satisfy regulatory requirements because the interaction in question occurred weeks after Ms. Binam’s transfer to Stewart, and months after her liberty was constrained by an ICE hold, and was thus not prompt. *See, e.g., Sayvongsa v. Noem*,

⁶ *Cf. Zhang v. Genalo*, __ F.Supp.3d __, 2025 WL 3733542 at *14 (E.D.N.Y. Dec. 28, 2025) (finding that space for detainee’s transcribed response left blank on informal interview document “raises more questions than answers” about Respondents’ compliance, especially in light of numerous other procedural deficiencies).

Case No.: 3:25-cv-02867-AGS-DEB (S.D. Cal. Oct. 31, 2025) (granting habeas petition where ICE did not provide interview for three weeks after re-detaining petitioner); *M.S.L. v. Bostock*, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (interview 27 days after re-detention not prompt); *Constantinovic*, 806 F.Supp.3d at 1165 (interview nearly six weeks after arrest “cannot reasonably be construed” as prompt); *Rasakhamdee v. Noem*, 2025 WL 3102037, at *5 (S.D. Cal. 2025) (same). As the following section explains, the timing and substance of the notice and interview matter because the purpose of these regulatory requirements is to give noncitizens a meaningful opportunity to change ICE’s mind before the revocation decision is finalized.

b. Release is the only appropriate remedy for ICE’s violation of its own regulations.

The Report misunderstands the point of the OSUP revocation requirements when it concludes that release is not the appropriate remedy for ICE’s failure to follow its mandatory regulations. *See* Doc. 16, p. 8, n. 3. In a footnote, the Report states that even if ICE failed to provide Ms. Binam a prompt post-deprivation interview as required by the regulations, the appropriate remedy would be to direct ICE to do so, not to order Ms. Binam’s release. *See id.* But that result at this stage would be wholly inadequate to afford Petitioner the “fundamental requirement of due process,” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976), as the overwhelming majority of courts to consider the issue have concluded. *See supra* n. 2 (collecting cases); *see also Choy v. Woosley*, 2026 WL 324601, at *7 (W.D. Ky. Feb. 6, 2026) (finding release appropriate where detainee was “prejudiced by the denial of due process because the respondents failed to provide her with clear notice of the reasons her supervised release was revoked”); *S.O.A.*, 2026 WL 836123 at *6. Judge Ruiz in the Southern District of Florida said it clearly: “The opportunity to contest detention through an informal interview is not some ticky-tacky procedural requirement; it strikes at the

heart of what due process demands.” *Grigorian v. Bondi*, 2025 WL 2604573 (S.D. Fla. Sept. 9, 2025).

To be sure, once Petitioner is released, Respondents are unconstrained from properly following regulations and revoking her OSUP through adherence to the notice and interview requirements. But a return to the “status quo” in this situation is not continued detention, it is the state of supervised release that Ms. Binam was in before Respondents violated the regulations. *See, e.g., Garcia v. Andrews*, 2025 WL 1927596, at *6 (E.D. Cal. July 14, 2025).

Prejudice is presumed when agencies fail to adhere to requirements that safeguard procedural due process. *See Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Here, the prejudice to Ms. Binam is clear. Had she been given a meaningful and timely opportunity to respond, she could have told the officer about the horrific and well-documented medical abuse she endured the last time she was in detention, and the mental health challenges that followed from that experience and from her status as a crime victim following her prior release. Doc. 15-1, ¶ 10. She could have explained her role as a caregiver for her ailing lawful permanent resident parents and her U.S. citizen daughter. *Id.* And, among other factors, she could have reminded ICE of her perfect attendance at OSUP check-ins for five years. *Id.*

These are all favorable considerations, per 8 C.F.R. § 241.4(f), that ICE should weigh *prior* to a final decision to revoke an OSUP and detain.⁷ *See Funes*, 810 F.Supp.3d at 500 (enumerating similar “substantial arguments available as to why ICE should exercise its discretion” to not re-

⁷ Although the Report mentions Ms. Binam’s arrest on misdemeanor drug charges in 2025, an arrest is not evidence of guilt. *See Coffin v. United States*, 156 U.S. 432, 453 (1895) (discussing presumption of innocence principle). Ms. Binam maintained her innocence and ultimately pled guilty to the minor offense of public disorderly conduct, which carries a maximum sentence of 30 days. *See* S.C. Code § 16-17-530. Moreover, Respondents have not contended that this incident is the basis for revoking her release.

detain petitioner); *Virachak v. Baltazar*, 2026 WL 746285, at *3 (D. Colo. Mar. 17, 2026) (granting release where two-month delay “deprived [petitioner] of the opportunity to challenge the reasons for his detention.”). “[T]he complete denial of the opportunity to be heard on a material issue is a violation ‘of due process which is never harmless error.’” *United States v. Smith*, 30 F.4th 1334, 1338 (11th Cir. 2022) (quoting *Republic Nat’l Bank of Dallas v. Crippen*, 224 F.2d 565, 566 (5th Cir. 1955)). For all these reasons, Respondents’ unlawful deprivation of Ms. Binam’s liberty violated mandatory regulations designed to afford minimal due process, and release is the sole appropriate remedy.

