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

11 WILBERT PRADO-CEGUEDA,

12  
13 Petitioner,

14 v.

15 PAM BONDI, Attorney General of the  
16 United States; *et al.*,

17 Respondents.  
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Case No.: 26-cv-481-LL-MSB

**RESPONDENTS' RETURN IN  
OPPOSITION TO PETITIONER'S  
HABEAS PETITION**

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**I. Introduction**

Petitioner Wilbert Prado-Cegueda has filed a habeas petition. ECF No. 1. On January 26, 2026, the Court issued an order to show cause as to why the petition should not be granted. ECF No. 2. For the reasons set forth below, the Court should dismiss the petition.

**II. Factual and Procedural Background<sup>1</sup>**

Petitioner is a citizen and national of Mexico. ECF No. 1 at ¶ 35; *see also* Ex. 1 at 1. Petitioner unlawfully entered the United States five times between 2008 and 2009. Declaration of Daniel Negrin (Negrin Decl.) ¶¶ 4–8. In 2009, Petitioner was placed in removal proceedings and released on bond, but the immigration judge dismissed Petitioner’s removal proceedings so that Immigration and Customs Enforcement (ICE) could reinstate Petitioner’s prior removal order. *See id.* ¶ 8. Petitioner expressed a fear of returning to Mexico, and he was interviewed by a U.S. Citizenship and Immigration Services asylum officer pursuant to 8 U.S.C. § 1225(b)(1)(B). *See id.* In June 2013, Petitioner was served with a Notice of Intent/Decision to Reinstate Prior Order and placed in withholding-only proceedings. *See generally* Ex. 2. In January 2014, Petitioner was granted a bond by the immigration judge and released from custody. Negrin Decl. ¶ 9. In April 2015, Petitioner’s withholding-only proceedings were administratively closed upon agreement of the parties. *Id.* ¶ 10. In October 2016, Petitioner’s withholding-only proceedings were re-opened following Petitioner’s conviction for vehicular manslaughter without gross negligence in violation of California Penal Code § 192(c)(2). *Id.* ¶¶ 11–12. On December 14, 2016, Petitioner was granted bond by the immigration judge and released from custody. *Id.* ¶ 12. On November 10, 2021, an immigration judge granted Petitioner withholding of removal to Mexico under the Convention Against Torture. Ex. 3. Both parties waived appeal, so

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

1 that order became administratively final the same day. *See id.*; Negrin Decl. ¶ 13. On  
2 May 16, 2022, Petitioner’s bond was cancelled, and he was placed on an order of  
3 supervision. *Id.* ¶ 14.

4 On October 16, 2025, ICE re-detained Petitioner for purposes of executing his  
5 final removal order. *See id.* ¶ 15. At that time, Petitioner was served with a Form I-200,  
6 Warrant for Arrest of Alien. *See Ex. 4.* Petitioner was also served a formal Notice of  
7 Revocation of Release the same day. *See Ex. 5.* ICE does not have record that Petitioner  
8 was provided an informal interview. Negrin Decl. ¶ 15.

9 Since his re-detention, ICE has been working diligently to effectuate Petitioner’s  
10 removal to a third country. *See id.* ¶ 16. On October 28, November 17, and December  
11 10, 2025, San Diego ERO requested assistance from ERO’s Removal and International  
12 Operations to identify a third country where Petitioner may be removed. *Id.* At this time,  
13 ICE is still in the process of identifying third countries that may be willing to accept  
14 Petitioner for removal. *Id.* ¶ 17.

