District Judge Kymberly K. Evanson

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MOHAMED SOLIMAN MAHMOUD SOLIMAN EMARA, Petitioner, v. PAMELA BONDI, *et al.*, Respondents.	Case No. 2:26-cv-00116-KKE FEDERAL RESPONDENTS'[1] RETURN MEMORANDUM Noted for Consideration: February 2, 2026

I. INTRODUCTION

U.S. Immigration and Customs Enforcement ("ICE") detains Petitioner Mohamed Soliman Mahmoud Soliman Emara, a noncitizen subject to an administratively final order of removal, pursuant to Section 241 of the Immigration and Nationality Act ("INA"). *See* 8 U.S.C. § 1231. Petitioner brings this habeas litigation pursuant to 28 U.S.C. § 2241 to challenge the lawfulness of his immigration detention. In response, Federal Respondents submit the following factual background as contained in the records of Petitioner's immigration case and as set forth in the Declaration of Deportation Officer Jiarong Du as well as the relevant legal authorities.

[1] Respondent Bruce Scott is not a Federal Respondent and is not represented by the U.S. Attorney's Office.

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Petitioner additionally requests this Court to order Federal Respondents to provide additional process as it relates any third country removal, and simultaneously prohibit Petitioner's removal to any third country. Dkt. 1 Petition ("Pet.") at 15-18. Petitioner also requests an order preventing re-detention and that he cannot be removed to a third country. Pet., Prayer for Relief, ¶¶ (d), (f). The U.S. Department of Homeland Security's ("DHS") policy addresses protections concerning third country removals, and to the extent that Petitioner seeks additional process, Petitioner should be required to seek that relief as a plaintiff class member in *D.V.D. v. U.S. Dep't of Homeland Sec.*, CV 25-10676-BEM, 2025 WL 942948 (D. Mass. Mar. 28, 2025). Accordingly, these requests must be denied.

II. LEGAL STANDARD

To succeed on a habeas petition, Petitioner "must show [he] is in custody in violation of the Constitution or laws or treaties of the United States." *Doe v. Bostock*, No. C24-0326-JLR-SKV, 2024 WL 3291033, at *5 (W.D. Wash. Mar. 29, 2024), report and recommendation adopted, No. C24-0326JLR-SKV, 2024 WL 2861675 (W.D. Wash. June 6, 2024) (citing 28 U.S.C. § 2241). Because habeas proceedings are civil in nature, the "[p]etitioner 'bears the burden of proving that he is being held contrary to law, . . . [and] he must satisfy his burden of proof by a preponderance of the evidence.'" *Aditya W. H. v. Trump*, No. 25-cv-1976, 2025 WL 1420131, at *7 (D. Minn. May 14, 2025) (quoting *Freeman v. Pullen*, 658 F. Supp. 3d 53, 58 (D. Conn. 2023) (citations omitted)).

III. DETENTION AND REMOVAL AUTHORITY

A. Post-Order Detention

The INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527-29 (2021). The general detention periods are generally referred to as "pre-order" (meaning before the entry of a final order

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of removal) and "post-order" (meaning after the entry of a final order of removal). *Compare* 8 U.S.C. § 1226 (authorizing pre-order detention) *with* § 1231(a) (authorizing post-order detention).

When a final order of removal has been entered, a noncitizen enters a 90-day "removal period." 8 U.S.C. § 1231(a)(1). Congress has directed that the Secretary of Homeland Security "shall remove the [noncitizen] from the United States." *Id.* To ensure a noncitizen's presence for removal and to protect the community from noncitizens who may present a danger, Congress mandated detention during the "removal period," which is the 90-day period following the issuance of a final order of removal. 8 U.S.C. § 1231(a)(2). During the removal period, ICE is charged with attempting to effectuate removal of a noncitizen from the United States. 8 C.F.R. § 241.2(b); 8 U.S.C. § 1231(a)(1).

Section 1231(a)(6) authorizes ICE to continue detention of noncitizens after the expiration of the removal period. Unlike Section 1231(a)(2), Section 1231(a)(6) does not mandate detention and does not place any temporal limit on the length of detention under that provision:

> [A noncitizen] ordered removed who is inadmissible under section 1182, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the [the Secretary of Homeland Security] 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).

