

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

YAROSLAV YURIVICH VIKULIN

Petitioner,

v.

JASON STREEVAL, Warden, Stewart
Detention Center; LADEON FRANCIS,
Field Office Director, Atlanta Field Office,
U.S. Immigration and Customs
Enforcement; TODD LYONS, Acting
Director, U.S. Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of
Department of Homeland Security;
PAMELA BONDI, Attorney General of the
United States, in their official capacities;
Respondents.

Case No.4:26-CV-00123-CDL-
AGH

**PETITION FOR WRIT OF
HABEAS CORPUS**

**PETITIONER’S RESPONSE IN OPPOSITION TO RESPONDENT’S
MOTION TO DISMISS AND REPLY IN SUPPORT OF THE PETITION
FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241.**

On February 19, 2026, Respondent filed a Motion to Dismiss (“MTD”) in response to Petitioner’s Writ of Habeas Corpus (“Petition”), which was filed on January 26, 2026 seeking relief from Petitioner’s detention following the revocation of his Order of Supervision (“OSUP”). ECF No. 1. Respondent was granted an extension of time to respond to the Petition, making the new filing

deadline February 20, 2026. ECF No. 6. Petitioner was granted fourteen (14) days thereafter to file a reply. ECF No. 3. Petitioner respectfully submits this timely Reply in opposition to Respondent's Motion to Dismiss and in further support of the Petition.

LEGAL FRAMEWORK

Petitioner brings this action pursuant to 28 U.S.C. § 2241, which authorizes federal courts to review the legality of a person's detention when that detention is alleged to violate the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3). Federal courts have long recognized that § 2241 provides jurisdiction to review immigration detention, including challenges to the lawfulness of continued detention following a final order of removal. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). While the immigration statutes restrict judicial review of removal orders themselves, challenges to the legality or duration of detention remain properly brought through habeas corpus.

Petitioner's detention arises in the post-removal context governed by 8 U.S.C. § 1231(a). Once a removal order becomes final, the statute establishes a ninety-day "removal period" during which the government is expected to effectuate removal. 8 U.S.C. § 1231(a)(1). In *Zadvydas v. Davis*, however, the Supreme Court held that § 1231(a)(6) does not authorize indefinite detention after the removal period has expired. 533 U.S. at 689. To avoid serious constitutional

concerns, the Court interpreted the statute to permit detention only for a period reasonably necessary to accomplish removal. *Id.*

The Court further established a six-month presumptively reasonable period of detention following the start of the removal period. *Id.* at 701. After that point, if a detainee 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 demonstrate that removal remains reasonably foreseeable. *Id.* If the government cannot meet that burden, continued detention is no longer authorized under 8 U.S.C. § 1231(a)(6). The Eleventh Circuit has applied this burden-shifting framework when reviewing immigration detention through § 2241 habeas proceedings. See *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

Finally, habeas proceedings are not limited to the government's characterization of the administrative record. Under 28 U.S.C. § 2243, courts reviewing habeas petitions must "hear and determine the facts" and dispose of the matter as law and justice require. This authority allows the Court to consider declarations, documentary evidence, and other materials submitted by the parties when determining whether continued detention is lawful. Where the evidentiary record raises material questions regarding the basis for detention or the procedures used to justify it, dismissal at the pleading stage is inappropriate.

ARGUMENT

A. Petitioner's Challenges to the Revocation of His Order of Supervision Are Cognizable in Habeas Because They Directly Challenge the Legal Basis of His Custody

The Government contends that Petitioner's claims challenging the revocation of his Order of Supervision ("OSUP") are not cognizable in habeas because they concern a "collateral administrative process" rather than the legality of detention itself. That framing is incorrect. The revocation of Petitioner's OSUP is not collateral to detention. It is the operative legal event that resulted in his present confinement. The question in habeas is whether the petitioner is "in custody in violation of the Constitution or laws of the United States." 28 U.S.C. § 2241(c)(3). Where detention flows from a specific executive action, review of the legality of that action is necessarily part of the custody inquiry.

Longstanding administrative law principles require agencies to follow their own regulations, particularly where liberty interests are implicated. See *Accardi v. Shaughnessy*, 347 U.S. 260 (1954). If ICE failed to provide the informal interview required by 8 C.F.R. § 241.4(l) before revoking supervision or thereafter, that failure directly affects the legality of the resulting detention. Courts have both the authority and the obligation to ensure that executive detention complies with statutory and regulatory limits. Because Petitioner challenges the legality of the executive action that resulted in his present confinement, his claims are cognizable in habeas. The Motion to Dismiss on this ground should be denied.

B. This Court Has Subject Matter Jurisdiction Because Petitioner Challenges His Present Detention, Not the Execution of His Removal Order

The Government next contends that this Court lacks subject matter jurisdiction to review ICE's decision to revoke Petitioner's Order of Supervision and continue post-final order detention. That argument rests on an expansive reading of 8 U.S.C. § 1252(g) and related jurisdiction-stripping provisions. Properly construed, those provisions do not bar review of this custody challenge. Section 1252(g) strips jurisdiction only over claims "*arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders.*" The Supreme Court has made clear that this language must be interpreted narrowly. In *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S. 471 (1999), the Court rejected the view that § 1252(g) is a sweeping jurisdictional bar covering all claims connected to removal. Instead, it applies only to the three discrete actions identified in the statute. Petitioner does not challenge the commencement of removal proceedings. He does not challenge the adjudication of his removal case. He does not seek to prevent the Government from executing the removal order. He challenges only his present detention, a form of executive custody exercised pursuant to 8 U.S.C. § 1231(a)(6).