II. The Report erred in finding that *Zadvydas v. Davis* does not mandate Ms. Binam’s release.

a. Ms. Binam’s *Zadvydas* claim is timely.

Zadvydas v. Davis does not hold that the government can never re-detain someone who has previously spent more than six months in ICE custody. But the government loses its *presumption* of reasonableness after six months, and if it chooses to re-detain an individual, it must demonstrate reasonableness by showing that removal is significantly likely in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). “Most courts to consider the issue have concluded that the *Zadvydas* period is cumulative,” *Siguienza v. Moniz*, 2025 WL 2734704, at *3 (D. Mass. Sept. 25, 2025), and other district courts in this circuit continue to join the majority of jurisdictions to consider the issue in holding that the presumptively reasonable six-month period for post-removal order detention does not restart when ICE decides to re-detain someone. *See, e.g., Joseph v. Rhoden*, 2026 WL 262589, at *2 (M.D. Fla. Feb. 2, 2026) (finding that individual previously detained for 345 days was already detained beyond the presumptively reasonable six-month period); *De Armas v. Warden*, 2026 WL 672974, at *3 (M.D. Fla. Mar. 10, 2026) (emphasizing that

Zadvydas “guards only against *indefinite* detention. The government loses the presumption of reasonableness after the six-month period, but it can still show that detention is reasonable by meeting its burden of proof.”); *Beltran v. Ripa*, 2026 WL 21252, at *2-3 (M.D. Fla. Jan. 5, 2026).

The Report acknowledges that this Court has previously departed from the majority of other jurisdictions on this issue. *See* Doc. 16 at 11. Ms. Binam respectfully asks this Court to reconsider in light of the ever-growing list of courts nationwide to hold otherwise.⁸ It bears repeating: the government has the authority to re-detain an individual who previously spent over six months in ICE detention, but only—per the Supreme Court’s holding—when it can justify re-detention by clearly showing it can now remove that individual in the near future.

In any event, as the Report appears to acknowledge, Ms. Binam’s re-detention period began when she returned to ICE custody in October 2025 pursuant to an ICE detainer following her misdemeanor arrest in York County, South Carolina. *See* Doc. 16, p. 11. By lodging the ICE detainer, Respondents made it impossible for her to post bond, thereby restricting her liberty. Thus, even if this Court finds that the *Zadvydas* period restarts upon re-detention, April 17, 2026 marks six months since Ms. Binam’s custody began, rendering her *Zadvydas* challenge timely.

Importantly, Ms. Binam’s detention beyond the applicable six-month period is not “reasonably necessary” to secure her removal. Respondents are free to arrange for Ms. Binam’s removal while she remains on supervised release. ICE previously determined that Ms. Binam was neither a flight risk nor a danger to the community when it released her under an OSUP in 2020,

⁸ “Most courts to consider the issue have concluded that the *Zadvydas* period is cumulative.” *Siguienza v. Moniz*, 2025 WL 2734704, at *3 (D. Mass. Sept. 25, 2025) (collecting cases); *see, e.g., Excalon Rodriguez v. Ripa*, 2026 WL 900132, at *3 (M.D. Fla. Apr. 2, 2026); *Ata v. Strafford Cnty. Dept. of Corrections*, 2026 WL 914957, at *4 (D.N.H. Apr. 3, 2026) (“The six-month window is cumulative”); *Chambers v. English*, 2026 WL 835939, at *2 (N.D. Ind. Mar. 26, 2026); *Truong v. Lyons*, 2026 WL 855150, (C.D. Cal. Mar. 20, 2026).

and her five years of perfect attendance at ICE check-ins, along with history of gainful employment and her role as the caretaker of her teenage U.S. citizen daughter and elderly parents, provide additional evidence that she does not pose a flight risk. Doc. 15-1, ¶ 10. Nor does a misdemeanor disorderly conduct conviction, carrying a maximum of thirty days in jail, demonstrate danger to the community. Accordingly, ICE's detention of Ms. Binam beyond the six-month *Zadvydas* period is unlawful, and Ms. Binam respectfully requests that this Court order her immediate release subject to the conditions of her previous order of supervision.

b. Respondents' conclusory assertions are insufficient to demonstrate a significant likelihood of removal in the reasonably foreseeable future.