### 15 III. Argument

#### 16 A. Claims and requests barred by 8 U.S.C. § 1252.

17 Petitioner bears the burden of establishing that this Court has subject matter  
18 jurisdiction over his claims. *See Ass’n of Am. Med. Colls. v. United States*, 217 F.3d  
19 770, 778–79 (9th Cir. 2000). To the extent Petitioner’s claims arise from—or seek to  
20 enjoin—the decision to execute his removal order, they are jurisdictionally barred under  
21 8 U.S.C. § 1252(g). *See* 8 U.S.C. § 1252(g) (“Except as provided in this section and  
22 *notwithstanding any other provision of law* (statutory or nonstatutory), *including*  
23 *section 2241 of Title 28, or any other habeas corpus provision*, and sections 1361 and  
24 1651 of such title, no court shall have jurisdiction to hear any cause or claim by or on  
25 behalf of any alien arising from the decision or action by the Attorney General to  
26 commence proceedings, adjudicate cases, or *execute removal orders* against any alien  
27 under this chapter.”) (emphasis added); *Reno v. Am.-Arab Anti-Discrimination Comm.*,  
28 525 U.S. 471, 483 (1999) (“There was good reason for Congress to focus special

1 attention upon, and make special provision for, judicial review of the Attorney  
2 General’s discrete acts of “commenc[ing] proceedings, adjudicat[ing] cases, [and]  
3 execut[ing] removal orders”—which represent the initiation or prosecution of various  
4 stages in the deportation process.”) (quoting 8 U.S.C. § 1252(g)). In other words,  
5 section 1252(g) removes district court jurisdiction over “three discrete actions that the  
6 Attorney General may take: her ‘decision or action’ to ‘commence proceedings,  
7 adjudicate cases, or execute removal orders.’” *Reno*, 525 U.S. at 482 (emphasis  
8 removed). Here, Petitioner’s claims necessarily arise “from the decision or action by  
9 the Attorney General to . . . execute removal orders,” over which Congress has explicitly  
10 foreclosed district court jurisdiction. 8 U.S.C. § 1252(g); *see also* 8 U.S.C. § 1252(f)(2)  
11 (“Notwithstanding any other provision of law, no court shall enjoin the removal of any  
12 alien pursuant to a final order under this section unless the alien shows by clear and  
13 convincing evidence that the entry or execution of such order is prohibited as a matter  
14 of law.”). Accordingly, to the extent Petitioner’s claims arise from—or seek to enjoin—  
15 the decision to execute his removal order, the Court should deny and dismiss those  
16 claims for lack of jurisdiction under 8 U.S.C. § 1252.

17 **B. Petitioner’s detention is lawful, and he has not established that there is no**  
18 **significant likelihood of removal in the reasonably foreseeable future.**

19 Petitioner is properly detained under 8 U.S.C. § 1231(a), and his continued  
20 detention is not unconstitutionally indefinite. Since Petitioner’s re-detention, ICE  
21 Enforcement and Removal Operations (ERO) has worked diligently to effectuate  
22 Petitioner’s removal to a third country. *See* Negrin Decl. ¶ 16.

23 ICE’s authority to detain, release, and re-detain noncitizens who are subject to a  
24 final order of removal is governed by 8 U.S.C. § 1231(a). When an alien has been found  
25 to be unlawfully present in the United States and a final order of removal has been  
26 entered, the government ordinarily secures the alien’s removal during a subsequent 90-  
27 day statutory “removal period.” 8 U.S.C. § 1231(a)(1). The statute provides that the  
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1 Attorney General “shall detain” the alien during this removal period. 8 U.S.C.  
2 § 1231(a)(2).

