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

RUSLAN IVANOV	
Petitioner	
	Case No. 1:26-cv-00011
v.	
	District Judge Susan J. Dlott
SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY, ET AL	Magistrate Judge Chelsey M. Vascura
Respondents	

PETITIONER'S REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS AND OPPOSITION TO RESPONDENTS' RETURN OF WRIT AND MOTION TO DISMISS

I. INTRODUCTION

This case challenges Petitioner's post-order custody and whether ICE lawfully revoked his supervised release when he was detained on June 9, 2025. It does not challenge ICE's discretion to execute a removal order. As courts in this circuit and elsewhere have recognized, when ICE fails to follow its own regulations, habeas relief is warranted and release must be ordered. *See Mbonga v. Raycraft,* No. 4:25-cv-2315 (N.D. Ohio Nov. 7, 2025). "Meticulous care must be exercised lest the procedure by which [a person] is deprived of liberty not meet the essential standards of fairness." *Bridges v. Wixon*, 326 U.S. 135, 154 (1945). For the reasons detailed below, Respondents' motion should be denied, and the Petition granted.

II. ARGUMENT

A. Sections 1252(g), (a)(5), and (b)(9) Do Not Bar Habeas Review of ICE's Procedural Noncompliance and Lawfulness of Detention

Respondents first argue 8 U.S.C. § 1252(g) strips jurisdiction because Petitioner seeks to limit execution of a removal order. (ECF No. 14 at PageID 172). But Petitioner challenges only the manner in which ICE executed revocation of his supervised released and re-detention, not the bare discretion "to execute" removal. Courts "distinguish between challenges to ICE discretion to execute a removal order, which are barred, and challenges to the manner in which ICE executes the removal order, which are not." *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 152 (W.D.N.Y. 2025) (2025 U.S. Dist. LEXIS 84258, at *152). Petitioner seeks release from unlawful detention, not perpetual interference with removal.

Ceesay confirms that while § 1252 strips district courts of jurisdiction to review or enjoin removal orders, it does not bar a habeas petition challenging *detention* itself or the manner in which ICE revokes supervised release. The court in *Ceesay* relied on *Zadvydas v. Davis,* 533 U.S. 678 (2001), and *Jennings v. Rodriguez,* 583 U.S. 281 (2018), to hold that § 2241 remains

available for "statutory and constitutional challenges to post-removal-period detention," and that reading § 1252(b)(9) to funnel such claims only into petitions for review would yield "staggering results."

The Supreme Court has made clear that § 2241 authorizes review of continued custody after a removal order becomes final. *Zadvydas,* 533 U.S. at 687–88. Section 1252(g) targets three discrete actions: (1) commencing proceedings; (2) adjudicating cases; and (3) executing removal orders. It does not bar review of whether continued detention under § 1231(a)(6) is lawful. *See id.* at 688–89. Respondents' brief rests its jurisdictional objection on § 1252(g) (ECF No. 14 at PageID 171-173), but Petitioner is not seeking to enjoin his removal. He only challenges the legality of his continued detention, which falls squarely under the purview of § 2241.

Respondents' reliance on 8 U.S.C. §§ 1252(a)(5) and 1252(b)(9) is likewise misplaced. In *Jennings*, the Court confirmed that 8 U.S.C. § 1252(b)(9) is *not* a "zipper clause" that sweeps in every claim related to immigration, but applies primarily to "review of an order of removal" and matters inextricably part of the removal proceeding. 138 S. Ct. at 840–41. *Jennings* instructs that when dealing with detention challenges, "§ 1252(b)(9) does not present a jurisdictional bar." *Id.* at 841. Nor does 8 U.S.C. § 1252(a)(5) preclude the relief sought. Petitioner's claims could not have been raised in a petition for review of his removal order, because they arose well after the order became final and concern matters outside the scope of a removal proceeding (i.e., ICE's post-order conduct, not anything the Immigration Judge decided). Indeed, Petitioner's 90-day removal period under 8 U.S.C. § 1231(a)(1) expired long ago in September 2022, and his current custody falls under § 1231(a)(6) (continued detention beyond the removal period), which was the precise statute at issue in *Zadvydas*. (*See* ECF No. 1 at PageID 4, ¶ 18).