The Report is correct that *Zadvydas*'s burden-shifting framework does not apply when a noncitizen has been ordered removed, is released on an OSUP, and is later re-detained. *See, e.g., Nguyen v. Hyde*, 788 F.Supp.3d 144, 146-49 (D. Mass. 2025); *Hall*, 2026 WL 18583, at *6-7. Accordingly, "it is [ICE's] burden to show a significant likelihood that the alien may be removed." *Escalante v. Noem*, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025); *Abuelhawa v. Noem*, 2025 WL 2937692, at *8 (S.D. Tex. Oct. 16, 2025) ("[U]pon revocation of release, the Government bears the burden to show a significant likelihood" of removal).

Nevertheless, the Report errs in finding that the bare assertion that one sub-unit of ICE asked another sub-unit of ICE to gather a travel document—fifteen days *after* re-detaining Ms. Binam at Stewart—was sufficient to establish her imminent removability. Courts have appropriately rejected such "post hoc rationalization." *Hall*, 2026 WL 18583, at *8; *Arias Gudino v. Lowe*, 785 F.Supp.3d 27, 47 n. 8 (M.D. Pa. 2025) ("The government cannot avoid [241.4's 'upon revocation' notice requirement] through a post hoc additional justification).

The general contention that ICE is presently removing Cameroonian nationals likewise does not demonstrate that Ms. Binam herself is likely to soon be removed. *See Nguyen*, 788 F.Supp.3d at 152 (finding government did not meet burden where it generally claimed ICE was removing Vietnamese citizens but provided “no clear information as to whether or when” the individual’s document request was sent to Vietnam); *Liu v. Carter*, 2025 WL 1696526, at *2 (D. Kan. Jun. 17, 2025) (finding government’s assertion of an increase in removals to China insufficient to demonstrate significant likelihood of removal), *Hall*, 2026 WL 18583, at *7 (collecting cases). Whether “steps have been taken” to effectuate removal and whether removal is significantly likely in the reasonably foreseeable future are two distinct questions, and the former does not automatically beget the latter. Doc. 16, p. 13. In sum, Respondents have not demonstrated a significant likelihood of Ms. Binam’s removal in the reasonably foreseeable future, and her continued detention is accordingly unlawful.

III. The Report runs the risk of incentivizing ICE to try to avoid accountability when it violates the due process rights of other noncitizens on supervised release through detention location forum-shopping.

Had Ms. Binam been re-detained with the same faulty process in Florida, Kentucky, Oklahoma, Louisiana, or one of the many other jurisdictions collected in footnote 2, *supra*, she might well have been released by now. While there is no evidence that Ms. Binam’s transfer to Stewart Detention Center was in any way strategic, the reality is that if the Report is adopted, it could encourage ICE to attempt to avoid accountability for flagrantly disregarding the due process rights of noncitizens on supervised release through calculated detention location transfers. Put differently, by departing from the majority of jurisdictions to consider these important due process issues, the Report may run the risk of encouraging ICE to “forum shop” detention locations. *See generally* Roger Grantham, Jr., *Detainee Transfers and Immigration*

Judges: ICE Forum-Shopping Tactics in Removal Proceedings, 53 Ga. L. Rev. 281, 303-04 (2018) (“ICE can even interfere with proceedings in federal district courts by transferring detainees. For instance, ICE has transferred detainees who attempted to file habeas petitions in federal court from their original place of detention to more rural areas in other jurisdictions. Some federal courts have even recognized such practices as attempts by ICE to forum-shop.”); *see also Anariba v. Director Hudson County Correctional Center*, 17 F.4th 434, 447 (3d Cir. 2021) (warning against the Government “willingly transfer[ring] an ICE detainee seeking habeas relief from continued detention to a jurisdiction that is more amenable to the Government’s position”). This Court should be wary of the Report’s potential to enable such gamesmanship and hold, along with the majority of other jurisdictions to consider these issues, including other courts in this circuit, that ICE’s re-detention of Ms. Binam without adhering to the due process mandated by its own regulations warrants her immediate release.

CONCLUSION

“[I]f men must turn square corners when they deal with the government, it cannot be too much to expect the government to turn square corners when it deals with them.” *Niz-Chavez v. Garland*, 593 U.S. 155, 172 (2021). The Court should require Respondents to do so here.

For all of these reasons, Ms. Binam respectfully requests that this Court DECLINE to adopt the Report & Recommendation, DENY Respondents’ motion, and GRANT Ms. Binam’s immediate release under the conditions of her preexisting Order of Supervision.

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Respectfully submitted,

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