3 The Supreme Court held in *Zadvydas* that when removal is not accomplished  
4 during the 90-day removal period, the statute “limits an alien’s post-removal-period  
5 detention to a period reasonably necessary to bring about the alien’s removal from the  
6 United States” and does not permit “indefinite detention.” *Zadvydas*, 533 U.S. at 689.  
7 The Supreme Court has held that six months constitutes a “presumptively reasonable  
8 period of detention.” *Id.* at 701. Courts have repeatedly declined to grant habeas relief  
9 where the presumptively reasonable six-month period has not yet elapsed. *See*  
10 *Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at \*4 (D. Md. July 22,  
11 2025) (“The government is entitled to its six-month presumptive period before  
12 Petitioner’s continued § 1231(a)(6) detention poses a constitutional issue.”); *Guerra-*  
13 *Castro v. Parra*, No. 1:25-cv-22487-GAYLES, 2025 WL 1984300, at \*4 (S.D. Fla. July  
14 17, 2025) (“The Court finds that the Petition is premature because Petitioner has not  
15 been detained for more than six months. Petitioner has been in detention since May 29,  
16 2025; therefore, his two-month detention is lawful under *Zadvydas*.”) (citations  
17 omitted); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE, 2003 WL 221809, at \*5 (D. Minn.  
18 Jan. 29, 2013) (holding that when the government releases a noncitizen and then revokes  
19 the release based on changed circumstances, “the revocation would merely restart the  
20 90-day removal period, not necessarily the presumptively reasonable six-month  
21 detention period under *Zadvydas*”).

22 Here, Petitioner’s order of removal became administratively final on November  
23 10, 2021. *See* Ex. 3; Negrin Decl. ¶ 13. Petitioner was previously granted bond and was  
24 out of custody at that time. *See id.* ¶¶ 12, 14. Petitioner was detained for the first time  
25 post-final order of removal on October 16, 2025. *Id.* ¶ 15. Thus, Petitioner’s six-month  
26 presumptively reasonable removal period will not end until approximately April 16,  
27 2026. Courts have repeatedly declined to grant habeas relief where the presumptively  
28 reasonable six-month period has not yet elapsed. *See Khalilova v. Smith*, No. 25-CV-

1 2140 JLS (DDL), 2025 WL 3089522 (S.D. Cal. Nov. 5, 2025) (denying similar habeas  
2 petition brought on same grounds); *Ali v. Barlow*, 446 F. Supp. 2d 604, 609–10 (E.D.  
3 Va. 2006) (finding habeas petition was unripe for review where *Zadvydas* six-month  
4 period had not expired; dismissing petition without prejudice); *Gonzales v. Naranjo*,  
5 No. EDCV 12-1392 DSF (FFM), 2012 WL 6111358 (C.D. Cal. 2012) (same); *Waraich*  
6 *v. Ashcroft*, No. CVF051036, 2005 WL 2671406, at \*1 (E.D. Cal. Oct. 19, 2005) (same).

7 Even after the period of presumptive reasonableness has run, release is not  
8 required under *Zadvydas* unless “there is *no* significant likelihood of removal in the  
9 reasonably foreseeable future.” *Zadvydas*, 533 U.S. at 701 (emphasis added). “After  
10 this 6-month period, once the alien provides good reason to believe that there is no  
11 significant likelihood of removal in the reasonably foreseeable future, the Government  
12 must respond with evidence sufficient to rebut that showing.” *Id.* The Ninth Circuit has  
13 emphasized, “*Zadvydas* places the burden on the alien to show, after a detention period  
14 of six months, that there is ‘good reason to believe that there is no significant likelihood  
15 of removal in the reasonably foreseeable future.’” *Pelich v. INS*, 329 F. 3d 1057, 1059  
16 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*, 298 F.3d 832,  
17 840 (9th Cir. 2003). As the Supreme Court instructed, “the habeas court must ask  
18 whether the detention in question exceeds a period reasonably necessary to secure  
19 removal. It should measure reasonableness primarily in terms of the statute’s basic  
20 purpose, namely, *assuring the alien’s presence at the moment of removal.*” *Zadvydas*,  
21 533 U.S. at 699 (emphasis added). In so holding, the Supreme Court recognized that  
22 detention is presumptively reasonable pending efforts to obtain travel documents,  
23 because the noncitizen’s assistance is often needed to obtain the travel documents, and  
24 because a noncitizen who is subject to an imminent, executable warrant of removal  
25 becomes a significant flight risk, especially if he or she is aware that it is imminent.

