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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 SOHEIL MEHRPOUR,

Petitioner,

12
13 v.

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

15 Respondents.

Case No. 26-cv-0339-BJC-VET

**RESPONSE IN OPPOSITION
TO PETITIONER'S HABEAS
PETITION AND APPLICATION
FOR TEMPORARY
RESTRAINING ORDER**

16
17 **I. INTRODUCTION**

18 Petitioner has filed a habeas petition and a motion for temporary restraining
19 order. As the petition and motion assert the same claims and relief, Respondents respond
20 to both herein for the sake of judicial efficiency. For the reasons below, Respondents
21 ask the Court to deny Petitioner's habeas petition and request for interim relief.

22 **II. FACTUAL BACKGROUND**

23 Petitioner is a citizen and national of Iran with a final, executable order of
24 removal as of March 10, 2008. *See* Declaration of Jason Cole ("Cole Decl.") at ¶ 12;
25 Exh. 1.¹ On June 26, 2008, Petitioner was released from Immigration and Customs
26 Enforcement (ICE) on an Order of Supervision. *See* Cole Decl. at ¶ 13.

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

1 On January 8, 2026, ICE re-detained Petitioner to execute his removal order to
2 Iran and provided him with a written Notice of Revocation of Release and an informal
3 interview concerning the revocation of his release. *See* Exhs. 2, 3. The Notice stated
4 that his release was being revoked for the following reasons.

5 ICE has determined that you can be expeditiously removed from the
6 United States pursuant to the outstanding order of removal against you.
7 You have a final order of removal from an Immigration Judge on March
8 10, 2008. You also have a history of missed ICE appointments while you
were released on order of supervision.

9 Exh. 2. Petitioner was afforded an opportunity to respond to the reasons for the
10 revocation during an informal interview. *See* Exh. 3. His responses did not result in a
11 change of custody status. *See* Cole Decl. at ¶ 15.

12 Since Petitioner's re-detention, ICE has worked as expeditiously as possible to
13 effectuate his removal to Iran. *See id.* at ¶ 17. At this time, the San Diego Enforcement
14 and Removal Operations (ERO) is actively gathering the appropriate documents and
15 information to complete a travel document request to the Iran Interests Section of the
16 Embassy of Pakistan to the United States ("Iran Interests Section").² *See id.* at ¶¶ 18–
17 19. ERO expects to complete and submit the travel document request within the next
18 few weeks. *See id.* at ¶ 19. Once ICE obtains Petitioner's travel document from the Iran
19 Interests Section, it can promptly schedule him for a removal flight to Iran. *Id.* at ¶ 20.
20 Unlike in past years, ICE has had recent success executing final orders of removal to
21 Iran, removing 135 Iranian immigrants to Iran during fiscal year 2025. *Id.* at ¶ 21. Under
22 these circumstances, ICE believes "there is a significant likelihood of Petitioner's
23 removal to Iran in the reasonably foreseeable future." *Id.* at ¶ 23.

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27 ² In the absence of formal diplomatic relations between the United States and Iran since
28 1980, the Iran Interests Section of the Pakistan Embassy manages the diplomatic and
consular affairs of Iran in the United States.

1 III. ARGUMENT

2 A. Petitioner's First Claim Fails Because ICE Provided Petitioner with
3 the Notice of Revocation of Release and Informal Interview Under the
4 Regulations.

5 A noncitizen who is not removed within the statutory removal period may be
6 released from ICE custody "pending removal . . . subject to supervision under
7 regulations prescribed by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A),
8 1231(a)(3); *see also* 8 U.S.C. § 1231(a)(6). An order of supervision may be issued under
9 8 C.F.R. § 241.4, and the order may be revoked under 8 C.F.R. § 241.4(l)(2) where, for
10 example, the noncitizen "violates any condition of release" or where "appropriate to
11 enforce a removal order." *See also* 8 C.F.R. § 241.5 (conditions of release after removal
12 period). ICE may also revoke the order of supervision where, "on account of changed
13 circumstances, [ICE] determines that there is a significant likelihood that the alien may
14 be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). The
15 regulations further provide:

16 Upon revocation, the alien will be notified of the reasons for revocation of
17 his or her release or parole. The alien will be afforded an initial informal
18 interview promptly after his or her return to Service custody to afford the
19 alien an opportunity to respond to the reasons for revocation stated in the
notification.

20 8 C.F.R. § 214.4(l).

21 Here, despite being provided with a written Notice of Revocation of Release and
22 an informal interview, Petitioner nonetheless argues that ICE failed to follow its
23 regulations because the notice did not explain what circumstances had changed. The
24 claim is unavailing. As an initial matter, the notice explains that Petitioner had "a history
25 of missed ICE appointments while . . . released on order of supervision," which was a
26 violation of the conditions of his release on supervision. *See* Exh. 4 at 2. The regulations
27 confer broad discretion to revoke release under these circumstances. *See* 8 C.F.R.
28 § 241.4(l)(2). As the Ninth Circuit explained:

1 While the regulation provides the detainee some opportunity to respond to
2 the reasons for revocation, it provides no other procedural and no
3 meaningful substantive limit on this exercise of discretion as it allows
4 revocation ‘when, in the opinion of the revoking official . . . the purposes
5 of release have been served . . . or the conduct of the alien, *or any other*
6 *circumstance*, indicates that release would no longer be appropriate.