8 U.S.C. § 1231(a)(6) (emphasis added).

Although there is no statutory time limit on detention pursuant to Section 1231(a)(6), the Supreme Court has held that a noncitizen may be detained only "for a period reasonably necessary to bring about that [noncitizen's] removal from the United States." *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). The Supreme Court has further identified six months as a presumptively reasonable time necessary to bring about a noncitizen's removal. *Id.*, at 701. Once it is determined

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that there is no significant likelihood of removal in the reasonably foreseeable future, noncitizens may be released on an Order of Supervision ("OSUP"). 8 C.F.R. § 241.13(h).

B. Third Country Removal

When the Government seeks to remove an individual, it may do so through removal proceedings involving an evidentiary hearing before an Immigration Judge ("IJ"). 8 U.S.C. § 1229a. In removal proceedings, the IJ determines both whether the individual may be removed from the United States and also the country to which they will be removed. *Id.*; 8 U.S.C. § 1231(b)(2)(A); 8 C.F.R. § 1240.10(f). The INA sets out the process for determining the country of removal.

First, the alien may select a country. 8 U.S.C. § 1231(b)(2)(A); 8 C.F.R. § 1240.10(f). If the alien declines, the IJ will designate one and may also designate alternative countries. 8 U.S.C. § 1231(b)(2)(C)-(D); 8 C.F.R. § 1240.10(f). In selecting an alternative country of removal, the IJ must first select the "country of which the alien is a subject, national, or citizen[.]" 8 U.S.C. § 1231(b)(2)(D). If removal to that country is impossible, the IJ may remove the alien to "any of the following countries" listed in 8 U.S.C. § 1231(b)(2)(E):

> (i) The country from which the alien was admitted to the United States.
> (ii) The country in which is located the foreign port from which the alien left for the United States or for a foreign territory contiguous to the United States.
> (iii) A country in which the alien resided before the alien entered the country from which the alien entered the United States.
> (iv) The country in which the alien was born.
> (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.

Lastly, § 1231(b)(2)(E)(vii) provides that "[i]f impracticable, inadvisable, or impossible to remove the alien to each country" described above, the statute permits removal to any "country whose government will accept the" noncitizen. *Id.* § 1231(b)(2)(E)(vii).

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The government is prohibited from removing a person to a third country where they may be persecuted or tortured, a form of protection known as withholding of removal. *See* 8 U.S.C. § 1231(b)(3)(A); *see also* 8 C.F.R. §§ 208.16, 1208.16. Similarly, the government cannot remove a person to a country where they would be tortured, a form of protection known as protection under the Convention Against Torture ("CAT"). *See* Foreign Affairs Reform and Restructuring Act of 1998 ("FARRA"), Public Law 105–277, div. G, sec. 2242, 112 Stat. 2681, 2631–822 (8 U.S.C. § 1231 note); 28 C.F.R. §§ 200.1, 208.16–208.18, 1208.16–1208.18. Withholding of removal and CAT protection are mandatory, but "only restrict *where* the Government may remove a noncitizen to, not *whether* the noncitizen is subject to removal." *Kumar v. Wamsley*, No. C25-2055-KKE, 2025 WL 3204724, at *2 (W.D. Wash. Nov. 17, 2025). "Thus, even if the IJ grants such protection, the removal order remains valid and enforceable, albeit not to the identified country or countries of risk." *Id.* (citing 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.16(f); *Johnson v. Guzman Chavez*, 594 U.S. 523, 536 (2021); *Lanza v. Ashcroft*, 389 F.3d 917, 933 (9th Cir. 2004).

If the government has a removal order but no country to which an IJ has authorized removal, it can remove the noncitizen to a third country, meaning any country not designated on the removal order. *D.V.D.*, 2025 WL 942948, at *1. It remains the case that the government cannot remove an alien to any third country where they would face persecution or torture. 8 U.S.C. § 1231(b)(3)(A); 28 C.F.R. § 200.1; 8 C.F.R. §§ 208.16–18, 1208.16–18.