Courts have recognized that re-detention of a noncitizen after a prolonged period on supervised release does not "restart" the 90-day removal period or reinvest ICE with unbridled detention authority. *See Yaghoubi Yeganeh v. Collis*, No. 3:25-cv-02167, slip op. at 6 (N.D. Tex. Dec. 15, 2025) ("[A] subsequent re-arrest on a long-standing removal order does not reset the clock on the removal period"); *Zhu v. Noem*, No. 5:25-cv-00239, slip op. at 4 (S.D. Tex. Dec. 23, 2025) (rejecting argument that a noncitizen's "failure to depart" restarted the removal period, and ordering release under *Zadvydas* after prolonged detention). Petitioner's continued custody is therefore properly examined under § 1231(a)(6) as interpreted by *Zadvydas*, and it is both appropriate and necessary for this Court to exercise habeas jurisdiction to do so.

In sum, § 1252 does not divest this Court of jurisdiction. Petitioner's claims regarding detention conditions and procedural compliance are not challenges to the removal order or its execution in the sense intended by § 1252(g). They are precisely the sort of claims that remain within the traditional scope of habeas corpus, which nothing in the REAL ID Act or INA has validly withdrawn. *See Zadvydas*, 533 U.S. at 687 (confirming that § 2241 extends to claims by noncitizens challenging post-removal confinement); *Ceesay*, 781 F. Supp. 3d at 152 (similar). The Court should therefore deny Respondents' motion to dismiss for lack of jurisdiction.

B. Under Accardi, ICE's OSUP Revocation and Subsequent Detention Are Unlawful Because ICE Failed to Follow Binding Regulations.

Beyond jurisdiction, Respondents cannot escape the fact that ICE disregarded its mandatory Post-Order Custody Review ("POCR") regulations when it revoked Petitioner's supervised release and re-detained him on June 9, 2025. Under the *Accardi* doctrine, an agency must comply with its own binding regulations, especially those intended to protect individual rights, and failure to do so renders its action unlawful. *United States ex rel. Accardi v.*

Shaughnessy, 347 U.S. 260, 268 (1954). In this case, ICE's actions violated at least three distinct requirements of 8 C.F.R. § 241.4, as detailed below.

1. The Procedural Safeguards Mandated by 8 C.F.R. § 241.4 Apply to Petitioner

Respondents erroneously contend that because Petitioner was released on "interim parole" rather than an "order of supervision," the protections of § 241.4 did not apply to his case. (ECF No.14 at PageID 167). This is a distinction without a difference. The text of § 241.4 explicitly extends its safeguards to "any alien ... released under an order of supervision *or other conditions of release*." 8 C.F.R. § 241.4(l)(1) (emphasis added). This language leaves no doubt that individuals released on parole are included. ICE should not be allowed to sidestep its own rules by labeling a release as "parole" rather than "supervision."

The record confirms that Petitioner's release functioned as an OSUP in all but name. Petitioner was released from ICE custody on December 18, 2022, pursuant to a grant of parole under 8 U.S.C. § 1182(d)(5)(A), valid for one year from the date of issuance. (ECF No. 1-4 at PageID 27, Exh. C, Notice Authorizing Parole). However, on that same date, ICE documented his release on Form I-830E, which indicated his release from custody was on the condition of "Order of Supervision or Own Recognizance (Form I-220A)". (ECF No. 1-12 at PageID 55, Exh. K). This contemporaneous documentation undermines Respondents' claim that Petitioner was never subject to an OSUP.

