IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RUSLAN IVANOV, Petitioner, v. KRISTI NOEM, Secretary, U.S. Department of Homeland, *et al.*, Respondents.	Case No. 1:26-cv-00011 District Judge Susan J. Dlott Magistrate Judge Chelsey M. Vascura

RETURN OF WRIT

The Court should deny and dismiss the Petition for Writ of Habeas Corpus filed by Petitioner Ruslan Ivanov under 28 U.S.C. § 2241. (Petition, ECF No. 1). The Court lacks subject matter jurisdiction to interfere with the discretionary decision to execute the removal order, and Petitioner has made no verifiable claims that his removal will not happen in the reasonably foreseeable future. As such, Petitioner is lawfully detained pursuant to 8 U.S.C § 1231(a), and this Court should not enjoin action taken to remove the Petitioner from the United States. Therefore, this Court should dismiss the petition under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and 12(b)(6) for failure to state a claim upon which relief can be granted.

I. FACTUAL BACKGROUND

The Petitioner, Ruslan Ivanov ("Petitioner" or "Ivanov"), brings this action as

a petition for habeas corpus under 28 U.S.C. § 2241. (Petition, ECF 1, PageID 1). Ivanov is a citizen of Russia and claims that he entered the United States on June 4, 2022 to seek asylum from persecution in Russia. (*Id.*, at PageID 3). On an unknown date in 2022, the petitioner was encountered by a U.S. Border Patrol agent in the El Paso, TX Border Patrol Sector. (Richard L. Tiruchelvam Declaration, Ex. A, at 1, ¶4). A Border Patrol Agent determined that the petitioner unlawfully entered the United States from Mexico. (*Id.*). The petitioner was processed as an Expedited Removal with Credible Fear and issued a Notice and Order of Expedited Removal, dated June 10, 2022. (*Id.*, at 2, ¶5). On June 23, 2022, an Asylum Officer from U.S. Citizenship and Immigration Services determined that the petitioner's fear claim was not credible, and on July 5, 2022, an Immigration Judge affirmed the Asylum Officer's negative credible fear decision and returned the case to DHS for removal of the petitioner. (*Id.*, ¶¶6-7). On July 5, 2022, the Expedited Removal Order became administratively final. (*Id.*, ¶8).

On September 9, 2022, the petitioner failed to comply with removal from the United States to Russia during a commercial air removal flight. (*Id.*, ¶9). On December 20, 2022, ICE ERO released the petitioner on interim parole valid for one year from date of issuance of the interim parole or until December 17, 2023, as the interim parole was issued on December 18, 2022. He was required to report to ICE ERO in York, PA on January 26, 2023. (*Id.*, ¶10). On January 27, 2023, the petitioner reported to ICE ERO York, PA and he was served with an I-229 and given a G-56 to report on March 6, 2023. (*Id.*, ¶11). The petitioner reported on March 6, 2023, and

continued to report as instructed over the next two years. (*Id.*, ¶12). On June 9, 2025, the petitioner reported to ICE ERO, and he was taken into custody based on his final order of removal. (*Id.*, ¶13).

On August 27, 2025, ICE ERO requested a travel document for the petitioner from the government of Türkiye based on the request from his family and attorney that he be removed to Türkiye. The petitioner's family provided documentation for the travel document request. (*Id.*, ¶14). On September 5, 2025, the Consulate of Türkiye declined to issue a travel document. On this same date, ICE ERO requested a travel document for the petitioner from the government of Russia. (*Id.*, ¶15). On September 26, 2025, ICE completed a Post Order Custody Review ("POCR"), and issued the Petitioner a Decision to Continue Detention (attached to this Return as Exhibit B), indicating a significant likelihood of removal in the reasonably foreseeable future exists. (*Id.*, at 3, ¶16). On October 31, 2025, ICE ERO re-submitted a request for travel document for the petitioner from the government of Russia which is currently pending. (*Id.*, ¶17). On December 3, 2025, the Petitioner's case was referred to ICE HQ Removal and International Operations ("RIO"). ICE is currently working in coordination with RIO to facilitate the Petitioner's removal from the United States. (*Id.*, ¶18).