C. D.V.D. v. Dep't of Homeland Security

In March 2025, three plaintiffs instituted a putative class action suit challenging their third country removals in the District of Massachusetts. *D.V.D.*, 2025 WL 942948, at *1. On March 28, 2025, the district court entered a TRO enjoining the DHS and others from "[r]emoving any individual subject to a final order of removal from the United States to a third country, *i.e.*, a

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country other than the country designated for removal in immigration proceedings" unless certain conditions were met. *Id.*

On April 18, 2025, the court granted the plaintiffs' motion for class certification and motion for preliminary injunction. *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 394 (D. Mass. 2025). A class was certified pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure without a provision for an opt out. *See id.*, at 386. The Preliminary Injunction was national in effect and established certain procedures that DHS was required to follow before removing an alien with a final order of removal to a third country. Specifically, the certified class is defined as:

> All individuals who have a final removal order issued in proceedings under Section 240, 241(a)(5), or 238(b) of the INA (including withholding-only proceedings) who DHS has deported or will deport on or after February 18, 2025, to a country (a) not previously designated as the country or alternative country of removal, and (b) not identified in writing in the prior proceedings as a country to which the individual would be removed.

Id., at 378.

On May 21, 2025, the district court issued a Memorandum on Preliminary Injunction offering the following summary and clarification of its Preliminary Injunction:

> All removals to third countries, *i.e.*, removal to a country other than the country or countries designated during immigration proceedings as the country of removal on the non-citizen's order of removal, *see* 8 U.S.C. § 1231(b)(1)(C), must be preceded by written notice to both the non-citizen and the non-citizen's counsel in a language the non-citizen can understand. Dkt. 64 at 46– 47. Following notice, the individual must be given a meaningful opportunity, and a minimum of ten days, to raise a fear-based claim for CAT protection prior to removal. *See id.* If the non-citizen demonstrates "reasonable fear" of removal to the third country, Defendants must move to reopen the non-citizen's immigration proceedings. *Id.* If the non-citizen is not found to have demonstrated a "reasonable fear" of removal to the third country, Defendants must provide a meaningful opportunity, and a minimum of fifteen days, for the non-citizen to seek reopening of their immigration proceedings. *Id.*

D.V.D. v. U.S. Dep't of Homeland Sec., 2025 WL 1453640, at *1 (D. Mass. May 21, 2025).

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The *D.V.D.* court indicated that the Order applied "to the Defendants, including the Department of Homeland Security, as well as their officers, agents, servants, employees, attorneys, any person acting in concert, and any person with notice of the Preliminary Injunction." *Id.*

On June 23, 2025, the United States Supreme Court stayed the District of Massachusetts' preliminary injunction pending appeal in the First Circuit Court of Appeals. *Dep't of Homeland Sec. v. D.V.D.*, 145 S. Ct. 2153 (2025). That same day, the District Court ordered that, notwithstanding the Supreme Court's order, its remedial order granting relief to eight individual class members who DHS sought to remove to South Sudan remained in effect. Order, *D.V.D.* (Dkt. 176). Defendants moved to clarify the Supreme Court's Order and, on July 3, 2025, the Supreme Court granted the motion, allowing the eight individual aliens to be removed to South Sudan. *D. V. D.*, 145 S. Ct. at 2629. The class certification in *D.V.D.* remains in effect notwithstanding the Supreme Court's stay. *See id.*

D. DHS Policy on Third-Country Removals

On March 30, 2025, and then later, on July 9, 2025, DHS issued a guidance regarding third country removals. *See* U.S. Department of Homeland Security, "Guidance Regarding Third Country Removals," Kristi Noem, March 30, 2025, *available at* https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.43.1_1.pdf (last visited January 14, 2026) ("DHS Memo"); U.S. Immigration and Customs Enforcement, "Third Country Removals Following the Supreme Court's Order in *Department of Homeland Security v. D.V.D.*, No. 24A1153 (U.S. June 23, 2025)," Todd M. Lyons, July 9, 2025, *available* at https://storage.courtlistener.com/recap/gov.uscourts.mad.282404/gov.uscourts.mad.282404.190.1.pdf (last visited January 14, 2026) (hereinafter "July 9 Memo"); *see also Kumar*, 2025 WL 3204724, at *2-3 (describing contents of these memos and the distinction between the two);

