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

10  
11 Wilbert Prado-Cegueda, ) Case No. 26-cv-481-LL-MSB  
12 Petitioner, )  
13 v. )  
14 PAM BONDI, Attorney General of the ) PETITIONER'S TRAVERSE TO  
15 United States, in her official capacity; ) RESPONDENTS' RETURN  
16 KRISTI NOEM, Secretary of the U.S. )  
17 Department of Homeland Security, in her )  
18 official capacity; EXECUTIVE OFFICE )  
19 FOR IMMIGRATION REVIEW; TODD )  
20 LYONS, Acting Director of U.S. )  
21 Immigration and Customs Enforcement, )  
22 in his official capacity; PATRICK )  
23 DIVVER, ICE Field Office Director for )  
24 San Diego County, in his official capacity; )  
25 WARDEN OF OTAY MESA )  
26 DETENTION CENTER. )  
27 Respondents. )

28 **INTRODUCTION**

Petitioner submits this Traverse in response to Respondents' Return to  
Petition (Dkt. 4).

1 Respondents do not dispute that ICE revoked Petitioner’s long-standing  
2 Order of Supervision and re-detained him on October 16, 2025. Dkt. 4-1, Negrin  
3 Dec. at ¶ 15. They further acknowledge that ICE has “no record” that Petitioner  
4 was provided the required informal interview following revocation. *Id.*  
5

6 The dispositive issue is procedural. ICE revoked Petitioner’s conditional  
7 liberty without complying with mandatory regulatory safeguards set forth in 8  
8 C.F.R. §§ 241.4 and 241.13. That violation renders the present detention unlawful.  
9  
10

11 Respondents attempt to reframe this case as a premature challenge under  
12 *Zadvydas v. Davis*, 533 U.S. 678 (2001). It is not. Petitioner’s principal claim is  
13 procedural and concerns the legality of the revocation itself. It does not depend on  
14 the passage of six months.  
15

16 Even under a substantive detention analysis, Respondents have not  
17 demonstrated a significant likelihood of removal in the reasonably foreseeable  
18 future.  
19

20 The Petition should be granted.  
21

22 **I. THIS COURT HAS JURISDICTION UNDER 28 U.S.C. § 2241**  
23

24 This Court has jurisdiction pursuant to 28 U.S.C. § 2241(c)(3), which  
25 authorizes habeas relief for individuals “in custody in violation of the Constitution  
26 or laws or treaties of the United States.”  
27  
28

1 The Supreme Court has confirmed that § 2241 confers jurisdiction to review  
2 post-removal-order immigration detention. *Zadvydas*, 533 U.S. at 687. The essence  
3 of habeas corpus is an attack upon the legality of custody. *Preiser v. Rodriguez*,  
4 411 U.S. 475, 484 (1973).  
5

6 The Ninth Circuit has repeatedly held that district courts retain habeas  
7 jurisdiction to review immigration detention claims independent of the validity of  
8 the underlying removal order. *Lopez-Marroquin v. Barr*, 955 F.3d 759, 759 (9th  
9 Cir. 2020); *Singh v. Holder*, 638 F.3d 1196, 1211–12 (9th Cir. 2011).  
10  
11

12 Petitioner does not challenge the validity of his final order of removal. He  
13 does not seek to reopen withholding proceedings. He challenges only the legality  
14 of his present detention following revocation of supervision.  
15

16 Respondents argue that jurisdiction is barred by 8 U.S.C. § 1252(g). Dkt. 4  
17 at 3–4. That statute applies narrowly to decisions to commence proceedings,  
18 adjudicate cases, or execute removal orders. *Reno v. American-Arab Anti-*  
19 *Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge the  
20 execution of his removal order. He challenges ICE’s compliance with governing  
21 detention regulations and constitutional safeguards in revoking supervision.  
22  
23  
24

25 In *Constantinovici v. Bondi*, Case No. 3:25-cv-02405-RBM-AHG (S.D. Cal.  
26 Oct. 10, 2025), this Court held that § 2241 jurisdiction exists over habeas  
27 challenges to post-order detention independent of the underlying removal order.  
28

1 While not binding precedent, its reasoning is persuasive and consistent with  
2 controlling Supreme Court and Ninth Circuit authority.  
3