Moreover, Petitioner's post-release conduct and ICE's own actions confirm that he was treated as a supervised releasee. Petitioner was instructed to report to ICE ERO in York, Pennsylvania, on January 26, 2023. (ECF No. 14-1 at PageID 184, ¶ 10). He complied, reporting the following day, at which time he was served with a Form I-229 and issued a G-56 directing him to return on March 6, 2023. (Id. ¶ 11). While Respondents have not submitted copies of the

I-229 or G-56, Petitioner has provided a copy of his OSUP Personal Report Card, a document used by ICE to track and schedule check-ins for individuals released under supervision. (ECF No. 1-5 at PageID 28, Exh. D, OSUP Record). That record reflects a consistent pattern of compliance: after reporting on March 6, 2023, Petitioner was instructed to return on June 11, 2024, and following that check-in, was scheduled to report again on June 10, 2025. (*Id.*)

This documented history of scheduled check-ins, coupled with ICE's use of OSUP-specific forms and procedures, demonstrates that Petitioner was in fact subject to an Order of Supervision, regardless of the label ICE now seeks to retroactively apply. The agency's attempt to recharacterize Petitioner's release as mere "interim parole" is a post hoc rationalization designed to evade the procedural safeguards mandated by 8 C.F.R. § 241.4. That regulation expressly applies to "any alien... who has been released under an order of supervision or other conditions of release," making clear that its protections are not limited to OSUPs alone. See 8 C.F.R. § 241.4(l)(1). The regulation further provides that upon revocation, the alien "will be notified of the reasons for revocation of his or her release or parole" and "afforded an initial informal interview *promptly* after his or her return to Service custody." *Id.* (emphasis added). This inclusive language confirms that the procedural safeguards apply to individuals released under parole as well as those on formal supervision. Courts have consistently rejected attempts to circumvent these requirements through semantic distinctions, recognizing that the substance of the agency's conduct—not the label it assigns—governs the applicability of the regulation. *See, e.g., Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169 (W.D.N.Y. 2025).

Accordingly, ICE's failure to comply with the notice, interview, and authorization requirements of § 241.4 renders Petitioner's re-detention unlawful under the *Accardi* doctrine and warrants habeas relief.

2. *No Proof of Lawful Delegation or Required Public Interest Findings (8 C.F.R. § 241.4(l)(2))*

The POCR regulations authorizes revocation of release by the Executive Associate Director, the Field Office Director (FOD), or a properly delegated official, and requires an express finding that revocation is "in the public interest" with an explanation why referral to the Executive Associate Director was not practicable. 8 C.F.R. § 241.4(l)(2). The delegation must explicitly include the power to revoke release; otherwise, it is insufficient. *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d at 161 (citing 8 C.F.R. §§ 1.2, 241.4(l)(2)) (holding that a delegation order limited to other Part 241 powers does not authorize revocation of OSUP). Here, Respondents have produced no delegation order authorizing the June 9, 2025, revocation and no public-interest findings. (ECF No. 1 at PageID 4, ¶ 20). That omission is fatal under *Accardi* – agencies must follow their own rules, including internal delegation requirements. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Morton v. Ruiz*, 415 U.S. 199 (1974).

3. *ICE Failed to Provide Notice of Specific Reasons and a Prompt Informal Interview Required By 8 C.F.R. § 241.4(l)(1)*

The POCR regulations impose clear procedural safeguards when ICE revokes a noncitizen's release. Upon revocation, ICE must (1) notify the individual of the *specific reasons* for revocation and (2) provide a *prompt informal interview* after return to custody to allow the individual to respond. 8 C.F.R. § 241.4(l)(1).

Respondents argue that these requirements apply only when a person violates the conditions of an Order of Supervision, not when ICE revokes release to effectuate removal. (ECF No. 14 at PageID 179–181). That reading is unsupported by the regulation's text and leads to an illogical result. Section 241.4(l)(1) applies to "any alien … who has been released under an order of supervision or other conditions of release," which plainly includes individuals—like

Petitioner—released on parole. Limiting these procedural protections to only those who violate conditions of release would lead to the absurd result of affording greater process to noncompliant individuals than to those who have fully complied with ICE's directives.