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The DHS memo discusses DHS's policies and procedures regarding the removal of individuals with final orders of removals to countries other than those designated for removal in those orders (referred to as "third country removals"). July 9 Memo. According to the guidance outlined in the July 9 Memo, if DHS has not received diplomatic reassurances from the designated country, DHS will first inform the individual that DHS seeks removal to that country. *Id.*, at 2. If the individual expresses that they are afraid of being removed to that country, DHS will refer them to the U.S. Citizenship and Immigration Services ("USCIS") for a reasonable fear interview, to screen that person for protection against removal to that country. *Id.*

After the interview is conducted, USCIS will determine whether the individual would more likely than not be persecuted or tortured in the country of removal. *Id.* If USCIS finds that the individual has met this standard, if the person was previously in removal proceedings, USCIS will inform ICE, and ICE can then file a motion to reopen with the Immigration Court. *Id.* Alternatively, ICE can also choose to designate another country of removal. If USCIS finds that the person has not met the standard, according to DHS policy, they will be removed. *Id.* There is nothing in the memo or in ICE policy that prevents an individual from filing a motion to reopen their prior removal proceedings at any time they choose, based on a request for asylum, withholding of removal, or protection under CAT. *See id.*; *see also* 8 C.F.R. § 1003.23(b)(4)(i).

IV. FACTUAL BACKGROUND

Petitioner is a native and citizen of Egypt. Declaration of Jordan C. Steveson ("Steveson Decl."), Exh. A, I-213. He entered the United States from Mexico on or about October 20, 2024. *Id.* United States Border Patrol determined that Emara entered the United States unlawfully and he was detained for expedited removal. *Id.* On January 15, 2025, USCIS issued a Notice to Appear ("NTA") to Emara. Steveson Decl., Exh. B, NTA. The NTA charged Emara with removal under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). *Id.*

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On June 16, 2025, an immigration judge issued a written order of removal. Steveson Decl., Exh. C, IJ Order. However, removal to Egypt was withheld. *Id.*

On September 5, 2025, Emara was interviewed by ICE and told ICE that he did not have a country to go to. Declaration of Deportation Officer Jiarong Du ("Du Decl.,") ¶ 7. That same date, ICE served Emara with a notice of removal stating an intent to remove Emara to Uganda. *Id.* ICE has learned of Emara's concerns about Uganda from the habeas petition and he has been referred to USCIS for a credible fear interview. Du Decl., ¶ 8.

V. ARGUMENT

ICE is lawfully pursuing Petitioner's removal to third countries, and Petitioner's request to limit ICE from doing so should be denied.

A. Petitioner's Administrative Procedure Act claims must be dismissed for lack of Subject Matter Jurisdiction.

Petitioner seeks to challenge his detention on grounds that it violates Sections 706(2)(A), (B) and (C) of the Administrative Procedure Act ("APA"). The Court has no subject matter jurisdiction to hear these claims.

Where other adequate statutory remedies exist, the APA does not apply. *See* 5 U.S.C. § 704 ("Agency action made reviewable by statute and final agency action *for which there is no other adequate remedy in a court* are subject to judicial review.") (emphasis added). Simply put, "federal courts lack jurisdiction over APA challenges whenever Congress has provided another 'adequate remedy.'" *Brem-Air Disposal v. Cohen*, 156 F.3d 1002, 1004 (9th Cir. 1998).

Because habeas corpus is a fully adequate remedy on a claim seeking redress for custodial detention that is alleged to be unlawful, relief is jurisdictionally unavailable under the APA. *See Trump v. J. G. G.,* 604 U.S. 670, 671 (2025) (vacating temporary restraining orders based on the APA because Plaintiffs' claims necessarily implied the invalidity of the Plaintiffs' confinement

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and removal under the "Alien Enemies Act" and so had to be brought as habeas corpus claims in the jurisdiction of their confinement). As Justice Kavanaugh stated in his concurring opinion, "[e]specially given the history and precedent of using habeas corpus to review transfer claims, and given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another 'adequate remedy in a court,' I agree with the Court that habeas corpus, not the APA, is the proper vehicle here." *Id.* at 674; *cf. O'Banion v. Matevousian,* 835 Fed. Appx. 347, 350 (10th Cir. 2020) (holding that "habeas actions" provide an "adequate remedy" displacing APA review under Section 704); *and see Lucas v. Fed. Bureau of Prisons*, 2018 WL 3038496, at *2 (S.D.N.Y. June 19, 2018) ("Accordingly, because plaintiff could adequately remedy his conditions of confinement claim in a habeas corpus petition, the Court does not have jurisdiction to decide his APA claim.").