7 *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) (quoting § 241.4(l)(2)(i), (iv),
8 brackets omitted, emphasis in original). As the regulation provides “no other procedural
9 and no meaningful substantive limit” on ICE’s discretion to revoke release in this case,
10 Petitioner’s challenge to the notice and the reasoning provided fails.

11 Additionally, the notice explains that there are changed circumstances in
12 Petitioner’s case because ICE determined it could execute his outstanding order of
13 removal and expeditiously remove him to Iran—something it could not do before but
14 can do now due to ICE’s recent success executing such removal orders. *See* Exh. 2;
15 Cole Decl. at ¶ 21. Petitioner does not claim that he did not receive this notice or that
16 he was unable to read or understand that ICE is now exercising its discretion to execute
17 his outstanding order of removal. *See* ECF No. 1-2 (asserting only that changed
18 circumstances were not verbally explained to him). Indeed, at his informal interview,
19 Petitioner offered responses that demonstrate that he knew and understood that ICE had
20 revoked his release to remove him to Iran. *See, e.g.*, Exh. 3 (Petitioner stating that he
21 wants to remain in the United States and does not want to be separated from his family).

22 Respondents complied with the regulations in this case because ICE provided
23 Petitioner with a Notice of Revocation of Release and informal interview, and the record
24 reflects that Petitioner understood the reasons that ICE revoked his release in this case.
25 *See* Exhs. 2, 3.

26 **B. Petitioner’s Second Claim Fails Because the Government Has
27 Rebutted Any Showing that There is No Significant Likelihood of
28 Removal to Iran in the Reasonably Foreseeable Future.**

“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

1 removed from the United States.” *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 575
2 (2022). The INA provides that an alien ordered removed must be detained for 90 days
3 pending the government’s efforts to secure the alien’s removal through negotiations
4 with foreign governments. *See* 8 U.S.C. § 1231(a)(2) (the Attorney General “shall
5 detain” the alien during the 90-day removal period under subsection (a)(1)).

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

14 Petitioner has been in post-final order detention for a total of four months—three
15 months following his removal order and now for about a month during the custody at
16 issue. *See* Cole Decl. at ¶¶ 12–16. As Petitioner has been in post-final order detention
17 for less than six months, his detention is presumptively reasonable under *Zadvydas*.³
18 *See* 533 U.S. at 701. The burden is thus on Petitioner to show a “good reason to believe
19 that there is no significant likelihood of removal in the reasonably foreseeable future.”
20 *Zadvydas*, 533 U.S. at 701. As explained below, he cannot meet his burden, and even if
21 he did, the government has presented evidence sufficient to rebut the showing.

22
23 ³ Because *Zadvydas* focused on detention and answered the question of what length of
24 detention pending removal efforts would run afoul the Constitution, the Court should
25 reject Petitioner’s position that the presumptively reasonable period of detention under
26 *Zadvydas* could run during a time that Petitioner was not actually in detention. *See* 533
27 U.S. at 701 (noting that “Congress previously doubted the constitutionality of *detention*
28 for more than six months” and thereafter recognizing that period of detention to be
presumptively reasonable) (emphasis added); accord *Kim Ho Ma v. Ashcroft*, 257 F.3d
1095, 1102 n.5 (9th Cir. 2001). (“Supreme Court read the statute to permit a
‘presumptively reasonable’ *detention* period of six months after a final order of removal.
..”) (emphasis added).

1 The record does not support a finding that “there is no significant likelihood of
2 removal in the reasonably foreseeable future.” *Id.* ICE re-detained Petitioner for
3 removal on January 8, 2026, following the government’s increased ability and success
4 in removing Iranian immigrants to Iran. *See* Cole Decl. at ¶¶ 16–19, 21 (attesting that
5 ICE removed 135 Iranian nationals in fiscal year 2025, compared to 27 in fiscal year
6 2024). Since Petitioner’s detention three weeks ago, ICE has been working as
7 expeditiously as possible to execute his removal order. *See* Cole Decl. at ¶¶ 16–19. Soon
8 after his detention, ICE began gathering the documents and biographical information
9 necessary to submit a travel document request to the Iran Interests Section and expects
10 to complete and submit the request within the next few weeks. *See id.* at ¶¶ 18–19. ICE
11 attests that it is aware of no barrier to the consulate’s issuance of a travel document for
12 Petitioner, and once obtained, Petitioner’s removal flight will be promptly scheduled.
13 *See id.* at ¶¶ 20, 22. ICE further attests that given “ICE’s ability to obtain travel
14 documents for Iranian immigrants like Petitioner,” it “believe[s] there is a significant
15 likelihood of Petitioner’s removal to Iran in the reasonably foreseeable future.” *Id.* at
16 ¶ 23.