Since June 9, 2025, the Petitioner has been in the custody of ICE at the Butler County Jail in Hamilton, Ohio. (*Id.*, ¶¶3, 13; Petition, ECF 1, PageID 2, 4). ICE has successfully removed individuals to Russia and there is no reason to believe that ICE ERO will be unable to continue to do so. (Tiruchelvam Declaration, Ex. A, at 3, ¶19).

ICE is unaware of any institutional barriers that would prevent the petitioner's removal to Russia from occurring in the reasonably foreseeable future. (*Id.*, ¶20).

Despite Ivanov's detention on June 9, 2025, this Petition was not filed until January 6, 2026. The Petition alleges that Ivanov has been unlawfully taken into custody and detained, and that "Respondents' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act ("INA") and implementing regulations, the Administrative Procedure Act, and the *Accardi* doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions." (Petition, ECF 1, at PageID 2).

II. LEGAL AND STATUTORY BACKGROUND

"The Immigration and Nationality Act (INA) establishes procedures for removing aliens living unlawfully in the United States." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). "If the immigration judge decides that the alien is inadmissible or deportable and that the alien is not entitled to any of the relief or protection that he requested, the immigration judge will issue an order of removal." *Id.* at 528 (citing 8 U.S.C. § 1229a(c)(5)).

The INA provides a statutory scheme for the civil detention of aliens pending a decision during removal proceedings as well as once a final order of removal has been entered. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The time and circumstances of entry, as well as the stage of the removal process, determines where an alien falls within this scheme and whether detention of the alien is discretionary or mandatory.

The statute referring to a 90-day removal period, 8 U.S.C. § 1231(a)(1)(A),

holds: "Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period')." *Martinez v. Larose*, 968 F.3d 555, 559 (6th Cir. 2020).

"The removal period is defined as beginning on the latest of three events: (1) "[t]he date the order of removal becomes administratively final"; (2) "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order"; or (3) "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement." *Id.* at 559–60 (citing 8 U.S.C. § 1231(a)(1)(B)).

Regarding detaining an alien beyond the 90-day period, 8 U.S.C. § 1231(a)(6) states:

> An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

Once the 90-day removal period has elapsed, the alien becomes subject to 8 U.S.C. § 1231(a)(6) which makes detention discretionary. *Arizona v. Biden*, 40 F.4th 375 (6th Cir 2022); *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 639 (D. Mass. 2018). "Continued detention under this provision creates the 'post-removal-period.'" *Johnson*, 594 U.S. at 529. "[I]n enacting § 1231, Congress and the President anticipated that not all aliens ordered removed would be deported during the removal period. *See* § 1231(a)(3) (referring to 'an alien' who 'does not leave ... within the

removal period')." *Jimenez*, 317 F. Supp. 3d at 651. Thus, 8 U.S.C. § 1231 expressly anticipates detention beyond the 90-day removal period.

III. LAW AND ARGUMENT

Petitioner seeks declaratory relief and release from detention and for this Court to enjoin his pending removal. Despite having a valid final order of removal, Ivanov argues that he is unlawfully detained. Yet, nowhere in the petition does Ivanov expressly argue that removal is not reasonably foreseeable. Instead, Petitioner contends, in pertinent part, that his detention violates substantive due process because "Respondents had no legitimate, non-punitive objective in revoking Petitioner's order of supervision. . . ." (Petition, ECF 1, PageID 12). Petitioner, however, was not on order of supervision at the time that he was detained; rather, ICE ERO "released the petitioner on interim parole" (Tiruchelvam Declaration, Ex. A, at 2, ¶10), and at no point in time was the Petitioner on an order of supervision, as the Petitioner repeatedly claims in the Petition. Therefore, the Petitioner's contentions that his order of supervision was revoked is meritless—the Petitioner was detained, after his interim parole expired, and the Petitioner was detained to effectuate his order of removal.[1] Moreover, DHS regulations permit ICE to detain Petitioner in order to effectuate his removal. That is precisely what happened here. ICE is enforcing Ivanov's Removal Order and removing him to his home country, Russia, in the reasonably foreseeable future. *See Sanogoh v. Raycraft*, Case No. 1:25-