Multiple courts have rejected such a narrow reading of § 241.4(l)(1), holding that notice and an informal interview are required even when revocation is based on ICE's intent to effectuate removal. *See K.E.O. v. Woosley*, 2025 U.S. Dist. LEXIS 172361, at *13 (W.D. Ky. Sept. 4, 2025); *Orellana v. Baker,* 2025 U.S. Dist. LEXIS 164986; 2025 WL 2444087 (D. Md. Aug. 25, 2025); *Zhu v. Genalo,* 2025 U.S. Dist. LEXIS 166176; 2025 WL 2452352 (S.D.N.Y. Aug. 26, 2025); *M.S.L. v. Bostock*, 2025 U.S. Dist. LEXIS 162519, at *29 (D. Or. Aug. 21, 2025). *See also Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 169 (W.D.N.Y. 2025) (holding that under *Accardi,* ICE must honor procedural and instructional commitments associated with supervised release, including "orderly departure").

Here, ICE violated § 241.4(l)(1) when it failed to provide Petitioner with contemporaneous notice stating the specific reasons for revocation and conducted no informal interview prior to taking him into custody on June 9, 2025. Respondents' assertion that "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)" does not excuse this failure. (ECF No. 14 at PageID 180). The regulation does not exempt release revocations based on removal enforcement from the procedural requirements of § 241.4(l)(1), and ICE's own conduct—treating Petitioner as a supervised releasee for over two years—triggers the regulation's protections.

Respondents also argue that Petitioner waived his right to an informal interview by checking a box on the September 10, 2025, Decision to Continue Detention form indicating that he "did not want a personal interview." (ECF No. 14-2 at PageID 187, Exh. B.) This argument

fails for two reasons. First, the regulation requires that the informal interview occur "promptly after [the alien's] return to Service custody," not three months later. *See* 8 C.F.R. § 241.4(l)(1). Petitioner was detained on June 9, 2025, but the form cited by Respondents is dated September 10, 2025, which is well outside the window for a "prompt" interview. Second, the form in question is part of the POCR process, not the initial revocation process governed by § 241.4(l)(1). The regulation contemplates that the informal interview occur *immediately* upon revocation, not as part of a later custody review. Thus, even if Petitioner declined a personal interview in September, that does not cure ICE's failure to provide the required procedural safeguards at the time of re-detention. The deprivation of liberty without contemporaneous notice or opportunity to respond remains a violation of both the regulation and due process.

Respondents' harmless error theory also fails. They argue that even if "formal notice and an opportunity to be heard are required," Petitioner received both through the habeas process, rendering any deprivation "harmless." (ECF No. 14 at PageID 179.) But this argument ignores the purpose of § 241.4(l)(1), which is to provide *pre- or contemporaneous* process at the time of re-detention. Post-hoc judicial review months later is no substitute for the opportunity to respond before or immediately after liberty is taken away. The prejudice from an immediate and unannounced loss of liberty is self-evident, particularly where, at the time of re-detention, ICE lacked a travel document, itinerary, or receiving country clearance.

Indeed, at the time of re-detention, ICE was not in possession of Petitioner's Russian passport as it had previously lost it. (ECF No. 1-6 at PageID 36). No travel document request had been initiated, no itinerary existed, and no receiving-country clearance was in place. ICE did not even submit its first travel document request to Russia until September 5, 2025, nearly three months after re-detention. (ECF No. 14-1 at PageID 184 ¶ 15). These facts underscore that

removal was neither imminent nor meaningfully underway when ICE bypassed the procedural safeguards mandated by § 241.4(l)(1).

By failing to follow its own regulations, ICE deprived Petitioner of a critical opportunity to contest his re-detention at a time when removal was speculative at best. That deprivation was not harmless. It was unlawful.

4. ICE Detained Petitioner Without Travel Documents and Without Showing Immediate Practicability Required By 8 C.F.R. § 241.4(g)(3))

ICE's decision to re-detain Petitioner on June 9, 2025, also violated 8 C.F.R. § 241.4(g)(3), which requires the agency to consider the availability of travel documents before revoking release. Even where ICE believes a travel document may be forthcoming, the regulation mandates that release must be maintained unless "immediate removal is practicable or in the public interest." *Id.*