4 Jurisdiction is proper.

5 **II. ICE FAILED TO COMPLY WITH MANDATORY REGULATORY**  
6 **SAFEGUARDS**

7 After expiration of the 90-day removal period, detention authority arises  
8 under 8 U.S.C. § 1231(a)(6) and is implemented through 8 C.F.R. §§ 241.4 and  
9 241.13. Those regulations govern release and revocation of supervision.  
10

11 Both 8 C.F.R. § 241.4(l)(1) and § 241.13(i)(3) require that upon revocation,  
12 the noncitizen be notified of the reasons for revocation and be afforded “an initial  
13 informal interview *promptly* after his or her return to Service custody” to respond.  
14

15 District courts have consistently rejected the Government’s attempt to  
16 bypass these safeguards by invoking § 241.4(l)(2). The notice and interview  
17 requirements apply whenever supervision is revoked. See *Diaz v. Wofford*, 2025  
18 WL 2581575 (E.D. Cal. Sept. 5, 2025); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137  
19 (W.D.N.Y. 2025); *Rombot v. Souza*, 296 F. Supp. 3d 383 (D. Mass. 2017); *M.Q. v.*  
20 *United States*, 776 F. Supp. 3d 180 (S.D.N.Y. 2025).  
21  
22

23 This Court reached the same conclusion in *Constantinovici*. There, the Court  
24 held that ICE’s discretion to revoke supervision “is always constrained by the  
25 requirements of due process,” and that failure to provide timely notice and a  
26  
27  
28

1 prompt opportunity to respond violates both the regulations and the Fifth  
2 Amendment. *Id.* (citing *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017)).  
3

4 The Due Process Clause applies to noncitizens subject to final removal  
5 orders. *Id.* (citing *Zadvydas v. Davis*, 533 U.S. 678, 693–94 (2001)). Procedural  
6 due process requires notice and an opportunity to be heard “at a meaningful time  
7 and in a meaningful manner.” *Id.* (citing *Mathews v. Eldridge*, 424 U.S. 319  
8 (1976)). Agencies must comply with their own regulations. *Id.* (citing *United*  
9  
10 *States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *United States v.*  
11 *Ramos*, 623 F.3d 672 (9th Cir. 2010)).  
12

13  
14 The regulation requires a prompt interview affording an opportunity to  
15 respond. The absence of any record of such an interview establishes  
16 noncompliance. *Constantinovici* found that procedural failure renders detention  
17 unlawful. That violation is complete irrespective of the duration of custody.  
18

19 Respondents acknowledge that Petitioner’s removal order became  
20 administratively final on November 10, 2021. Dkt. 4-1, Negrin Dec. at ¶ 13. On  
21 May 16, 2022, his bond was cancelled and he was placed on an Order of  
22 Supervision. *Id.* at ¶ 14.  
23

24  
25 On October 16, 2025, ICE re-detained Petitioner. *Id.* at ¶ 15.  
26  
27  
28

1 Respondents admit that ICE has “no record” that Petitioner was provided an  
2 informal interview. *Id.* at ¶ 15. That admission establishes noncompliance with the  
3 governing regulations.  
4

5 Service of a Notice of Revocation of Release and a Form I-200 does not  
6 satisfy the regulatory requirement that the individual be afforded a prompt informal  
7 interview to respond to the stated reasons for revocation. See Dkt. 4 at 8; Dkt. 4-1,  
8 Negrin Dec. at ¶ 15.  
9  
10

11 This case does not involve a minor technical deviation. ICE revoked a three-  
12 year Order of Supervision and incarcerated Petitioner without providing the  
13 procedural safeguard the regulation expressly requires.  
14

15 **III. REVOCATION OF LONG-STANDING CONDITIONAL LIBERTY**  
16 **WITHOUT PROCEDURAL SAFEGUARDS VIOLATES THE FIFTH**  
17 **AMENDMENT**

18 The failure to provide the informal interview required by 8 C.F.R. §§ 241.4  
19 and 241.13 is not merely a regulatory defect. It reflects a constitutional violation.  
20

21 The Petition has consistently alleged that revocation of Petitioner’s long-  
22 standing conditional liberty required meaningful procedural safeguards, including  
23 notice and an opportunity to be heard before a neutral decisionmaker. Dkt. 1 at ¶¶  
24 22–34, 48–55. That principle derives from the Supreme Court’s recognition that  
25 once the government confers a conditional liberty interest, it may not revoke that  
26  
27  
28