Moreover, to be reviewable under the APA an action must be a "final agency action," which is to say that it is the "consummation of the agency's decision making process." *See Bennett v. Spear*, 520 U.S. 154, 177–78 (1997). Administrative detention for purposes of executing a removal order is not within that category because it is only an intermediary step in the process. *See Gamez Lira v. Noem*, 2025 WL 2581710, at *4 (D.N.M. Sept. 5, 2025). Accordingly, Petitioner's claims based on alleged APA should be denied.

B. Petitioner is a member of the plaintiff Class in *D.V.D. v. Dep't of Homeland Sec.* and is bound by the proceedings in that case.

To the extent Petitioner alleges that he is an individual subject to a final order of removal who fears removal to a third country that was not previously described as an alternative country of removal, Petitioner would undisputedly be a member of the plaintiff class in *D.V.D.* As a member of the plaintiff class in *D.V.D.*, he is bound by the proceedings in that case the same as all other class members. The plaintiff class in *D.V.D.* sought an injunction precluding their removal to a

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third country unless they were first afforded essentially the same process that Petitioner asks the Court to order here. The Supreme Court's stay of the preliminary injunction entered in that case is both precedent and the result is binding on Petitioner here by virtue of his status as a member of the *D.V.D.* plaintiff class.

Additionally, courts recognize that members of class action lawsuits should not be permitted to bring separate actions where they seek to re-litigate individually issues that were raised in the class action. *See Wynn v. Vilsack*, No. 3:21-cv-514, 2021 WL 7501821, at *3 (M.D. Fla. Dec. 7, 2021) (collecting cases) ("Multiple courts of appeal have approved the practice of staying a case, or dismissing it without prejudice, on the ground that the plaintiff is a member of a parallel class action.") (internal quotations omitted). This prevents class members from avoiding the binding results of the class action. *Goff v. Menke*, 672 F.2d 702, 704 (8th Cir. 1982).

This is also the rule in this Circuit. A district court may properly dismiss an individual complaint where the plaintiff is a member in a class action, to the extent the individual action duplicates the claims and seeks the same relief as the class action. *Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013) (discussing *Crawford v. Bell*, 599 F.2d 890, 892 (9th Cir. 1979)). Such a dismissal is within the court's discretion based on its inherent power to control its own docket. *Crawford*, 599 F.2d at 893. But it is "imperative to avoid concurrent litigation in more than one forum whenever consistent with the rights of the parties." *Id.*; *see Frost v. Symington*, 197 F.3d 348, 359 (9th Cir. 1999) ("To the extent that a class action involving the same issues raised by [plaintiff] is currently pending . . . [he] may have to bring all of his related claims for equitable relief . . . through . . . class counsel.").

This Court should decline to exercise jurisdiction over Petitioner's third country removal claim as a matter of comity because the District of Massachusetts has certified a class action that includes the same claim Petitioner is pursuing here. *Pacesetter Systems, Inc. v. Medtronic, Inc.*,

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678 F.2d 93, 94-95 (9th Cir. 1982) ("There is a generally recognized doctrine of federal comity which permits a district court to decline jurisdiction over an action when a complaint involving the same parties and issues has already been filed in another district.

C. Petitioner's Punitive Banishment Argument Restates his Due Process Challenge and does not Demonstrate that the Policy is Unconstitutional.

Petitioner's "punitive third country banishment" argument fails because it merely restates his due process objections and lacks any factual basis demonstrating that the third-country removal policy is unconstitutional on its face. *See* Pet. at 16-18.

First, Petitioner's allegations of punishment rest entirely on the asserted absence of notice and an opportunity to be heard – matters governed by the Due Process Clause. *See id.* This claim is therefore duplicative of his due process argument and does not identify any distinct punitive conduct by the Federal Respondents.