Here, ICE re-detained Petitioner without first securing a travel document or demonstrating that removal was imminent. In fact, ICE did not submit its initial request for a travel document to the Russian government until nearly three months later, on September 5, 2025. (ECF No. 14-1 at PageID 184, Declaration of Deportation Officer Richard L. Tiruchelvam). That request was re-submitted on October 31, 2025, but Respondents offer no explanation for the delay of the initial request or why it was necessary to submit the request a second time. (*Id.* at PageID 185, ¶ 17). As of January 29, 2026, the request remains pending, with no indication of when, if ever, a travel document will issue. This vague and open-ended speculation falls far short of the showing required by § 241.4(g)(3), and further underscores that detention on June 9, 2025, was unnecessary and premature, particularly in light of Petitioner's documented compliance with the terms of his release.

Respondents have also failed to show that immediate removal was practicable at the time of his redetention. Respondents rely solely on the declaration of Deportation Officer Richard L. Tiruchelvam to assert that Petitioner's removal is significantly likely in the reasonably foreseeable future. (ECF No. 14-1 at PageID 184). But the declaration fails to establish that any travel document has been issued or that the Russian government has agreed to accept Petitioner. The record contains no travel document, no itinerary, and no receiving country clearance. Courts routinely find such generalized assertions of "progress" insufficient to rebut a *Zadvydas* showing, especially where months pass without tangible developments. *See Yaghoubi Yeganeh* (N.D. Tex. Dec. 15, 2025) (ordering release where Iran denied travel documents after nine months and third-country efforts lacked substantiation); *Surovtsev v. Noem*, No. 3:25-cv-03065 (N.D. Tex. Dec. 19, 2025) (denying TRO but directing show cause given removal uncertainty).

While courts afford some deference to the Executive in removal matters, "deference has limits," and courts may not abdicate their responsibility to review the legality of continued detention. *Zadvydas v. Davis*, 533 U.S. 678, 700 (2001). ICE's failure to obtain a travel document before re-detaining Petitioner, coupled with the absence of any concrete removal timeline, renders its re-detention decision arbitrary and contrary to the requirements of § 241.4(g)(3). The agency's own mismanagement, including the loss of Petitioner's original passport, further undermines any claim that removal was practicable at the time of detention. ICE's noncompliance with its own regulations, particularly in the face of such uncertainty, warrants habeas relief.

C. Detention of Eight Months Is Unreasonable Under Zadvydas Because ICE Has Not Shown a Significant Likelihood of Removal in the Reasonably Foreseeable Future

Even setting aside ICE's regulatory violations, Petitioner's prolonged detention violates the substantive limits established in *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a)(6) does not permit indefinite detention. To avoid serious constitutional concerns, the statute must be read to authorize detention only for the period reasonably necessary to effectuate removal—generally up to a presumptive six months. *Id.* at 699–701. Once that period has elapsed, if a noncitizen provides "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future," the burden shifts to the government to rebut that showing with evidence. *Id.* at 701.

Here, Petitioner has been detained for more than eight months—well beyond *Zadvydas*' presumptive period—and has made a strong showing that his removal is not reasonably foreseeable. ICE has repeatedly failed to secure a travel document from Russia; Russia has provided no assurance that one will issue; and ICE itself caused delays by misplacing Petitioner's original passport. These facts demonstrate that the essential prerequisite to removal—a valid travel document—remains unattained, with no concrete indication that it will be issued in the near future.

The government's evidence, by contrast, consists solely of the declaration of Deportation Officer Richard Tiruchelvam. That declaration offers little more than conclusory assurances that ICE is "working in coordination" with headquarters and that there is "no reason to believe" removal cannot be effectuated. (ECF No. 14-1, PageID 185). It does not identify any concrete steps taken by the Russian government to facilitate removal, nor does it provide a timeline, itinerary, receiving-country acceptance, or confirmation that a travel document will issue.