17 Petitioner asserts that prior challenges in repatriating Iranian immigrants means
18 there is no likelihood of removal in his case. But the contention ignores the changed
19 political circumstances evident here. The current Administration’s recent success in
20 executing outstanding orders of removal to Iran is notable. Compared to previous years
21 where removals to Iran ranged from 10 to 27, ICE removed 135 Iranian nationals in
22 fiscal year 2025—an over 400% increase. *See* ICE Annual Report Fiscal Year 2024, at
23 p. 99, <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> (last visited Jan.
24 29, 2026) (reporting that removals to Iran ranged from 10 to 27 per fiscal year during
25 fiscal years 2019–2024); Cole Decl. at ¶ 21 (135 Iranian nationals removed in fiscal
26 year 2025). On this record, there is a significant likelihood of Petitioner’s removal in
27 the reasonably foreseeable future, and his continued detention is not, and will not be,
28 unconstitutionally indefinite. *See also Zadvydas*, 533 U.S. at 700 (instructing district

1 courts “to listen with care when the Government’s foreign policy judgments, including,
2 for example, the status of repatriation negotiations, are at issue, and to grant the
3 Government appropriate leeway when its judgments rest upon foreign policy
4 expertise.”).

5 That ICE has re-detained Petitioner without a travel document in hand or a
6 specific removal date is not dispositive. *Zadvydas* does not require the government to
7 pre-arrange a noncitizen’s removal before arresting them; this would be extremely
8 difficult, if not impossible, in most cases, as “[t]he risk of a detainee absconding . . .
9 inevitably escalates as the time for removal becomes more imminent.” *Rodriguez Diaz*
10 *v. Garland*, 53 F.4th 1189, 1208–09 (9th Cir. 2022); *see Zadvydas*, 533 U.S. at 699
11 (emphasizing that § 1231(a)’s basic purpose is “assuring the alien’s presence at the
12 moment of removal.”). Moreover, the constitutional standard is whether there is “a
13 significant likelihood of removal in the reasonably foreseeable future”—not whether a
14 removal will occur imminently. *Zadvydas*, 533 U.S. at 701. The Supreme Court was
15 clear that the Constitution prevents only “indefinite” or “potentially permanent”
16 detention. *Id.* at 696, 699.

17 As it stands, it would be premature to conclude that there is no significant
18 likelihood of removal in the reasonably foreseeable future before permitting ICE an
19 opportunity to complete the diligent efforts it has taken to effect Petitioner’s removal.
20 ICE has taken the exact steps it needs to take to ensure their removal efforts bear fruit.
21 Evidence of progress, even slow progress, in negotiating a petitioner’s repatriation will
22 satisfy *Zadvydas* until the petitioner’s detention grows unreasonably lengthy. *See Kim*
23 *v. Ashcroft*, Case No. 02cv1524-J (LAB), ECF No. 25 at 8 (S.D. Cal. June 2, 2003)
24 (finding that petitioner’s one year and four-month detention does not violate *Zadvydas*
25 given respondent’s production of evidence showing governments’ negotiations are in
26 progress and there is reason to believe that removal is likely in the foreseeable future);
27 *see Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF No. 5 at 5 (S.D. Cal. Aug.
28 15, 2019) (“the record at this stage in the litigation does not support a finding that there

1 is no significant likelihood of Petitioner’s removal in the reasonably foreseeable
2 future.”); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 at *3
3 (denying petition because “Respondents have set forth evidence that demonstrates
4 progress and the reasons for the delay in Petitioner’s removal”). Given ICE’s diligent
5 efforts to obtain Petitioner’s travel document and its demonstrated ability to execute
6 removal orders to Iran, the circumstances of Petitioner’s case at this point do not support
7 a finding that his case would be stuck in limbo such that his detention would be
8 unreasonably lengthy—let alone indefinite.

9 **C. Petitioner’s Third Claim Fails Because ICE is Seeking to Remove Him**
10 **to Iran, Not a Third Country.**

11 Petitioner also requests a permanent injunction regulating the terms under which
12 he may be detained in the future or removed to a country other than Iran. The Court
13 should deny the claim because ICE is seeking to remove Petitioner to Iran, not to a third
14 country. *See* Cole Decl. at ¶¶ 1–23. Thus, the claim presents no live case or controversy,
15 and in any event, exceeds the scope of relief available in habeas. *See Thomas v.*
16 *Anchorage Equal Rights Comm’n*, 220 F.3d 1134, 1138 (9th Cir. 2000) (“Our role is
17 neither to issue advisory opinions nor to declare rights in hypothetical cases, but to
18 adjudicate live cases or controversies consistent with the powers granted the judiciary
19 in Article III of the Constitution.”); *see also Mora Gutierrez v. Noem et al.*, Case No.
20 26-cv-112-RSH-JLBB, ECF No. 6 at 3 (S.D. Cal. Jan. 16, 2026) (Huie, J.) (denying a
21 similar request for “a permanent injunction regulating the terms under which Petitioner
22 may be detained in the future or removed to a country other than Cuba” because “it
23 exceeds the scope of relief available to Petitioner on his habeas petition.”).

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1 **IV. CONCLUSION**

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

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5 DATED: January 29, 2026

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