Second, Petitioner cannot meet the heavy burden required for a facial challenge. A facial challenge demands a showing that a law "is invalid in toto –and therefore incapable of any valid application." *Vill. of Hoffman Estates v. Flipside, Hoffman Estates, Inc.*, 455 U.S. 489, 494 n.5 (1982). Such challenges are "strong medicine" and are disfavored because they "often rest on speculation" and risk "premature interpretation of statutes on the basis of factually barebones records." *Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 580 (1998); *Wash. State Grange v. Wash. State Republican Party*, 552 U.S. 442, 450 (2008). Petitioner's broad assertions that the program imposes punishment on its subjects are precisely the type of speculative allegations that these cases reject.

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D. Petitioner is not Entitled to a Pre-Detention Hearing in the Post-Order Context.

Petitioner's request for a pre-detention hearing, requiring the government to establish danger or flight risk, should be denied. Pet., Prayer for Relief, ¶ (d). Petitioner admits that he is subject to a final order of removal. Pet. at 5-6; see Steveson Decl., Exh. C, IJ Order. Emara is inadmissible and ICE is only authorized by statute to release him on an OSUP. 8 U.S.C. § 1231(a)(6).

Federal Respondents recognize the "weighty liberty interests implicated by the Government's detention of noncitizens." *Reyes v. King*, No. 19-cv-8674, 2021 WL 3727614, at *11 (S.D.N.Y. Aug. 20, 2021). But while many courts have recognized that noncitizens released from immigration detention have a protected liberty interest in remaining out of custody, the weight of that liberty must be considered in the broader picture of the immigration system, which has long acknowledged that a noncitizen has a lesser liberty interest than a citizen. After all, "[t]he recognized liberty interests of U.S. citizens and aliens are not coextensive: the Supreme Court has 'firmly and repeatedly endorsed the proposition that Congress may make rules as to aliens that would be unacceptable if applied to citizens.'" *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022) (quoting *Demore v. Kim*, 538 U.S. 510, 522 (2003)). Federal Respondents acknowledge that district courts have recently decided that there are circumstances where revocation of immigration detention requires a pre-detention hearing to determine whether detention of a noncitizen is appropriate. *See, e.g., E.A.T.-B. v. Wamsley*, No. 2:25-cv-1192, 2025 WL 2402130, at *5 (W.D. Wash. Aug. 19, 2025).

However, for an individual with a final order of removal that is no longer in proceedings, there is already a detailed process for revoking OSUP. Congress established a clear statutory framework in 8 C.F.R. § 241.13(i) that sets forth the requirements and process for affecting an

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OSUP revocation, which is the process due to an alien released on OSUP. When an alien has violated any condition of their release, or ICE determines that there is a "significant likelihood" an alien can be removed from the United States within the "reasonably foreseeable future," ICE is clearly permitted to revoke the OSUP and take the alien into custody; nothing else is required for revocation under these circumstances. *Id.* § 241.13(i)(1) and (2). This Court should examine ICE's compliance with the procedures set forth for revocation of OSUP – not create new procedures.

If Emara's OSUP is revoked, Emara is not foreclosed from raising potential challenges to violations of the statutory framework or due process violations at that time. See *Kuot v. Bondi*, No. 2:25-CV-02313-BAT, 2025 WL 3763930, at *4 (W.D. Wash. Dec. 30, 2025). OSUP revocation can be due to violations of the conditions of OSUP, but also to effectuate removal. 8 C.F.R. § 241.13(i).

It is particularly premature in this case to include additional impediments to revocation where Emara has never had OSUP revoked. As a practical matter, travel documents are often only temporary, pre-detention hearings will cause delays and missed travel deadlines. Additionally, execution of a removal order is not contingent on danger or flight risk.

Petitioner gives no meaningful analysis as to why he would be entitled to such extraordinary relief. There is no statutory or Constitutional requirement that Emara receive a pre-detention hearing prior to ICE executing the removal order. There is no jurisdiction for a court to hear a claim on execution of removal orders in habeas. 8 U.S.C. § 1252(g). Adding a pre-detention hearing would result in a de facto stay of removal in this case, which is inconsistent with this Court's jurisdiction. 8 U.S.C. § 1252(g).

VI. CONCLUSION

For the foregoing reasons, Federal Respondents respectfully requests that this Court deny the Petition.

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DATED this 27th day of January, 2026.

Respectfully submitted,

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I certify that this memorandum contains 4,349 words, in compliance with Local Civil Rules