Respondents implicitly ask the Court to accept this declaration at face value under a presumption of regularity. Petitioner does not accuse Respondents, or the declarant, of intentional misrepresentation, nor does he claim affirmative evidence that the officer's statements are false or made in bad faith. The issue is not credibility in the colloquial sense, but sufficiency. After the presumptive six-month period has elapsed, *Zadvydas* requires the government to justify continued detention with evidence, not assurances. The declaration here consists almost entirely of generalized and conclusory statements untethered to any concrete, case-specific proof demonstrating a significant likelihood of removal in the reasonably foreseeable future. In light of courts' recent and well-documented experience with incomplete, inaccurate, or unsupported government representations in immigration litigation, there is good reason to require more than blanket statements to satisfy the government's burden in prolonged-detention cases.[1]

A declaration standing alone, unsupported by documentary corroboration or verifiable progress toward removal, does not rebut Petitioner's showing that his detention has become indefinite. To hold otherwise would reduce *Zadvydas*' evidentiary safeguard to a formality and permit prolonged detention based on agency say-so rather than proof.

The declaration's vague optimism is not evidence; it is speculation. And speculation cannot satisfy the government's burden under *Zadvydas*. Nor does the government's reliance on past removals to Russia cure this deficiency. The declaration does not assert that any concrete progress has been made in ***this*** case. There is no approved travel document, no itinerary, and no indication of when, if ever, Petitioner's removal might occur. Courts routinely reject such bare

[1] *See* Ryan Goodman, et al., *The "Presumption of Regularity" in Trump Administration Litigation*, Just Security (updated Nov. 20, 2025), https://www.justsecurity.org/120547/presumption-regularity-trump-administration-litigation/ (collecting cases in which federal courts questioned or declined to apply the presumption of regularity after finding that executive agencies had made misleading, incomplete, or unsupported representations to courts, or failed to comply with judicial orders)

assurances as insufficient to justify detention beyond six months. *See Yaghoubi Yeganeh v. Collis*, No. 3:25-cv-2167 (N.D. Tex. Dec. 15, 2025); *Surovtsev v. Noem*, No. 3:25-cv-3065 (N.D. Tex. Dec. 19, 2025).

Finally, the government's reliance on *Demore v. Kim*, 538 U.S. 510 (2003), is misplaced. *Demore* addressed brief pre-removal-order detention under 8 U.S.C. § 1226(c), which the Court noted averaged approximately 47 days. *Id.* at 529. It has no application to prolonged post-order detention under § 1231(a)(6). The governing framework here is *Zadvydas*, which squarely addresses detention after a final order of removal and imposes clear temporal and evidentiary limits.

In sum, Petitioner has provided ample reason to believe that his removal is not significantly likely in the reasonably foreseeable future. The burden therefore shifted to the government to justify continued detention with evidence, and it has failed to do so. Petitioner's detention has thus become unconstitutionally prolonged, and *Zadvydas* compels his release.

III. CONCLUSION

"[I]t is the province of the federal judiciary to ensure that the government obeys the law, particularly when it chooses to deprive someone of their liberty." *Mbonga v. Raycraft*, slip op. at 5. The record establishes that Petitioner's continued detention is both procedurally unlawful under *Accardi* and unreasonable under *Zadvydas.* Respondents have repeatedly violated their own Post-Order Custody Regulations, including: (1) no written delegation or public-interest finding authorizing revocation as required by 8 C.F.R. § 241.4(l)(2); (2) no contemporaneous notice of specific reasons and no prompt informal interview under § 241.4(l)(1); and (3) no travel document and no showing that immediate removal is practicable under § 241.4(g)(3).

Respondents have not demonstrated that Petitioner's removal is imminent or even likely after more than eight months of detention. These regulatory violations and the lack of a foreseeable removal breach the *Accardi* and *Zadvydas* standards designed to prevent precisely such arbitrary and indefinite detention.

Accordingly, Petitioner respectfully requests that the Court deny Respondents' motion to dismiss, grant the Petition for a Writ of Habeas Corpus, and order Petitioner's immediate release under appropriate conditions of supervision.

Respectfully submitted,

DATED: February 18, 2026

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CERTIFICATE OF SERVICE

I, Maya Lugasy, hereby certify that on February 18, 2026, I filed the foregoing with the Clerk of Court using the CM/ECF system, which sent notice of filing to all parties receiving electronic notice.

DATED: February 18, 2026

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