

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MOUSSA DIAW	:	
	:	
<i>Petitioner,</i>	:	
	:	
v.	:	Civil Action No. 2:26-cv-761
	:	
JAMAL L. JAMISON, ET AL.,	:	
	:	
<i>Respondents.</i>	:	

**SUPPLEMENTAL BRIEFING IN RESPONSE TO THE COURT’S
FEBRUARY 17, 2026 ORDER (ECF NO. 7)**

The Government submits this briefing in response to the Court’s Order (ECF No. 7) dated February 17, 2026, requesting “supplemental briefing and contextual evidence” related to the revocation of Petitioner’s release and his subsequent detention. The Court asked the Government to respond to six questions, which the Government will address in turn below. For ease of review, the Government incorporates those questions into this supplemental briefing in separately numbered sections below.

a. When did Immigration and Customs Enforcement (ICE) decide to revoke Petitioner’s Order of Supervision (OSUP)?

Based on the information available to the Government, ICE made the decision to revoke Petitioner’s OSUP on February 5, 2026. This information is reflected in the Form I-213, Record of Deportable/Inadmissible Alien¹, submitted as

¹ The Form I-213, Record of Deportable/Inadmissible Alien is a presumptively reliable government document that memorializes, among other information, the facts and circumstances surrounding an alien’s encounter with DHS or other law enforcement agencies. *See e.g., Matter of Barcnas*, 19 I&N Dec. 609. 611 (BIA 1988)

Exhibit A to the Government's Opposition, which memorializes Petitioner's encounter with ICE on February 5, 2026, as well as ICE's decision to revoke his OSUP. ECF 4, Exh. A. This information is also reflected in the OSUP revocation documents provided to Petitioner and filed with the Government's Opposition at Exhibit C. ECF 4, Exh. C.

- b. Which individuals from ICE issued the OSUP revocation? It appears from petitioner's Notice of Revocation of Release that Acting Field Office Director Michael Rose made this decision. See DI 4-3 at 3 (ECF). Did Mr. Rose receive approval for this decision from the Executive Associate Director of ICE? If not, then please explain the basis for Mr. Rose's authority to issue this revocation. If the government maintains that Mr. Rose is the functional equivalent of a district director as outlined in 8 C.F.R. § 241.4(1)(2), then please submit evidence that Mr. Rose made the required findings that revocation was in the public interest and circumstances did not reasonably permit referral of the case to the Executive Associate Director**

Acting Field Office Director Michael Rose issued the OSUP revocation on February 5, 2026. ECF 4, Exh. B. Before that, however, a Deportation Officer (DO) made the initial recommendation to revoke the conditions of release based on the significant likelihood of removal in the reasonably foreseeable future. See Exh. D – OSUP Revocation Worksheet (dated Feb. 5, 2026). This DO provided a case summary as part of that formal recommendation, after which time the recommendation went to a Supervisory Detention and Deportation Officer (SDDO) for approval. *Id.* The SDDO concurred with that recommendation, made additional

(finding that a Form I-213 is an inherently trustworthy document and admissible as evidence to prove alienage and deportability in removal proceedings); *Matter of J-C-H-F*, 27 I&N Dec. 211, 212 (BIA 2018) (“Generally, there is a presumption of reliability of Government documents.”).

factual findings, and then elevated the recommendation to an Assistant Field Officer Director (AFOD) for review. *Id.* The AFOD similarly concurred and elevated the recommendation to the acting Deputy Field Officer Director (DFOD). *Id.* Following concurrence by the DFOD, the recommendation was then elevated to the acting Field Officer Director for review. Exh. 4, Tab C. Thus, the recommendation to revoke Petitioner's OSUP went through four levels of review prior to reaching the Field Office Director.

As the acting Field Officer Director, Michael Rose was then permitted to review and revoke Petitioner's OSUP under 8 C.F.R. § 241.4(l)(2). The language of 8 C.F.R. § 241.4(l)(2) uses the term "district director," which, based on the Government's understanding, is the equivalent of a "Field Office Director" today following the reorganization of the Immigration and Naturalization Service into the Department of Homeland Security. *See* 8 C.F.R. § 1.2 (defining "district director" after March 2003 to mean, among other roles, "field office director."). Therefore, as the acting Field Officer Director of the ICE, Enforcement and Removal Operations Philadelphia Field Office, he had the authority to review and revoke Petitioner's release under 8 C.F.R. § 241.4(l)(2).

