

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

RAMON ALFONSO CEBALLOS,
Petitioner,

v.

Case No. 2:26-cv-00658-SPC-NPM

DAVID HARDIN, ET AL.,¹
Respondents.

FEDERAL RESPONDENTS' RESPONSE TO HABEAS PETITION

Petitioner Ramon Alfonso Ceballos challenges his ongoing detention by immigration authorities on multiple grounds. He argues that he is not subject to detention at all because he has Temporary Protected Status ("TPS"), that the revocation of his Order of Supervision ("OSUP") was procedurally deficient, and that the resulting detention by U.S. Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE") has violated his substantive and procedural due process rights under the Fifth Amendment, as well as the *Accardi* Doctrine, Immigration and Nationality Act ("INA"), and the Administrative Procedures Act ("APA"). The Court lacks jurisdiction over these claims. But that aside, Petitioner's OSUP was properly revoked for the purpose of executing a valid

¹ Secretary of Homeland Security Markwayne Mullin is automatically substituted for his predecessor under Rule 25(d) of the Federal Rules of Civil Procedure.

removal order. Petitioner, a *previous* TPS recipient, does not hold that status now and the government may detain him for the purpose of effecting removal. Furthermore, the Court is statutorily prohibited from reviewing ICE's decision to revoke his OSUP. Finally, the period for which Petitioner has been detained remains presumptively reasonable at this time. Because his detention is lawful, the Petition should be dismissed.

Background

This is an immigration habeas case. Ceballos is a citizen and national of Venezuela. *See* Petition for Habeas, ECF No. 1 ("Petition") at ¶¶ 1, 21. He entered the United States on June 18, 2000 on a B-2 visitor visa. *Id.*, ¶¶ 1, 28. In 2005, Ceballos was placed in removal proceedings but his applications for relief were denied. *Id.*, ¶ 29. On May 10, 2007, an immigration judge granted Ceballos Voluntary Departure. *Id.*; *see also* Executive Office for Immigration Review "EOIR" Automated Case Information for Ramon Alfonso Ceballos, attached as "Exhibit A." Petitioner's appeal of the immigration judge's decision was not successful but the Board of Immigration Appeals ("BIA") permitted him to retain the voluntary departure order. *See* Decision of the Board of Immigration Appeals dated May 6, 2009, attached as "Exhibit C." Petitioner then moved for reconsideration of that BIA decision however that motion was denied. *See* Decision of the Board of Immigration Appeals dated September 22, 2009, attached as "Exhibit D." Petitioner's filing of the motion to reconsider with the BIA prior to the end of his voluntary departure period automatically terminated the

voluntary departure order. *Id.* at 3, FN 1; *see also* 8 C.F.R. 1240.26(e)(1). Accordingly, his order of removal became administratively final on September 22, 2009. 8 C.F.R. § 1241.1(a).

Ceballos asserts that he was placed on an OSUP in 2008—Petition, ¶ 30—although ICE records reflect that his OSUP was issued on or about October 13, 2011. *See* Notice of Revocation of Release, ECF No. 1-2, at 8. Ceballos remained in the United States under the OSUP and eventually applied for TPS under DHS’s 2021 designation for Venezuela. Petition, ¶ 32.² Petitioner’s TPS was valid until 2025. *See* I-797A Notice of Action – Approval Notice, ECF No. 1-2, at 4. Though Petitioner filed a new application for TPS on April 7, 2025—purportedly to benefit from former Secretary Mayorkas’s consolidation of the 2021 and 2023 TPS designations for Venezuela—this application was not approved. *See* Form I-797C – Receipt Notice, ECF No. 1-2 at 14 (reflecting application); *see generally* Petition and Exhibits (reflecting no approval notice); *see also* U.S. Citizenship & Immigration Services (“USCIS”) Case Status Online Printout, attached as “Exhibit B” at 1 (“The TPS designation associated with your receipt number [REDACTED] has been terminated by Federal Register Notice (FRN).”).³ Accordingly, his TPS expired on September 11, 2025.

On February 27, 2016, ICE—through a notice signed by Acting Supervisory Detention and Deportation Officer Jivonshay T. Gamble—revoked Petitioner’s OSUP

² *See also* 86 Fed. Reg. 13,574 (Mar. 9, 2021).