1 liberty without due process. See *Morrissey v. Brewer*, 408 U.S. 471, 482–89  
2 (1972); *Mathews v. Eldridge*, 424 U.S. 319 (1976).  
3

4 **A. The Regulatory Safeguards Reflect the Constitutional Floor**

5 The regulations governing revocation of supervision, 8 C.F.R. §§ 241.4(l)  
6 and 241.13(i)(3), embody these constitutional principles. They require that, upon  
7 return to custody, the individual be notified of the reasons for revocation and  
8 afforded a prompt informal interview to respond. That interview requirement is the  
9 regulatory mechanism designed to prevent erroneous deprivation of liberty and to  
10 ensure that detention is justified based on individualized circumstances.  
11  
12

13  
14 In *Constantinovici v. Bondi*, this Court recognized that ICE’s discretion to  
15 revoke supervision “is always constrained by the requirements of due process,”  
16 and that failure to comply with the regulatory notice and interview provisions  
17 renders detention unlawful. The Court’s analysis reflects the understanding that  
18 these regulations operate as procedural safeguards implementing constitutional due  
19 process.  
20  
21

22 Here, Respondents admit that ICE has no record of conducting the required  
23 informal interview as of February 4, 2026. Dkt. 4-1, Negrin Dec. at ¶ 15. The  
24 absence of that safeguard means Petitioner was deprived of liberty without the  
25 minimum procedural protections mandated by regulation. No neutral  
26 decisionmaker hearing occurred prior to re-detention.  
27  
28

1 Where ICE fails to comply with the procedural floor established by  
2 regulation, the resulting detention violates both governing regulations and the Fifth  
3 Amendment.  
4

5 **B. Due Process Requires Meaningful and Neutral Review Before**  
6 **Revocation of Long-Standing Liberty**

7 Even if ICE had conducted the required informal interview, that procedure  
8 would not substitute for the neutral decisionmaker hearing contemplated in the  
9 Petition. Once the Government confers a long-standing conditional liberty interest,  
10 revocation requires meaningful review before a neutral adjudicator rather than  
11 unilateral enforcement action by the same agency seeking detention. Dkt. 1.  
12

13 Under *Morrissey*, due process requires an independent determination that  
14 continued detention is justified. 408 U.S. at 485–89. No such neutral determination  
15 occurred here prior to re-detention.  
16

17 The Due Process Clause protects noncitizens physically present in the  
18 United States, including those subject to final removal orders. *Zadvydas v. Davis*,  
19 533 U.S. 678, 690, 693–94 (2001). Freedom from physical restraint lies at the core  
20 of the liberty protected by the Constitution.  
21

22 Petitioner lived under supervision beginning May 16, 2022. Dkt. 4-1, Negrin  
23 Dec. at ¶ 14. He complied with all reporting requirements and was re-detained at a  
24 scheduled check-in. Id. at ¶ 15. He resides with his lawful permanent resident  
25  
26  
27  
28

1 spouse and their three United States citizen children. Dkt. 1 at ¶ 42. He has  
2 substantial and enduring community ties developed over many years of residence.  
3

4 Under the *Mathews* framework, due process requires balancing the private  
5 interest affected, the risk of erroneous deprivation through existing procedures, and  
6 the Government's interest.  
7

8 The private interest here is substantial. Petitioner's multi-year release, full  
9 compliance, and integration into a lawful family unit significantly heighten the  
10 gravity of the deprivation. The loss is not abstract liberty alone, but established  
11 family unity, community presence, and the ability to support U.S. citizen children.  
12  
13

14 The risk of erroneous deprivation is significant where ICE revokes  
15 supervision without affording a meaningful opportunity to respond to alleged  
16 "changed circumstances." Respondents admit there is no record that Petitioner was  
17 provided the required informal interview. Dkt. 4-1 at ¶ 15. The absence of that  
18 safeguard eliminates the principal mechanism designed to prevent erroneous  
19 detention.  
20  
21

22 The Government's interest in immediate re-detention without affording a  
23 prompt opportunity to respond is limited in this case. Petitioner complied with  
24 supervision for years and appeared voluntarily at a scheduled check-in. Id. at ¶¶  
25 14–15. No supervision violation is alleged. Dkt. 4 (generally).  
26  
27  
28

1 Balancing these factors, revocation of long-standing liberty without  
2 meaningful and neutral review violates the Fifth Amendment.  
3