[1] For this reason, the Petitioner's claim that "Petitioner's order of supervision was not revoked by the ICE Executive Associate Director" (Petition, ECF 1, at PageID 15) is without merit. Petitioner was never under an order of supervision. He was released on interim parole and thereafter, following the expiration of this parole, he was detained to effectuate his final order of removal.

cv-787 (Doc. 11) (S.D. Ohio Feb. 4, 2026) (McFarland, J.) (denying habeas petition where the court found that the petitioner would be removed in the reasonably foreseeable future).

Moreover, Petitioner concedes that individuals may be detained beyond the removal period pursuant to 8 U.S.C. § 1231(a)(6), if they are unlikely to comply with the order of removal, found to be a risk to the community, (Petition, ECF 1, PageID 9-10). But it is also true that individuals may be detained beyond the removal period pursuant to 8 U.S.C. § 1231(a)(6) if they are likely to be removed in the reasonably foreseeable future. Here, on September 9, 2022, the petitioner failed to comply with removal from the United States to Russia during a commercial air removal flight and therefore interfered with his own removal. ICE is ready and able to remove Petitioner to Russia to effectuate his final order of removal. To be sure, ICE ERO requested a travel document for the petitioner from the government of Russia on September 5, 2025. (Tiruchelvam Declaration, Ex. A, at 2, ¶15). Further, on September 26, 2025, ICE completed a POCR, and issued the Petitioner a Decision to Continue Detention, indicating a significant likelihood of removal in the reasonably foreseeable future exists. (*Id.*, at 3, ¶16; *see also* Ex. B, Decision to Continue Detention). On October 31, 2025, ICE ERO re-submitted a request for travel document for the petitioner from the government of Russia which is currently pending. (Tiruchelvam Declaration, Ex. A, at 3, ¶17). On December 3, 2025, the Petitioner's case was referred to ICE HQ RIO, and ICE is currently working in coordination with RIO to facilitate the Petitioner's removal from the United States. (*Id.*, ¶18). Notably, ICE has successfully removed

individuals to Russia and there is no reason to believe that ICE ERO will be unable to continue to do so. (*Id.*, at 3, ¶19). Further, ICE is unaware of any institutional barriers that would prevent the petitioner's removal to Russia from occurring in the reasonably foreseeable future. (*Id.*, ¶20).

In sum, there is no authority supporting Ivanov's assertion. In essence, Petitioner is asking this Court to stop his removal, which this Court has no jurisdiction to do. Thus, the Court should deny and dismiss his Petition.

IV. STANDARD OF REVIEW

This Court should begin its analysis with the threshold issue of "whether this the Court has subject matter jurisdiction." *See e.g., Zhen v. Doe*, Case No. 3:25-cv-01507, 2025 WL 2258586 (N.D. Ohio Aug. 7, 2025) (citing *Karki v. Jones*, Case No. 1:25-cv-281, 2025 WL 1638070, at *3 (S.D. Ohio June 9, 2025) ("The fundamental question of subject matter jurisdiction must precede any analysis of the merits on this matter.").

The jurisdiction of the federal courts is presumptively limited. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts are courts with limited jurisdiction and may only hear cases that are "authorized by Constitution and statute." *Id.* If at any time, the court determines that it lacks subject-matter jurisdiction, that court must dismiss the action in front of them. *Mich. Emp't Sec. Comm'n v. Wolverine Radio Co.*, 930 F.2d 1132 (6th Cir. 1991).