26 Petitioner is subject to a final, executable order of removal, which means that he  
27 has no right to remain in the United States. ICE has long-standing authority to remove  
28 noncitizens and resettle them in third countries where removal to the country designated

1 in the final order is “impracticable, inadvisable, or impossible.” 8 U.S.C.  
2 § 1231(b)(2)(E)(vii); *see also* 8 U.S.C. § 1231(b) (outlining framework for  
3 designation). Accordingly, noncitizens like Petitioner who have withhold of removal  
4 for their country of designation may be removed and resettled in third countries.

5 Section 1231(b)(2)(E) provides that the Secretary of Homeland Security shall  
6 remove the noncitizen to any of the following countries:

- 7 (i) The country from which the alien was admitted to the United States.  
8 (ii) The country in which is located the foreign port from which the  
9 alien left for the United States or for a foreign territory contiguous  
10 to the United States.  
11 (iii) A country in which the alien resided before the alien entered the  
12 country from which the alien entered the United States.  
13 (iv) The country in which the alien was born.  
14 (v) The country that had sovereignty over the alien’s birthplace when  
15 the alien was born.  
16 (vi) The country in which the alien’s birthplace is located when the alien  
17 is ordered removed.  
18 (vii) If impracticable, inadvisable, or impossible to remove the alien to  
19 each country described in a previous clause of this subparagraph,  
20 another country whose government will accept the alien into that  
21 country.

22 *Id.* Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen  
23 to a country of designation or an alternative country in subparagraph (D), the Secretary  
24 may, in her discretion, remove the noncitizen to any country listed in subparagraphs  
25 (E)(i) through (E)(vi).

26 Since Petitioner’s re-detention, ICE has diligently pursued Petitioner’s third  
27 country resettlement. *See* Negrin Decl. ¶ 16. To effectuate Petitioner’s removal to a  
28 third country, “[o]n October 28, November 17, and December 10, 2025, San Diego ERO  
requested assistance from ERO’s Removal and International Operations (RIO) to  
identify a third country where Petitioner may be removed.” *Id.* Petitioner may argue  
that the government is still working to locate a third country for resettlement and that it  
did not already locate a third country for resettlement before taking him back into

1 custody. But *Zadvydas* does not require the government to pre-arrange a noncitizen's  
2 removal before arresting them.

3 On this record, Petitioner cannot sustain his burden, and it would be premature  
4 to conclude otherwise before permitting ICE an opportunity to complete its diligent  
5 efforts to effect his removal. Evidence of progress, even slow progress, in negotiating a  
6 petitioner's repatriation will satisfy *Zadvydas* until the petitioner's detention grows  
7 unreasonably lengthy. *See, e.g., Sereke v. DHS*, Case No. 19-cv-1250-WQH-AGS, ECF  
8 No. 5 at \*5 (S.D. Cal. Aug. 15, 2019) (slip op.) ("The record at this stage in the litigation  
9 does not support a finding that there is no significant likelihood of Petitioner's removal  
10 in the reasonably foreseeable future."); *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-  
11 BLM, 2020 WL 6044080, at \*3 (S.D. Cal. Oct. 13, 2020) (denying petition because  
12 "Respondents have set forth evidence that demonstrates progress and the reasons for  
13 the delay in Petitioner's removal").

14 **C. Petitioner's complaints about procedural defects in his re-detention do not**  
15 **establish a basis for habeas relief.**

16 Additionally, Petitioner claims that the agency failed to comply with its  
17 regulations for revoking his Order of Supervision. ECF No. 1 at ¶¶ 51–56. But Petitioner  
18 was served a Notice of Revocation of Release at the time of his re-detention. *See* Ex. 5.  
19 Petitioner was also served with a Warrant for Arrest of Alien at that time. *See* Ex. 4.