8 C.F.R. § 241.4(l)(2) in turn authorizes the Field Office Director to revoke release, "in the exercise of discretion when, in the opinion of the revoking official," one of four statutorily-enumerated reasons are present. Here, based on the reasons set forth in the OSUP revocation paperwork, it is clear that the Field Office Director revoked Petitioner's release and detained him to enforce a removal order under 8

C.F.R. § 241.4(l)(2)(iii) based on the recommendation from the DO, SDDO, AFOD, and DFOD that Petitioner's removal is significantly likely in the reasonably foreseeable future. The Field Office Director, in his discretion, then determined that revocation was in the public interest due to the recommendation presented to him, including the administratively final order of removal following affirmance of the negative credible fear finding and the lack of any pending appeals, applications, or relief.² *See* Exh. D. At this time, the Government does not have any evidence to submit regarding the reasonableness of referral of Petitioner's case to the Executive Associate Director.

c. Please explain the process ICE undertook in detaining Petitioner on February 5, 2026

As noted above, the Form I-213 memorializes ICE's encounter with Petitioner on February 5, 2026. ECF 4, Exh. A. The Form I-213 indicates that Petitioner reported to the ICE, Enforcement and Removal Operations Philadelphia Field Office on February 5, 2026, for his scheduled OSUP check-in appointment. *Id.* The OSUP paperwork provided to Petitioner explicitly advised Petitioner of his obligation to "appear in person at the time and place scheduled, upon each and every request of the agency, for identification *and for deportation or removal.*" *See* ECF 1, Exh. A. It also advised him of his continuing obligation to assist ICE in obtaining travel documents to facilitate his removal. *Id.* Thus, Petitioner was on notice since March 7, 2022—the date he acknowledged his conditions of release and

² As discussed *infra*, and consistent with ICE's recommendation, a pending Form I-130, Petition for Alien Relative has no bearing on Petitioner's removability.

signed the OSUP paperwork—that ICE may seek to carry out his administratively final order of removal in the future, including at a check-in appointment. *Id.*; *see also* 8 U.S.C. § 1231(a)(3) (setting forth OSUP requirements *pending removal*).

At his check-in appointment on February 5, 2026, ICE conducted a series of checks to confirm that OSUP revocation was warranted. *Id.* This included confirming: (i) Petitioner’s “identity, alienage, and removability;” (ii) that Petitioner has not asserted a claim to United States citizenship or derived or obtained United States citizenship; (iii) that Petitioner had no hearings, appeals, applications, petitions, or waivers pending” before any court; and (iv) that Petitioner had a final expedited order of removal. *Id.* Based on this information, and in accordance with the procedures under 8 C.F.R. § 241.4(l)(2), ICE thereafter revoked the conditions of Petitioner’s release. ECF 4, Exh. A, C. As part of his subsequent detention under 8 U.S.C. § 1231, Petitioner was afforded the opportunity to make a phone call and speak to the Senegalese consulate. *Id.*

d. When and how did ICE notify Petitioner that his order was revoked?

ICE notified Petitioner on February 5, 2026 that his OSUP was revoked, as reflected in the Form I-213 and OSUP revocation paperwork. ECF 4, Exh. A, C. The OSUP revocation paperwork, in particular, advises Petitioner that his release is revoked “pursuant to 8 C.F.R. § 241.4(l)” because “it is appropriate to enforce the removal order entered against [him] as ICE has the ability and means to effectuate [his] removal.” ECF 4, Exh. C. As further support for that reason, the paperwork specifics that “ICE is seeking a travel document to effect [his] expeditious removal

to Senegal.” *Id.* The certificate of service on the revocation paperwork confirms that Petitioner was personally served with the OSUP revocation paperwork on February 5, 2026 at 4:06. ECF 4, Exh. C.

e. Explain in whatever detail is available the process Petitioner was afforded during his informal interview on February 9, 2026.

As stated in the notice provided to Petitioner, the informal interview on February 9, 2026 provided Petitioner the “opportunity to respond to the reasons for revocation” and to “submit any evidence or information [Petitioner] wish[ed] to be reviewed in support of his release.” ECF 4, Exh. C. Unlike 8 C.F.R. § 241.13—the provision pertaining to aliens who are detained under the custody review procedures of § 241.4 *after* the expiration of the removal period—8 C.F.R. § 241.4(l)(1) does not specify any requirements for the interview, which, by its name, is informal in nature. *Compare* 8 C.F.R. § 241.13(i)(3) *with* 8 C.F.R. § 241.4(l)(1). In no more than three months, Petitioner will be afforded another opportunity to contest his release, which will include a records review, an interview, and a “final evaluation” of facts relevant to revocation of release. *See* 8 C.F.R. § 241.4(1)(3). Thus, Petitioner has been and will continue to be afforded the process required under 8 C.F.R. § 241.4(l).

f. Explain the status of Petitioner’s wife’s I-130, Petition for Alien Relative and the effect, if any, that petition could have on petitioner’s detention.