The requirement that a plaintiff establish subject-matter jurisdiction "as a threshold matter 'spring[s] from the nature and limits of the judicial power of the

United States' and is 'inflexible and without exception.'" *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 95 (1998) (some internal quotation marks omitted).

A motion under Fed. R. Civ. P. 12(b)(1) can raise facial or factual attacks. *W6 Rest. Grp., Ltd v. Loeffler*, 140 F.4th 344, 349 (6th Cir. 2025). Regardless of which attack is used, the plaintiff bears the burden of persuading the Court that subject matter jurisdiction exists. *Dismas Charities, Inc. v. U.S. Dep't of Justice*, 401 F.3d 666, 671 (6th Cir. 2005).

A motion to dismiss for failure to state a claim under Rule 12(b)(6) tests whether that plaintiff has pleaded a cognizable claim in his or her complaint. "To survive a motion to dismiss under Rule 12(b)(6), a complaint must contain either direct or inferential allegations respecting all the material elements to sustain a recovery under some viable legal theory." *Advocacy Org. for Patients & Providers v. Auto Club Ins. Ass'n*, 176 F.3d 315, 319 (6th Cir. 1999) (internal quotation omitted).

A court should dismiss a claim under Rule 12(b)(6) when the plaintiff/petitioner has failed to plead "sufficient factual matter, accepted as true, 'to state a claim to relief that is plausible on its face.'" *Braden v. Wal-Mart Stores, Inc.*, 588 F.3d 585, 594 (8th Cir. 2009) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). "A claim has facial plausibility when the plaintiff [has pleaded] factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Iqbal*, 556 U.S. at 678 (citing *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 556 (2007)). A complaint need not contain detailed factual allegations but must raise a right to relief above the speculative level. *Twombly*, 550 U.S. at 555.

The Court should deny the Petition because this Court lacks subject-matter jurisdiction over his claims because 8 U.S.C. § 1252, *et seq.*, precludes the review. Even if the Court had jurisdiction, however, Petitioner still fail to plead plausible claims for relief.

V. THIS COURT LACKS JURISDICTION

A. This Court Lacks Jurisdiction Pursuant to 8 U.S.C. § 1252.

Petitioner's challenge to his detention challenges his imminent removal. The Court lacks jurisdiction to hear a challenge to Petitioner's removal under 8 U.S.C. § 1252. As such, this Court should deny the Petition and dismiss this action for lack of subject matter jurisdiction. In enacting the REAL ID Act, Congress limited the jurisdiction of federal courts through 8 U.S.C. § 1252(g) as follows:

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), *including section 2241 of title 28,* or any other habeas corpus provision, and sections 1361 and 1651 of such title, 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) (emphasis added). "In the REAL ID Act, Congress decided that, as a matter of public policy, [federal courts] do not have jurisdiction to decide claims that arise from the decision of the Executive Branch to execute a removal order." *Rranxburgaj v. Wolf,* 825 F. App'x 278, 283 (6th Cir. 2020). This holds true "whether or not [federal courts] agree with ICE's decision to execute [a petitioner's] removal order." *Id.*

These types of claims are barred under 8 U.S.C. §1252(g). This statute bars claims arising from the three discrete actions identified in § 1252(g), including, as relevant here, the decision or action to "execute removal orders." Congress spoke clearly, emphatically, and repeatedly, providing that "no court" has jurisdiction over "any cause or claim" arising from the execution of removal orders, "notwithstanding any other provision of law," whether "statutory or nonstatutory," including habeas, mandamus, or the All Writs Act. 8 U.S.C. § 1252(g). Accordingly, by its terms, this jurisdiction-stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well as review pursuant to the All Writs Act and Administrative Procedure Act) of claims arising from a decision or action to "execute" a final order of removal. *See Reno v. American-Arab Anti-Discrimination Comm. ("AADC")*, 525 U.S. 471, 482 (1999).

