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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

TIRHAS ZEDINGLE, Petitioner, v. KRISTI NOEM, Secretary, Department of Homeland Security; et al., Respondents.	Case No.: 26-cv-0100-DMS-SBC **RETURN TO PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

Respondents hereby submit their return to Petitioner's habeas petition, and for the reasons set forth below, respectfully ask the Court to deny the petition.

II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is subject to a final, executable order of removal to Ethiopia issued by an Immigration Judge (IJ) on March 27, 2002. *See* ECF No. 2 at 11–15. Petitioner, who was represented by counsel in her removal proceedings, did not appeal the IJ's decision. *See* Declaration of Ramon Meraz ("Meraz Decl.") at ¶ 12. At the time of the removal order, Petitioner remained in Immigration and Customs Enforcement (ICE) custody for purposes of executing her removal, but after attempts to obtain travel documents for Petitioner were unsuccessful, ICE released her from custody on November 7, 2022. *See id.* at ¶ 16.

On September 4, 2025, ICE re-detained Petitioner to execute her removal order. *See id.* at ¶ 17. On that date, ICE served Petitioner a Notice of Revocation of Release, informing her that release was being revoked due to "changed circumstances" in her case. *See id.*; Exh. 1.[1] "There is no record that ERO [Enforcement and Removal Operations] conducted an informal interview." Meraz Decl. at ¶ 17. Since Petitioner's re-detention, ICE has worked as diligently as possible to effectuate her removal to Ethiopia. *See id.* at ¶ 19. "These removal efforts remain ongoing." *Id.*

III. III. ARGUMENT

"Section 241(a) of the Immigration and Nationality Act (INA), codified at 8 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered removed from the United States." *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575 (2022). The INA provides that an alien ordered removed must be detained for 90 days pending the government's efforts to secure the alien's removal through negotiations with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the alien during the 90-day removal period under subsection (a)(1)).

Section 1231(a)(6) "authorizes further detention if the Government fails to remove the alien during those 90 days." *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). Detention authority under this statute, however, is limited to "a period reasonably necessary to bring about the alien's removal from the United States" and "does not permit indefinite detention." *Id.* at 689. The Supreme Court has held that a six-month period of post-removal detention constitutes a "presumptively reasonable period of detention." *Id.* at 701. Release is not mandated after the expiration of the six-month period unless "there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

As an initial matter, Petitioner raises two distinct issues: (1) the agency's reason for revoking her release and her return to custody; and (2) whether her current detention

[1] The attached exhibits are true copies of documents obtained from ICE counsel.

is unconstitutionally prolonged under the *Zadvydas* standard. The regulatory standard for revocation—which is not the same as the constitutional standard—provides that "The Service may revoke an alien's release under this section and return the alien to custody if, on account of changed circumstances, the Service determines that there is significant likelihood that the alien may be removed in the reasonably foreseeable future." 8 C.F.R. 241.13(i)(2). This regulation does not govern whether detention is constitutional or not for purposes of a habeas claim. Rather, the constitutionality of Petitioner's post-final order detention is governed by the Supreme Court's directives in *Zadvydas*.

In that regard, ICE re-detained Petitioner to execute her removal order to Ethiopia.[2] *See* Meraz Decl. at ¶ 19. On November 5, 2025, San Diego ERO sent to its headquarters' Removal and International Operations unit a request for Petitioner's travel document to Ethiopia and requested an update on that request later that month. *See id.* at ¶¶ 20–21. Although ICE does not yet have a travel document for Petitioner, the record indicates it is working as diligently as possible and attests that once it receives Petitioner's travel document, "her removal can be effectuated promptly." *Id.* at ¶ 22.

As to Petitioner's regulatory violation claims, Petitioner was provided a Notice of Revocation, but "[t]here is no record that ERO conducted an informal interview." Meraz Decl. at ¶ 17. *But see Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) ("The mere failure of an agency to follow its regulations is not a violation of due process."); *United States v. Tatoyan,* 474 F.3d 1174, 1178 (9th Cir.2007) ("Compliance with . . . internal [customs] agency regulations is not mandated by the Constitution") (internal quotation marks omitted); *United States v. Barraza Leon*, 575 F.2d 218, 221–

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[2] To the extent Petitioner challenges the IJ's designation of Ethiopia as the country of removal or raises any other challenge she could have, but did not raise, during removal proceedings, 8 U.S.C. §§ 1252(b)(5) and (9) preclude district court review of such claims and channels them into proceedings before the courts of appeal. *See J.E.F.M. v. Lynch*, 837 F.3d 1026, 1031 (9th Cir. 2016) (explaining that §§ 1252(b)(5) and (9) "channel judicial review over final orders of removal to the courts of appeals.").

22 (9th Cir. 1978) (holding that even assuming that the judge had violated the rule by failing to inquire into the alien's background, any error was harmless because there was no showing that the petitioner was qualified for relief from deportation); *Doe v. Smith*, No. CV 18-11363-FDS, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018) (finding that release was not warranted even if an informal interview was not provided because the petitioner was "not challenging the underlying justification for the removal order" nor was it "a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity.").

IV. CONCLUSION

For the reasons stated herein, Respondents respectfully request that the Court deny the habeas petition and motion for temporary restraining order.

DATED: January 15, 2026

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