20 A noncitizen who is not removed within the removal period may be released from  
21 ICE custody "pending removal . . . subject to supervision under regulations prescribed  
22 by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C.  
23 § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the  
24 order may be revoked under 8 C.F.R. § 241.4(l)(2)(iii) where "appropriate to enforce a  
25 removal order." *See also* 8 C.F.R. § 241.5 (conditions of release after removal period).  
26 ICE may also revoke the order of supervision where, "on account of changed  
27 circumstances, [ICE] determines that there is a significant likelihood that the alien may  
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1 be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). The  
2 regulations further provide:

3 *Upon revocation*, the alien will be notified of the reasons for revocation of  
4 his or her release or parole. The alien will be afforded an initial informal  
5 interview promptly *after* his or her return to Service custody to afford the  
6 alien an opportunity to respond to the reasons for revocation stated in the  
notification.

7 8 C.F.R. § 241.4(*l*) (emphasis added).

8 Here, Petitioner claims that his detention is unlawful because the agency failed  
9 to comply with its regulations *before* re-detaining him. ECF No. 1 at ¶ 5. Specifically,  
10 Petitioner argues that ICE did not provide Petitioner with “written notice explaining the  
11 basis for the revocation of his release” or “provide a hearing before a neutral decision  
12 maker.” *Id.*<sup>2</sup> Notably, the regulations do not require written notice, advance notice, an  
13 advanced interview, nor for DHS to prove to the satisfaction of a petitioner that changed  
14 circumstances are present.<sup>3</sup>

15 Even if the agency failed to provide Petitioner with “advance notice” of the  
16 revocation, or neglected to conduct the informal interview, Petitioner cannot establish  
17 that he was prejudiced by those omissions nor that a constitutional level violation has  
18 occurred. *See Brown v. Holder*, 763 F.3d 1141, 1148–50 (9th Cir. 2014) (“[T]he mere  
19 failure of an agency to follow its regulations is not a violation of due process.”); *United*  
20 *States v. Tatoyan*, 474 F.3d 1174, 1178 (9th Cir. 2007) (holding that “[c]ompliance with  
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22 <sup>2</sup> ICE provided Petitioner with a formal Notice of Revocation of Release on October 16,  
23 2025, the same day he was re-detained. *See* Negrin Decl. ¶ 15; Ex. 5 (Notice of  
Revocation of Release and Proof of Service).

24 <sup>3</sup> There are obvious law enforcement reasons for not providing “advance” notice of a  
25 re-detention before executing a warrant of removal, just as there is no requirement to  
26 provide prior notice of execution of an arrest warrant. Providing such notice “creates a  
27 risk that the alien will leave town before the delivery or deportation date.” *United States*  
28 *v. Gonzales & Gonzales Bonds & Ins. Agency, Inc.*, 103 F. Supp. 3d 1121, 1137 (N.D.  
Cal. 2015).

1 . . . internal [customs] agency regulations is not mandated by the Constitution”)  
2 (simplified); *Bd. of Curators of Univ. of Mo. v. Horowitz*, 435 U.S. 78, 92 n.8 (1978)  
3 (holding that *Accardi* “enunciate[s] principles of federal administrative law rather than  
4 of constitutional law”).

5 For example, in *Ahmad v. Whitaker*, the government revoked the petitioner’s  
6 release but did not provide him an informal interview. *Ahmad v. Whitaker*, No. C18-27-  
7 JLR-BAT, 2018 WL 6928540, at \*6 (W.D. Wash. Dec. 4, 2018), *report and*  
8 *recommendation adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner  
9 argued the revocation of his release was unlawful because, he contended, the federal  
10 regulations prohibited re-detention without, among other things, an opportunity to be  
11 heard. *Id.* at \*5. In rejecting his claim, the court held that although the regulations called  
12 for an informal interview, petitioner could not establish “any actionable injury from this  
13 violation of the regulations given that ICE had procured a travel document and  
14 scheduled [petitioner’s] removal.” *Id.* Similarly, in *Doe v. Smith*, the court held that  
15 even if an ICE detained petitioner had not received a timely interview following her  
16 return to custody, there was “no apparent reason why a violation of the regulation, even  
17 assuming it occurred, should result in release.” *Doe v. Smith*, No. 18-11363-FDS, 2018  
18 WL 4696748, at \*9 (D. Mass. Oct. 1, 2018). The court elaborated, “it is difficult to see  
19 an actionable injury stemming from such a violation. Doe is not challenging the  
20 underlying justification for the removal order. . . . Nor is this a situation where a prompt  
21 interview might have led to her immediate release—for example, a case of mistaken  
22 identity.” *Id.*