The Sixth Circuit, and including other Courts of Appeals, have consistently held that similar petitioners' challenges to removal are barred by § 1252(g). *Hamama v. Adducci*, 912 F.3d 869, 874–77 (6th Cir. 2018) (vacating district court's injunction staying removal, concluding that § 1252(g) stripped district court of jurisdiction over removal-based claims and remanding with instructions to dismiss those claims); *see also Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022); *Camarena v. Dir., ICE*, 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."); *E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021)

(rejecting the argument that jurisdiction remained in similar circumstances because petitioner was challenging, DHS's legal authority as opposed to its "discretionary decisions"); *Tazu v. Att'y Gen., U.S.*, 975 F.3d 292, 297 (3d Cir. 2020) (observing that "the discretion to decide *whether* to execute a removal order includes the discretion to decide *when* to do it" and that "[b]oth are covered by the statute") (emphasis in original); *Silva v. United States*, 866 F.3d 938, 941 (8th Cir. 2017) (Section 1252(g) applies to constitutional claims arising from the execution of a final order of removal, and language barring "any cause or claim" made it "unnecessary for Congress to enumerate every possible cause or claim").

Title 8 U.S.C. § 1252(g) therefore limits jurisdiction as it relates to claims arising from such execution of removal orders—even if federal question jurisdiction would otherwise be proper. *See Elgharib v. Napolitano,* 600 F.3d 597, 607 (6th Cir. 2010). By its terms, this statutory limitation also applies to habeas relief under 28 U.S.C. § 2241, which would typically provide jurisdiction over cases where an alien is held in custody in violation of the Constitution or the laws of the United States. *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001).

B. Sections 1252(a)(5) and (b)(9) Bar Review of the Petitioner's Claims.

This Court also lacks jurisdiction over the Petitioner's claims concerning removal orders issued under section 1229a given 8 U.S.C. § 1252(a)(5) and (b)(9). Section 1252(b)(9) provides:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial

> review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9). Section 1252(a)(5) provides that [n]otwithstanding any other provision of law (statutory or nonstatutory) . . . or any other habeas corpus provision . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal. . . ."

In relation to Section 1252(a)(9), the Sixth Circuit has explained that district courts "are prohibited from reviewing and vacating a removal order." *Hamdi v. Napolitano*, 620 F.3d 615, 625 (6th Cir. 2010); *see also Lopez-Meija v. Lynch*, Case No. 1:16-cv-549, 2017 WL 25501, at *5 (S.D. Ohio Jan. 3, 2017). In fact, the First Circuit has noted that § 1252(b)(9)'s "expanse is breathtaking." *Aguilar v. U.S. Immigration & Customs Enf't Div. of the Dep't of Homeland Sec.*, 510 F.3d 1, 9-12 (1st Cir. 2007).

The Petitioner could have appealed his removal order pursuant to the administrative process, 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.2(c), or seek an emergency stay of removal as a part of the administrative process. *See generally* 8 C.F.R. § 1003.2(f), 1003.23(b)(v). Because the Petitioner requested relief arises from and "action taken . . . brought to remove" the Petitioner "from the United States" and is a petition for habeas corpus, this Court lacks jurisdiction. § 1252(b)(9).

Thus, to obtain habeas relief, the Petitioner must not merely show that he is "in custody," but rather that he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3); *see also Dickerson v. United States*, 530 U.S. 428, 439, n.3 (2000) ("Habeas corpus proceedings are available only for claims that a person 'is in custody in violation of the Constitution or laws or treaties of the United States,'" quoting 28 U.S.C. § 2254(a)). The Petitioner does not meet that burden. Therefore, this Court lacks jurisdiction to consider the Petitioner's challenge to his detention and pending removal. Thus, the Petition should be denied and dismissed.