4 **IV. THIS CLAIM DOES NOT DEPEND ON THE PASSAGE OF SIX**  
5 **MONTHS**

6 Respondents argue that the Petition is premature because six months have  
7 not elapsed since re-detention. Dkt. 4 at 4–6. That argument mischaracterizes the  
8 claim. *Zadvydas* addresses substantive prolonged detention under § 1231(a)(6). It  
9 establishes a burden-shifting framework tied to a six-month presumption.  
10

11 Petitioner’s principal claim concerns revocation of liberty without  
12 compliance with mandatory regulatory safeguards. That violation is complete upon  
13 failure to provide the required interview. The six-month presumption does not  
14 immunize regulatory violations from review and does not authorize ICE to  
15 disregard its own regulations during the initial months of detention.  
16  
17  
18

19 **V. RESPONDENTS HAVE NOT SHOWN A SIGNIFICANT LIKELIHOOD**  
20 **OF REMOVAL**

21 Even assuming arguendo that the Court analyzes this case under *Zadvydas*,  
22 Respondents have not demonstrated a significant likelihood of removal in the  
23 reasonably foreseeable future.  
24

25 Respondents rely on *Ahmad v. Whitaker*. That case is distinguishable. In  
26 *Ahmad*, ICE had procured a travel document and scheduled removal. Removal was  
27 concrete and imminent.  
28

1 Here, Respondents have not produced evidence that any country has agreed  
2 to accept Petitioner, that travel documentation has been issued, or that removal has  
3 been scheduled. The Negrin Declaration states only that ICE is “in the process of  
4 identifying third countries.” Dkt. 4-1, Negrin Dec. at ¶ 17.  
5

6 Exploratory efforts do not establish a significant likelihood of removal.  
7 Speculation that removal may occur at some undefined future point does not  
8 satisfy the Government’s burden under *Zadvydas*.  
9

10 ICE re-detained Petitioner “for purposes of executing his final removal  
11 order.” *Id.* at ¶ 15.  
12

13 Since re-detention, San Diego ERO requested assistance on October 28,  
14 November 17, and December 10, 2025, to identify a third country. *Id.* at ¶ 16. ICE  
15 remains “in the process of identifying third countries.” *Id.* at ¶ 17.  
16

17 Respondents have not produced evidence that any country has agreed to  
18 accept Petitioner, that travel documentation has been issued, or that removal has  
19 been scheduled.  
20

21 Exploratory diplomatic efforts do not establish a significant likelihood of  
22 removal in the reasonably foreseeable future.  
23

24 Under *Zadvydas*, once removal is shown not to be reasonably foreseeable,  
25 the burden shifts to the Government to provide evidence sufficient to demonstrate  
26 otherwise. The present record does not satisfy that burden.  
27  
28

1 **VI. THE FLIGHT RISK THEORY IS UNSUPPORTED**

2 Respondents alternatively suggest re-detention was necessary due to a  
3 heightened possibility of flight once removal becomes imminent. That theory is  
4 unsupported here. Petitioner complied with supervision for years  
5

6 Respondents allege no violation of supervision, no missed reporting, and no  
7 new criminal conduct. Due process requires an individualized determination, not a  
8 categorical presumption that noncitizens become flight risks once removal is  
9 pursued.  
10

11 Additionally, ICE has long employed Alternatives to Detention (“ATD”),  
12 including GPS monitoring and other supervision mechanisms, to mitigate flight  
13 risk and ensure compliance. The availability of these less restrictive means further  
14 diminishes any asserted need for summary re-detention without procedural  
15 safeguards.  
16

17 The record does not support detention on flight-risk grounds.  
18

19 **CONCLUSION**

20 ICE revoked Petitioner’s long-standing supervision without complying with  
21 mandatory regulatory safeguards. Respondents admit there is no record of the  
22 required informal interview. Dkt. 4-1, Negrin Dec. at ¶ 15.  
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1 Under controlling Supreme Court and Ninth Circuit precedent, and  
2 persuasive authority from *Constantinovici*, such noncompliance violates governing  
3 regulations and due process.  
4

5 For these reasons, Petitioner respectfully requests that this Court grant the  
6  
7 Petition for Writ of Habeas Corpus and order his immediate release under  
8 appropriate conditions of supervision.  
9

10  
11 Dated: February 12, 2026

12 Respectfully submitted,

13  
14 /s/LeRoy George Siddell  
15 LeRoy George Siddell  
16 Attorney for Petitioner  
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