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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **MAGED ABDULHAMEED HAMOOD**
13 **ABDULLAH,**

14 **Petitioner,**

15 **v.**

16 **KRISTI NOEM, Secretary of the**
Department of Homeland Security, et
al.,

17 **Respondents.**

Case No.: 26-cv-00176-BJC-BLM

RESPONSE TO PETITION

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21 **I. Introduction**

22 Petitioner has filed a habeas petition pursuant to 28 U.S.C. § 2241. For the
23 reasons set forth below, the Court should deny Petitioner’s requests for relief and
24 dismiss the petition.
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II. Factual and Procedural Background¹

Petitioner is a native and citizen of Yemen. ECF No. 1 at 1; Exhibit A (I-213 from 2018) at 1; Declaration of Jason Cole (Cole Decl.) at ¶ 3. Petitioner was born in Saudi Arabia but is not a citizen of Saudi Arabia. ECF No. 1 at 1; Cole Decl. at ¶ 3. On or about October 29, 2016, Petitioner entered the United States on a nonimmigrant student visa. Cole Decl. at ¶ 4. Petitioner's nonimmigrant status expired on or about June 11, 2018, when his school enrollment was terminated for failure to attend. Cole Decl. at ¶ 4; *see* ECF No. 1 at 1. On September 18, 2018, Petitioner was taken into Immigration and Customs Enforcement (ICE) custody. ECF No. 1 at 1, 4; Cole Decl. at ¶ 5. He was served with a Notice to Appear (NTA) and charged with removability for overstaying his visa under the Immigration and Nationality Act (INA) § 237(a)(1)(B). Exhibit B (NTA); Cole Decl. at ¶ 5.

On February 25, 2022, Petitioner was convicted as a nonimmigrant alien in possession of a firearm and ammunition in violation of 18 U.S.C. 18 § 922 (g)(5)(B) and § 924 (a)(2), for which he was sentenced to 107 days in prison and supervised release for 12 months. Exhibit C (I-213 from 2025) at 3; Exhibit D (I-261); Cole Decl. at ¶ 6. After receiving credit for time served, Petitioner was remanded into ICE custody on February 28, 2022, to continue immigration proceedings. Cole Decl. at ¶ 7. On March 2, 2022, the Department of Homeland Security (DHS) amended the NTA to lodge additional charges against Petitioner. Exhibit D; Cole Decl. at ¶ 8. Petitioner was charged with removability under INA § 237(a)(2)(C) for having been convicted of certain firearm offenses, and INA § 237(a)(2)(A)(iii) for having been convicted of an aggravated felony. Exhibit D; Cole Decl. at ¶ 8.

On June 9, 2022, an Immigration Judge (IJ) ordered Petitioner removed to Saudi Arabia. Exhibit E (IJ Order of June 9, 2022); Cole Decl. at ¶ 9. On September 7, 2022,

¹ The attached exhibits are true copies, with redactions of private information, of documents obtained from ICE counsel.

1 the Consulate General of Saudi Arabia denied ICE's request for a travel document
2 because Petitioner is not a citizen of Saudi Arabia. Cole Decl. at ¶ 10. On November 3,
3 2022, an IJ ordered Petitioner removed to Yemen, with Saudi Arabia in the alternative,
4 but granted withholding of removal to Yemen. Exhibit F (IJ Order of November 3,
5 2022); Cole Decl. at ¶ 11. DHS appealed the IJ's decision. Cole Decl. at ¶ 11. On May
6 23, 2023, the Board of Immigration Appeals remanded the record to the IJ for further
7 proceedings. Exhibit G (BIA Opinion of May 23, 2023); Cole Decl. at ¶ 12. On August
8 23, 2023, the IJ again granted withholding of removal to Yemen. DHS appealed the IJ's
9 decision. *See* Exhibit H (BIA Opinion of February 6, 2024); Cole Decl. at ¶ 13. On
10 February 6, 2024, the BIA dismissed the appeal and remanded the case for completion
11 of background checks and entry of a final order. Exhibit H; Cole Decl. at ¶ 14.

12 On February 15, 2024, an IJ ordered Petitioner removed to Saudi Arabia, and
13 Yemen in the alternative, but granted withholding of removal to Yemen. Exhibit I (IJ
14 Order of February 15, 2024); Cole Decl. at ¶ 15. The IJ did not grant withholding of
15 removal to Saudi Arabia. *See* Exhibit J at ¶ IV; Cole Decl. at ¶ 15. Both DHS and
16 Petitioner waived appeal. *See* Exhibit J at ¶ V; Cole Decl. at ¶ 15.