VI. THE PETITIONER'S DETENTION PENDING REMOVAL IS LAWFUL

A. There is No Time Limit on Enforcing the Petitioner's Order of Removal, and the Petitioner Will be Removed in the Reasonably Foreseeable Future.

The Petitioner does not contest the fact that he has valid removal order. He also does not contest that he is inadmissible under 8 U.S.C. § 1182. There is no question that ICE has authority to detain the Petitioner during the removal process. "Detention during removal proceedings is a constitutionally permissible part of [the removal] process." *Demore v. Kim*, 538 U.S. 510, 531 (2003). Moreover, immigration officials retain discretion not to execute a final order of removal within 90 days. *Arizona v. Biden*, 40 F.4th 375, 391 (6th Cir. 2022). "Immigration authorities, as the Supreme Court has made clear, have considerable discretion over whom to arrest and remove." *Id.* (citing *Arizona v. U.S.*, 567 U.S. 387, 396 (2012)). Just because immigration authorities did not remove the Petitioner within 90 days of his removal

order, does not mean they cannot remove him now. His final order of removal remains valid.

§ 1231(a)(1)(A) provides that, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." The Sixth Circuit addressed this issue and explained:

> "Except as otherwise provided," it says that, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." *Id.* But Congress itself appreciated that removal would not always occur within 90 days. It permitted supervised release—release from custody—"[i]f the alien does not leave or is not removed within the removal period." *Id.* § 1231(a)(3). Combined with the basic principle that "[a]t each stage" of the removal process, "the Executive has discretion to abandon the endeavor" to remove someone, *Reno*, 525 U.S. at 483, 119 S.Ct. 936, *all of this means that immigration officials retain some discretion not to execute a final order of removal within 90 days.*

Arizona, 40 F.4th at, 391 (emphasis added). Indeed, "the use of 'shall' does not automatically create a judicially enforceable mandate, especially when criminal or civil law enforcement is at issue." *Id.* citing *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 761–62 (2005).

DHS regulations permit ICE to detain Petitioner in order to effectuate his removal. That is precisely what happened here. ICE is enforcing Ivanov's Removal Order and removing him to his home country, Russia, in the reasonably foreseeable future. (Tiruchelvam Declaration, Ex. A, at 2-3, ¶¶15-20). *See Sanogoh v. Raycraft*, Case No. 1:25-cv-787 (Doc. 11) (S.D. Ohio Feb. 4, 2026) (McFarland, J.). Indeed, ICE is authorized to detain Ivanov while processing his removal. *See Zhen v. Doe*, Case No. 3:25-cv-01507, 2025 WL 2258586, at *11 (N.D. Ohio Aug. 7, 2025) (8 C.F.R. §

241.4(l)(2)(iii) expressly permits detaining an alien when enforcing removal order and recognizing "requests for travel documents support finding of reasonably foreseeable removal."). Moreover, "[w]hen a removal is foreseeable, detention does not violate due process as set out in *Zadvydas*. . . ." *Martinez v. Larose*, 968 F.3d 555, 557 (6th Cir. 2020).

The Petitioner's detention does not violate due process because *Zadvydas* analysis only applies where there is a "danger of indefinite detention [with] no significant likelihood of removal in the reasonably foreseeable future." *Jiang Lu v. U.S. ICE*, 22 F. Supp. 3d 839, 843 (N.D. Ohio 2014). Here, there is a significant likelihood of removal in the reasonably foreseeable future for Ivanov. (*See* Tiruchelvam Declaration, Ex. A, at 2-3, ¶¶15-20). *See also Sanogoh v. Raycraft*, Case No. 1:25-cv-787 (Doc. 11) (S.D. Ohio Feb. 4, 2026) (McFarland, J.) (denying habeas petition based the "Respondent's well-supported indication that Petitioner will be removed in the reasonably foreseeable future," and therefore, "Petitioner fails to establish that his detention under § 1231(a)(6) is unlawful."). Thus, *Zadvydas* does not apply here, and the Petitioner's detention is not in violation of the Constitution or laws or treaties of the United States. Consequently, this Court lacks subject matter jurisdiction, and the Petition should be denied and dismissed.