23 So too here. At the time of his re-detention, Petitioner knew he was subject to a  
24 final order of removal. *See* ECF No. 1 at ¶ 62. He does not challenge that order in this  
25 lawsuit or offer any indication that he intends to do so. Petitioner was informed of the  
26 reason for his re-detention when he was served with the Notice of Revocation of Release  
27 on October 16, 2025, and the Form I-200, Warrant for Arrest of Alien. *See* Negrin Decl.  
28 ¶ 15; Ex. 4 (Form I-200, Warrant for Arrest of Alien); Ex. 5 (Notice of Revocation of

1 Release). And because Respondents had, and continue to have, an evidentiary basis to  
2 conclude there is a significant likelihood that Petitioner will be removed to a third  
3 country in the reasonably foreseeable future, any challenge that Petitioner would have  
4 raised to the revocation prior to or after his re-detention would have failed. Because  
5 Petitioner cannot show prejudice under these circumstances, the alleged violation of  
6 agency regulations does not warrant release here. *See, e.g., Rodriguez v. Hayes*, 578  
7 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded on other grounds*,  
8 591 F.3d 1105 (9th Cir. 2010) (“While the regulation provides the detainee some  
9 opportunity to respond to the reasons for revocation, it provides no other procedural and  
10 no meaningful substantive limit on this exercise of discretion as it allows revocation  
11 ‘when, in the opinion of the revoking official . . . [t]he purposes of release have been  
12 served . . . [or] [t]he conduct of the alien, or *any other circumstance*, indicates that  
13 release would no longer be appropriate.”) (emphasis in original) (citing 8 C.F.R.  
14 §§ 241.4(l)(2)(i), (iv)); *Carnation Co. v. Sec’y of Lab.*, 641 F.2d 801, 804 n.4 (9th Cir.  
15 1981) (“[V]iolations of procedural regulations should be upheld if there is no significant  
16 possibility that the violation affected the ultimate outcome of the agency’s action.”  
17 (citation omitted)); *United States v. Hernandez-Rojas*, 617 F.2d 533, 535 (9th Cir. 1980)  
18 (INS’ failure to follow regulations requiring that an arrested alien be advised of his right  
19 to speak to his consul was not prejudicial and thus not a ground for challenging the  
20 conviction); *United States v. Barraza-Leon*, 575 F.2d 218, 221–22 (9th Cir. 1978)  
21 (holding that even assuming that the judge had violated the rule by failing to inquire  
22 into the alien’s background, any error was harmless because there was no showing that  
23 the petitioner was qualified for relief from deportation).

24 Thus, whatever procedural deficiencies or delays may have occurred, they do  
25 not warrant Petitioner’s release and indeed could be cured by means well short of  
26 release. Petitioner does not challenge his removal order, nor could he. *See supra*  
27 Section III.A. ICE is working diligently to identify a third country to which Petitioner  
28 may be removed. *See Negrin Decl.* ¶ 16. With Petitioner’s removal likely to occur in

1 the reasonably foreseeable future, no purpose would be served by this Court’s ordering  
2 his release—other than frustrating “the statute’s basic purpose, namely, assuring the  
3 alien’s presence at the moment of removal.” *Zadvydas*, 533 U.S. at 699.

4 **IV. Conclusion**

5 For the foregoing reasons, Respondents respectfully request that the Court  
6 dismiss Petitioner’s habeas petition.

7 DATED: February 5, 2026

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