17 On December 18, 2025, ICE re-detained Petitioner. ECF No. 1 at 1, 4; Exhibit A
18 at 1; Cole Decl. at ¶ 16. On that same date, he was issued written notice of revocation
19 of release and provided an informal interview. *See* Exhibit J (Notice of Revocation of
20 Release and Informal Interview); Cole Decl. at ¶ 16. During the interview, Petitioner
21 stated that he would like to return to Saudi Arabia and he will accept removal to a third
22 country that allows him entry. Exhibit J at 4; Cole Decl. at ¶ 16.

23 Since Petitioner's re-detention in December 2025, ICE has worked as
24 expeditiously as possible to identify a third country to which Petitioner may be
25 removed. Cole Decl. at ¶ 17. On October 20, 2025, ICE contacted Enforcement and
26 Removal Operations' (ERO) Removal and International Operations (RIO) to seek a
27

1 third country for removal. Cole Decl. at ¶ 18. On January 6, 2026, ICE requested
2 updates from RIO on the third country removal request. Cole Decl. at ¶ 19.

3 At this time, ICE is still in the process of identifying third countries that may be
4 willing to accept Petitioner for removal. Cole Decl. at ¶ 20. ERO continues to diligently
5 seek to identify a third country for Petitioner’s removal and believes there is a
6 significant likelihood of removal to a third country in the reasonably foreseeable future.
7 Cole Decl. at ¶ 21.

8 When a third country is identified for resettlement, standard ICE guidance and
9 procedures provide that an ICE officer will provide written notice to the removable alien
10 of the intended third country removal. Cole Decl. at ¶ 22. The written notice identifies
11 which country ICE intends to remove the alien to. Cole Decl. at ¶ 22. ICE will generally
12 wait at least 24 hours following service of the Notice of Removal before effectuating
13 removal. Cole Decl. at ¶ 22. In exigent circumstances, ERO may execute a removal
14 order six or more hours after service of the Notice of Removal as long as the alien is
15 provided reasonable means and opportunity to speak with an attorney prior to removal.
16 Cole Decl. at ¶ 22.

17 Once a third country is identified, ICE will provide Petitioner with written notice,
18 and if Petitioner claims a fear of removal to the identified country, he will be referred
19 to an asylum officer for processing of the fear-based claims. Cole Decl. at ¶ 23.

20 **III. Argument**

21 **A. Claims and Requests are Barred by 8 U.S.C. § 1252**

22 Petitioner bears the burden of establishing that this Court has subject matter
23 jurisdiction over his claims. *See Ass’n of Am. Med. Coll. v. United States*, 217 F.3d 770,
24 778-79 (9th Cir. 2000); *Finley v. United States*, 490 U.S. 545, 547-48 (1989). To the
25 extent Petitioner’s claims arise from—or seek to enjoin—the decision to execute his
26 removal order, they are jurisdictionally barred under 8 U.S.C. § 1252(g). *See* 8 U.S.C.
27 § 1252(g) (“Except as provided in this section and *notwithstanding any other provision*

1 of law (statutory or nonstatutory), including section 2241 of Title 28, or any other
2 habeas corpus provision, and sections 1361 and 1651 of such title, no court shall have
3 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the
4 decision or action by the Attorney General to commence proceedings, adjudicate cases,
5 or execute removal orders against any alien under this chapter.”) (emphasis added);
6 *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 483 (1999) (“There was
7 good reason for Congress to focus special attention upon, and make special provision
8 for, judicial review of the Attorney General’s discrete acts of “commenc[ing]
9 proceedings, adjudicat[ing] cases, [and] execut[ing] removal orders”—which represent
10 the initiation or prosecution of various stages in the deportation process.”). In other
11 words, § 1252(g) removes district court jurisdiction over “three discrete actions that the
12 Attorney may take: her ‘decision or action’ to ‘commence proceedings, adjudicate
13 cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis removed).
14 Petitioner’s claims necessarily arise “from the decision or action by the Attorney
15 General to . . . execute removal orders,” over which Congress has explicitly foreclosed
16 district court jurisdiction. 8 U.S.C. § 1252(g). Accordingly, to the extent Petitioner’s
17 claims arise from—or seek to enjoin—the decision to execute his removal order, the
18 Court should deny and dismiss those claims for lack of jurisdiction under 8 U.S.C.
19 § 1252.

20 **B. The Nature and Duration of Petitioner’s Custody Do Not Violate the Due**
21 **Process Clause**

22 “Section 241(a) of the Immigration and Nationality Act (INA), codified at 8
23 U.S.C. § 1231(a), authorizes the detention of noncitizens who have been ordered
24 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
25 (2022). The INA provides that an alien ordered removed must be detained for 90 days
26 pending the government’s efforts to secure the alien’s removal through negotiations
27 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall

1 detain” the alien during the 90-day removal period under subsection (a)(1)).