B. The Petitioner was Afforded Due Process.

The Supreme Court has also long recognized that immigration-related decisions of executive branch officers as in this case afford due process in the absence of judicial review. "[A]s to 'foreigners who have never been naturalized, nor acquired

any domicile or residence within the United States, nor even been admitted into the country pursuant to law,' 'the decisions of executive or administrative officers, acting within powers expressly conferred by Congress, are due process of law.'" *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (quoting *Nishimura Ekiu v. United States*, 142 U.S. 651, 660 (1892)). "Since then, the [Supreme] Court has often reiterated this important rule." *Id.* (citing *United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537, 544 (1950)), *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 210 (1953), and *Landon v. Plasencia*, 459 U.S. 21, 32 (1982) ("This Court has long held that an alien seeking initial admission to the United States requests a privilege and has no constitutional rights regarding his application, for the power to admit or exclude aliens is a sovereign prerogative.").

The essential requirements of procedural due process are: (1) notice; and (2) an opportunity to be heard. *Goldberg v. Kelly*, 397 U.S. 254, 267-68 (1970); *Gorman v. Univ. of R.I.*, 837 F.2d 7, 12 (1st Cir. 1988). The Petitioner does not contest that he entered the United States without a valid visa or entry document. The Petitioner therefore has notice of why he was detained and has had ample opportunity to be heard. Accordingly, his due process argument is without merit. Importantly, the "habeas review has afforded Petitioner both notice of the basis of Respondent's actions and an opportunity to respond." *Sanogoh*, Case No. 1:25-cv-787 (Doc. 11) (S.D. Ohio Feb. 4, 2026) (McFarland, J.). *Sanogoh* is instructive. In *Sanogoh*, the Court determined that the petitioner received proper notice of his revocation and the

opportunity for an informal interview on the basis of "habeas review." (*Id.*). Specifically, the Court reasoned as follows:

> Petitioner asserts that he did not receive proper notice of his revocation and the opportunity for an informal interview. (Petition, Doc. 1, Pg. ID , ¶¶ 40-42; Reply, Doc. 10, Pg. ID 61 (citing § 241.4(1)(1)).) However, through the instant habeas review, Petitioner challenges the revocation of his order of supervision by Respondent. With the representation of counsel, he asserts before a federal court that his detention is unlawful, and he offers both argument and evidence in support. Respondent has explained, through briefing and a declaration from an ICE deportation officer, the basis for both the revocation of his order of supervision and his continued detention. And, Petitioner exercised his ability to reply to Respondent's arguments. As a result, habeas review has afforded Petitioner both notice of the basis of Respondent's actions and an opportunity to respond.
>
> Thus, any deprivation of Petitioner's procedural rights under the regulation by Respondent is harmless and does not warrant his release from detention. *See, e.g., Karki*, 2025 WL 3516782, at *6-7 (finding that "any deprivation of process by the Government's failure to follow its regulatory procedures is harmless" after noting, among other things, the fact that the petitioner had filed habeas petitions); *Hammouda v. Dep't of Homeland Sec.*, No. 4:25-CV-2696, 2026 WL 91465, at *6 (N.D. Ohio Jan. 13, 2026) (denying habeas relief when removal was reasonably foreseeable, "notwithstanding the procedural violations"); *Ladak v. Noem*, No. 1:25-CV-194, 2025 WL 3764016, at *16 (N.D. Tex. Dec. 30, 2025) ("Because habeas is not backward-looking, the process provided now renders forward looking relief separately inappropriate.").

(*Id.*, at PageID 97-98). Accordingly, in line with *Sanogoh*, even if this Court determines that formal notice and an opportunity to be heard are required, Ivanov received both, and any "deprivation is harmless and does not warrant his release from detention." (*Id.*, at PageID 97).