Post-order detention under § 1231(a)(6) has repeatedly been reviewed in habeas proceedings. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme

Court addressed the constitutionality of detention under § 1231(a)(6) in a habeas action brought under 28 U.S.C. § 2241. The Court did not suggest that jurisdiction was barred by § 1252(g). To the contrary, it exercised habeas review over continued detention. If § 1252(g) foreclosed jurisdiction over detention challenges arising after a final order, *Zadvydas* could not have been decided.

Nor does Petitioner seek judicial review of ICE's discretionary weighing of evidence in some abstract administrative sense. He seeks review of whether ICE complied with binding regulations before revoking supervision and incarcerating him. If the agency failed to follow 8 C.F.R. § 241.4(l), the revocation and therefore the detention, is unlawful. Determining whether detention complies with governing law falls squarely within this Court's habeas jurisdiction. The Government's jurisdictional objection should be rejected.

C. Petitioner's Challenge to the Revocation of His Order of Supervision Is Not Moot

The regulatory requirement that ICE provide an opportunity for an informal interview before continuing detention is not a procedural technicality. It is the mechanism through which the agency ensures that revocation of supervision, and the resulting deprivation of liberty, occurs only after the noncitizen has been afforded a meaningful opportunity to respond to the government's asserted basis for detention. See 8 C.F.R. § 241.4(l); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Petitioner's detention stems from ICE's January 5, 2026 decision to revoke

his Order of Supervision. Prior to that date, Petitioner had lived in the community under supervision for several years despite the existence of a final order of removal. First Vikulin Decl. ¶¶ 8, 11. The revocation decision therefore marked the point at which the Government withdrew Petitioner's previously granted liberty and returned him to custody.

The Government contends that Petitioner was afforded the "informal interview" required by the governing regulations in connection with the revocation of his Order of Supervision. The record does not support that characterization. According to the Government's own declaration, Petitioner was arrested during a scheduled reporting appointment on January 5, 2026 and his Order of Supervision was revoked that same day. Guerra Decl. ¶¶ 25. The declaration does not mention an informal interview taking place at or near the time of arrest. The declaration further states that a Notice of Revocation was served at that time (although service date reflects January 7, 2026). Yet the declaration also asserts that on February 19, 2026, during the pendency of this case, ICE served Petitioner with a subsequent Notice of Revocation and scheduled an interview for that same day. Guerra Decl. ¶¶ 28. The documents left with Petitioner on February 19, 2026 indicate that an informal interview was scheduled for February 24, 2026, not February 19, 2026, and Petitioner affirms under penalty of perjury that no interview occurred on that date either. (Second Vikulin Decl. ¶¶ 8–11).

Courts examining the regulatory framework governing revocation of an Order of Supervision have emphasized that the “informal interview” requirement must provide a genuine opportunity for the detainee to be heard regarding the basis for detention. The regulatory language itself provides little procedural guidance and does not specify how notice must be provided, whether the interview must occur before a neutral decisionmaker, how the decision must be documented, or which party bears the burden of proof. See 8 C.F.R. § 241.4(l). Because of this lack of procedural structure, courts have recognized that the interview must nonetheless function as a meaningful opportunity for the detainee to contest the government’s assertions and present information relevant to the detention decision. See *Saelee v. Bondi*, No. 2:25-cv-02677-TLF, Order Granting Writ of Habeas Corpus at 14–15 (W.D. Wash. Jan. 28, 2026). Here, the undisputed record demonstrates that no such process occurred. Accordingly, the Court should deny the Government’s motion as to mootness.

The Government contends that Petitioner’s detention is lawful under 8 U.S.C. § 1231(a)(6) because he has not yet been detained for six months following his January 5, 2026 re-detention and because removal is allegedly significantly likely in the reasonably foreseeable future. Nothing in *Zadvydas* or *Akinwale* holds that detention is insulated from review during the first six months. Federal courts retain jurisdiction under 28 U.S.C. § 2241 to examine the legality of executive

detention at all stages. The six-month presumption defines when the evidentiary burden shifts; it does not suspend constitutional scrutiny.

The Government asserts that it has submitted a request for travel documents on February 7, 2026, a month after taking Petitioner into custody, and that, upon receipt of such documents, removal would be significantly likely. Guerra Decl. ¶¶ 27, 29. That assertion is conditional and speculative. It does not establish that Kazakhstan has agreed to issue a travel document, that issuance is imminent, or that removal is scheduled. The Government must show that removal of this detainee is significantly likely in the reasonably foreseeable future. A generalized statement that removal will occur “upon receipt” of documentation does not satisfy that burden.

CONCLUSION

Liberty is the constitutional norm. Civil detention is the carefully limited exception. Where detention rests on disputed procedural compliance, speculative removal prospects, and a history of Petitioner’s effective supervision, constitutional scrutiny is not premature. It is necessary and required. For the foregoing reasons, the Court should deny Respondent’s Motion to Dismiss, grant the Petition for Writ of Habeas Corpus, and order Petitioner’s immediate release under the conditions of his prior Order of Supervision, together with such other relief as the Court deems just and proper.

Respectfully submitted this 5th day of March, 2026.

s/ Aundrea L. Roberts

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Certificate of Service

I hereby certify that on this 5th day of March, 2026, I electronically filed the foregoing *Petitioner's Response in Opposition to Respondent's Motion to Dismiss and Reply in Support of the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241* with the Clerk of Court using the Court's CM/ECF system, which will automatically send notice of such filing to all counsel of record.

/s/ Aundrea L. Roberts

Aundrea L. Roberts

Attorney for Petitioner