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

11 If an individual ordered removed “is not removed to his or her country of choice
12 or citizenship, he or she shall be removed to any of the following countries” listed in 8
13 U.S.C. § 1231(b)(2)(E). *Hadera v. Gonzales*, 494 F.3d 1154, 1156–57 (9th Cir. 2007).

14 The enumerated countries are:

- 15 (i) The country from which the alien was admitted to the United States
- 16 (ii) The country in which is located the foreign port from which the alien
17 left for the United States or for a foreign territory contiguous to the United
18 States.
- 19 (iii) A country in which the alien resided before the alien entered the
20 country from which the alien entered the United States.
- 21 (iv) The country in which the alien was born.
- 22 (v) The country that had sovereignty over the alien's birthplace when the
alien was born.
- (vi) The country in which the alien’s birthplace is located when the alien
is ordered removed.

23 *Id.* (quoting § 1231(b)(2)(E)(i)–(vi)). “If removal to any of these countries is
24 ‘impracticable, inadvisable, or impossible,’ the individual shall be removed to ‘another
25 country whose government will accept the alien into that country.’” *Id.* (quoting
26 § 1231(b)(2)(E)(vii)).

27 Here, Petitioner was granted withholding of removal to Yemen and Saudi Arabia

1 previously declined to issue Petitioner a travel document. There appears to be no other
2 country that would meet the definitions under subsections (i) through (vi), and
3 Petitioner has made no showing to the contrary. *See Rokhfirooz v. Larose*, No. 25-CV-
4 2053-RSH-VET, 2025 WL 2646165, at *2 (S.D. Cal. Sept. 15, 2025) (“A prisoner bears
5 the burden of demonstrating that ‘he is in custody in violation of the Constitution or
6 laws or treaties of the United States.’”) (quoting 28 U.S.C. § 2241(c)(3), brackets
7 omitted). Because removal to the above enumerated countries is “impracticable,
8 inadvisable, or impossible,” ICE may remove Petitioner to a third country that will
9 accept Petitioner’s removal. 8 U.S.C. § 1231(b)(2)(E)(vii). In invoking its authority
10 under 8 U.S.C. § 1231(b)(2)(E), ICE continues to detain Petitioner for purposes of
11 executing his removal order to a third country.

12 Since Petitioner’s re-detention, ICE has worked expeditiously to effectuate his
13 resettlement in a third country. On October 20, 2025, ICE contacted Enforcement and
14 Removal Operations’ (ERO) Removal and International Operations (RIO) to seek a
15 third country for removal. Cole Decl. at ¶ 18. On January 6, 2026, ICE requested
16 updates from RIO on the third country removal request. Cole Decl. at ¶ 19. Although
17 RIO is still in the process of identifying countries that may be willing to accept
18 Petitioner for removal, the record indicates that ICE is working diligently. *See also*
19 *Zadvydas*, 533 U.S. at 700 (instructing district courts “to listen with care when the
20 Government’s foreign policy judgments, including, for example, the status of
21 repatriation negotiations, are at issue, and to grant the Government appropriate leeway
22 when its judgments rest upon foreign policy expertise.”).

23 As it stands, it would be premature to conclude that there is no significant
24 likelihood of removal in the reasonably foreseeable future before permitting ICE an
25 opportunity to complete the diligent efforts it has taken to effect Petitioner’s removal.
26 ICE has taken the exact steps it needs to take to ensure their removal efforts bear fruit.

1 Evidence of progress, even slow progress, in negotiating a petitioner’s repatriation will
2 satisfy *Zadvydas* until the petitioner’s detention grows unreasonably lengthy. *See, e.g.,*
3 *Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug. 15,
4 2019) (“The record at this stage in the litigation does not support a finding that there is
5 no significant likelihood of Petitioner’s removal in the reasonably foreseeable future.”);
6 *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080, at *3 (S.D.
7 Cal. Oct. 13, 2020) (denying petition because “Respondents have set forth evidence that
8 demonstrates progress and the reasons for the delay in Petitioner’s removal”).