Further, the Petitioner's detention, in order to effectuate his removal pursuant to section 241.4(l)(2), does not require formal notice and an opportunity to be heard. Only subsection (l)(1) mandates notice and an informal interview, and that section

applies exclusively to aliens who have violated the conditions of their release. There are no claims that Ivanov violated the conditions of his release. By contrast, and applicable here, subsection (2) of the regulation allows ICE to use its discretion to revoke release and does not expressly provide for notice or an interview. 8 C.F.R. § 241.4(l)(2).[2] ICE, in its discretion, detained the petitioner after his interim parole expired to enforce his removal order pursuant to 8 C.F.R. § 241.4(l)(2)(iii) because removal is significantly likely to occur in the reasonably foreseeable future.

To be sure, it makes sense that the notice and informal interview requirement in section 241.4(l)(1) is necessary for aliens who have violated the conditions of their release: those provisions provide such aliens with the opportunity to contest the alleged violations of their release, just as criminal defendants are entitled to notice and an opportunity to be heard when their supervision is revoked. *See* Federal Rule of Criminal Procedure 32.1. But the notice and informal interview requirement in section 241.4(l)(1) is unnecessary when revoking parole in order to effectuate an alien's removal because an alien subject to a removal order already has notice that he or she is subject to removal, having been through removal proceedings and been

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[2] The government recognizes that certain district courts in this Circuit have decided that the notice and informal interview provisions in section 241.4(l)(1) apply to revocations under section 241.4(l)(2). *Mbonga v. Raycraft,* No. 4:25-CV-2315, 2025 WL 3122829, at *4 (N.D. Ohio Nov. 7, 2025) ("Respondents argue that [the notice and opportunity due process safeguards in] 241.4(l)(1) do[] not apply to Mr. Mbonga because he did not violate the conditions of his release. However, it does not make sense that someone who does not violate the conditions of their release would be afforded less procedural safeguards than someone who does. Other courts agree."); *K.E.O. v. Woosley*, No. 4:25-CV-74, 2025 WL 2553394, at *5-7 (W.D. Ky. Sept. 4, 2025) (rejecting government's argument that notice and interview not required, stating that "Respondents cite no authority for this proposition and the Court can find none. In fact, the caselaw is directly to the contrary."). This authority is non-binding and contrary to the language and structure of the regulation, as argued herein. *See also Sanogoh*, Case No. 1:25-cv-787 (Doc. 11) (S.D. Ohio Feb. 4, 2026) (McFarland, J.). Furthermore, the Petitioner was *not* on an order of supervision at the time of his detention to effectuate his final order of removal.

ordered removed. Indeed, requiring notice and an informal interview for those, with a removal order, who have not violated their conditions of release results in re-litigation of the alien's removal orders. Petitioner is no doubt aware he is detained to effectuate his removal order. Due process does not entitle him to relitigate his removal order.

Even further, on September 10, 2025, the Petitioner received a Decision to Continue Detention in which the box that Ivanov "did not want a personal interview" was expressly and unambiguously checked. (Decision to Continue Detention, Ex. B, at p. 2). Therefore, Petitioner's claim that he was denied Due Process is explicitly contrary to Petitioner's own actions following detention to effectuate his removal. The Petitioner received the required due process. As such, his due process claim fails.

VII. CONCLUSION

The Petitioner's detention pending removal is lawful. The Petitioner interred with his own removal when on September 9, 2022, the petitioner failed to comply with removal from the United States to Russia during a commercial air removal flight. ICE thereafter detained the Petitioner to effectuate his final order of removal, and this removal will occur in the reasonably foreseeable future. Accordingly, the Petitioner's removal is lawful and this Court lacks jurisdiction to enjoin action taken to effect the Petitioner's removal to Russia. Therefore, this Court must deny relief and dismiss the action.

Signature on following page.

Respectfully submitted,

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