The pending Form I-130, Petition for Alien Relative, has no impact on Petitioner’s removability and, in turn, detention under 8 U.S.C. § 1231. As stated above, Petitioner’s detention is governed by 8 U.S.C. § 1231—a section of the

Immigration and Nationality Act related to detention of aliens who already have administratively final orders of removal. 8 U.S.C. § 1231(a)(1)(B). A Form I-130, whether pending or approved, has no bearing on Petitioner's removability in this case because, quite simply, he already has a final order of removal following affirmance by an immigration judge of the United States Citizenship and Immigration Services' (USCIS) negative finding of credible fear. *See* ECF 4, Exh. B; *see also* 8 C.F.R. § 1255(a) (allowing an alien with an approved petition to adjust status to lawful permanent resident if, among other requirements, he is admissible to the United States).

Moreover, because Petitioner's removal order occurred in the unique context of the expedited removal provisions at 8 U.S.C. § 1225(b)(1), he cannot seek, for example, reopening of his removal proceedings to pursue potential relief based on the pending Form I-130, as are aliens ordered removed following proceedings under 8 U.S.C. § 1229(a). *See generally* 8 U.S.C. § 1229a(7). Even if Petitioner did not have an administratively final order of removal, the pending Form I-130 does not offer him a pathway to adjust his status, as: (i) USCIS has not yet approved that Form I-130; and (ii) even if it did, Petitioner entered the United States without inspection and is thus ineligible for adjustment of status under 8 U.S.C. § 1255(a). 8 U.S.C. § 1255(a) (allowing an alien with an *approved* petition to adjust status to lawful permanent resident if, among other requirements, he was "inspected and admitted or paroled into the United States").

Therefore, given the late stage of Petitioner’s proceedings—after his removal order became administratively final—the nature of that order—an expedited order of removal under 8 U.S.C. § 1225(b)(1)—and the fact that Petitioner’s pending Form I-130 offers him no pathway to adjusting in the United States, even if approved, that pending Form I-130 has no bearing on his removability and, in turn, his post-removal detention under 8 U.S.C. § 1231.

Respectfully submitted,

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Dated: February 24, 2026

Counsel for Respondents

CERTIFICATE OF SERVICE

I certify that on this date, I filed the foregoing Supplemental Briefing in Response to the Court's February 17, 2026 Order (ECF NO. 7) via the Court's CM/ECF System, thereby making it available for viewing and download for all parties to the case.

Dated: February 24, 2026

/s/ Daniella D. Lees

DANIELLA D. LEES
Assistant United States Attorney

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Exhibit List

Exhibit D: OSUP Revocation Worksheet, dated Feb. 5, 2026

OSUP Revocation Worksheet

Alien Name: DIAW, Moussa A-Number: [REDACTED] Date: February 5, 2026

Reason for Revocation: OSUP Violator: SLRRFF: Yes

Is this a Headquarters release? Yes: No: X

If Headquarters release, was approval of OSUP revocation received? Yes: No: N/A: X

List OSUP violations and/or events that led to SLRRFF:

RIO stated that there is a significant likelihood of removal in the reasonable foreseeable future (SLRRFF).

Brief Case Summary:

- DIAW is a national and citizen of Senegal.
- On 1/27/2022, U.S. Border Patrol (USBP) arrested DIAW entering the United States at Del Rio, TX. USBP processed DIAW as an Expedited Removal with credible Fear.
- On 2/18/2022, United States Citizen and Immigration Services determined negative fear on DIAW's claim.
- On 3/1/2022, an Immigration Judge affirmed the Department of Homeland Security order.
- On 3/15/2022, ICE released DIAW under Order of Supervision.
- On 1/31/2025, DIAW spouse files an I-130 Petition for Alien Relative under IR1/CR1-spouse of USC, 201(b). The petition is in process.
- DIAW has no criminal record.

Officer's Recommendation:

RIO stated that there is a significant likelihood of removal in the foreseeable future. I strongly believe this is an opportunity for ICE to effectuating his removal from the United States. I recommend taking him into custody for removal to Senegal.

Preparing Officer:

J. Martinez ,DO

(Name)

Jose Martinez

(Signature)

2/5/2026

(Date)

Arrest Worksheet: DIAW, Moussa [REDACTED]

Supervisory Officer's Recommendation: Concur: X Do Not Concur:

SDDO's Notes: Subject is an ER with no appeals, application or waivers pending. A pending I-130 does not prevent his removal. APSO ruled negative fear as well as an IJ. I recommend taking him into custody.

A. Demurguiondo SDDO

Alano de Murguiondo

2/5/2026

(Name)

(Signature)

(Date)

Assistant Field Office Director's Recommendation: Concur: ✓ Do Not Concur:

AFOD's Notes: SLPRFF exists. Child with mother. NO healthcare issues.

Joe Roache AFOD

[Handwritten Signature]

2/5/2026

(Name)

(Signature)

(Date)

(A) Deputy Field Office Director's Decision: Concur: X Do Not Concur:

(A) DFOD's Notes: _____

Elizabeth Cox (A) DFOD

Elizabeth Cox

2/5/2026

(Name)

(Signature)

(Date)