9 **C. Petitioner’s Complaints About Procedural Deficiencies Related to His**
10 **Re-detention Do Not Establish a Basis for Habeas Relief**

11 Petitioner claims that the agency failed to comply with its regulations when
12 revoking Petitioner’s Order of Supervision. ECF No. 1 at 10-14. In fact, on December
13 18, 2025, Petitioner was provided written notice of the revocation of his release as well
14 as an informal interview. *See* Exhibit J; Cole Decl. at ¶ 16. But even if the agency’s
15 compliance with the regulations fell short, Petitioner has not established prejudice nor
16 a constitutional violation. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014)
17 (“The mere failure of an agency to follow its regulations is not a violation of due
18 process.”); *United States v. Tatoyan*, 474 F.3d 1174, 1178 (9th Cir.2007) (“Compliance
19 with . . . internal [customs] agency regulations is not mandated by the Constitution”)
20 (internal quotation marks omitted); *United States v. Barraza-Leon*, 575 F.2d 218, 221–
21 22 (9th Cir. 1978) (holding that even assuming that the judge had violated the rule by
22 failing to inquire into the alien’s background, any error was harmless because there was
23 no showing that the petitioner was qualified for relief from deportation).

24 Moreover, the regulations addressing revocation of release here do not provide
25 substantive rights that override the statutory detention authority. *See Morales Sanchez*
26 *v. Bondi*, No. 5:25cv02530 AB DTB, at *4 (C.D. Cal. Oct. 3, 2025) (“While the
27 regulations cited by Petitioner, 8 C.F.R. §§ 241.13(i)(1)–(2) and 241.4, establish

1 procedural safeguards—including the requirements that revocation be based on a
2 condition of release violation or on a significant likelihood of removal, and that the
3 noncitizen receive notice and an informal interview—they do not create independent
4 substantive rights that override the statutory grant of detention authority.”) (citing *Jane*
5 *Doe 1 v. Nielsen*, 357 F. Supp. 3d 972, 1000 (N.D. Cal. 2018) (concluding that agency
6 rules must prescribe substantive law, not merely procedural or policy guidance, to be
7 enforceable)).

8 Petitioner also does not have a protected liberty interest in remaining free from
9 detention where ICE has exercised its discretion under a valid removal order and its
10 regulatory authority. *See Moran v. U.S. Dep’t of Homeland Sec.*, No.
11 EDCV2000696DOCJDE, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020)
12 (dismissing claim that § 241.4(l) was a violation of the petitioners’ procedural due
13 process rights and noting that they “fail to point to any constitutional, statutory, or
14 regulatory authority to support their contention that they have a protected interest in
15 remaining at liberty in the United States while they have valid removal orders.”).
16 Although the regulation provides detainees some opportunity to respond to the reasons
17 for revocation, “it provides no other procedural and no meaningful substantive limit on
18 this exercise of discretion as it allows revocation when, in the opinion of the revoking
19 official, the purposes of release have been served or the conduct of the alien, *or any*
20 *other circumstance*, indicates that release would no longer be appropriate.” *Rodriguez*
21 *v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (citing §§ 241.4(l)(2)(i), (iv)) (simplified,
22 emphasis in original), *abrogated on other grounds as recognized by Rodriguez Diaz v.*
23 *Garland*, 53 F.4th 1189 (9th Cir. 2022).

24 In *Doe v. Smith*, the U.S. District Court for the District of Massachusetts held that
25 even if the ICE detainee petitioner had not received a timely interview following her
26 return to custody, there was “no apparent reason why a violation of the regulation ...
27 should result in release.” *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1,

1 2018). The court elaborated, “[I]t is difficult to see an actionable injury stemming from
2 such a violation. Doe is not challenging the underlying justification for the removal
3 order.... Nor is this a situation where a prompt interview might have led to her
4 immediate release—for example, a case of mistaken identity.” *Id.*

5 The same is true here. Whatever procedural deficiencies or delays may have
6 occurred, they do not warrant Petitioner’s release.

7 **D. Petitioner’s Claims that He Will Not Receive Notice and an Opportunity to**
8 **Respond Prior to Removal to a Third Country are Meritless**

9 Petitioner also asserts that he is afraid that once a third country is identified, ICE
10 will immediately deport him there without giving him adequate notice or an opportunity
11 to respond. ICE attests, however, that “[o]nce a third country is identified, ICE will
12 provide Petitioner with written notice, and if Petitioner claims a fear of removal to the
13 identified country, he will be referred to an asylum officer for processing of the fear-
14 based claims.” Cole Decl. at ¶ 13. Even in exigent circumstances, when ICE may
15 execute a removal order six or more hours after service of the Notice of Removal,
16 Petitioner will be provided reasonable means and opportunity to speak with an attorney
17 prior to removal. *Id.* at ¶ 22.

18 Thus, Petitioner’s concern that he will not receive adequate notice prior to his
19 third country removal is not borne out by the evidence in this case.

20 **IV. CONCLUSION**

21 For the foregoing reasons, Respondents respectfully request that the Court
22 dismiss the habeas petition.

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24 DATED: January 26, 2026

25 Respectfully submitted,

26 ADAM GORDON
27 United States Attorney

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s/ Tom Merritt
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