³ Because Petitioner has shown two separate receipt notices related to applications for TPS, current case status online documentation for both receipt numbers have been included at Exhibit B. In each case, USCIS record reflect an absence of valid TPS at this time.

under two alternative grounds: first under 8 C.F.R. § 241.4(l) based on ICE's ability and means to execute his final order; or under 8 C.F.R. § 241.13(i) based on changed circumstances, namely that there is a significant likelihood of removal in the reasonably foreseeable future. ECF No. 1-2 at pp. 8-10. Ceballos was served with ICE's revocation notice but refused to sign the certificate of service. *Id.* What's more, Ceballos was provided with an informal interview to contest the revocation of his OSUP. *See* Alien Informal Interview Upon Revocation of Order of Supervision Under 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i), attached as "Exhibit E." This interview occurred on February 27, 2026, the same day on which his OSUP was revoked. *Id.* Ceballos has been in ICE detention since that date. Petition, ¶¶ 5, 42. He was detained at the Glades County Jail at the time this Petition was filed—ECF No. 1-2 at 2—but has since been transferred to another detention facility within the United States.⁴

On March 9, 2026, Ceballos filed the Petition at issue. *See* Petition. On March 16, 2026, he filed a motion seeking an order to show cause and an emergency motion for preliminary injunction or temporary protective order. *See* ECF Nos. 5, 6. On March 23, 2026, this Court issued two orders: one ordering the government to show cause why the Petition should not be granted and an order prohibiting Petitioner's removal

⁴ Once jurisdiction is properly acquired, a petitioner's removal to another judicial district does not destroy a court's jurisdiction. *Ex parte Endo*, 323 U.S. 283, 306 (1944); *Major v. Warden, FCC Coleman - Low*, No. 5:18-CV-269-OC-02PRL, 2019 WL 4194673, at *1 (M.D. Fla. Sept. 4, 2019). Indeed, "[j]urisdiction attaches upon the initial filing of the § 2241 petition and will not be destroyed by a petitioner's subsequent Government effectuated transfer and accompanying change in physical custodian." *Major*, 2019 WL 4194673 at *1. Accordingly, Respondents' view is that Petitioner's subsequent transfer to a detention facility outside the Middle District of Florida does not destroy this Court's jurisdiction.

from the United States for 14 days to allow time for the habeas petition to resolve. ECF Nos. 7, 8. The government now timely responds to the Petition.

Certified Habeas Return

The Court has power to grants writs of habeas corpus where (among other instances) petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). Petitioner bears the burden of proof in establishing that his being in custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

Ceballos was denied relief from removal and granted voluntary departure in 2007. Petition, ¶ 29; Exhibit A. His appeal challenging denial of his applications for relief was unsuccessful and following the filing and adjudication of his motion to reconsider he became subject to a final order of removal on September 22, 2006. *See* Petition, ¶ 29; *see also* Exhibit D at 3. At that point, Ceballos became removable from the United States. Petitioner has demonstrated that he was a TPS recipient for a period of time. ECF No. 1-2 at 4. During that period, he was not removable, notwithstanding his final removal order. 8 U.S.C. § 1254a(a)(1)(A). However, Petitioner’s TPS has since ended making him removable once more.

Ceballos is being detained under 8 U.S.C. § 1231(a) pending his removal. ICE is working towards executing removal to either Venezuela or an alternate third-country. ECF No. 1-2 at 8, 9. And Petitioner’s period of detention is still well within the presumptively reasonable limits established in *Zadvydas*. Even if he were able to challenge detention before then his removal in the reasonably foreseeable future is

likely.

Discussion

Ceballos challenges his detention as a violation of the Fifth Amendment due process clause, APA, *Accardi* doctrine, and INA. These claims fail. As described below, the Court has no jurisdiction. Even if it did, detention has not extended to a length creating constitutional questions nor has ICE violated any law or regulation in revoking his OSUP and proceeding with removal.

A. Lack of Jurisdiction

Federal courts are courts of limited jurisdiction. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). They “possess only that power authorized by Constitution and statute.” *Id.* (citations omitted). In the context of immigration habeas cases related to removal—like here—the INA divests this Court’s jurisdiction where Petitioner challenges ICE’s revocation of his OSUP and detention to execute a final order of removal. 8 U.S.C. § 1252(g).

There is no jurisdiction to review “any” claim “arising from the decision or action” to “execute removal orders.” 8 U.S.C. § 1252(g). This provision bars habeas review in federal courts when the claim arises from a decision or action to “execute” a final order of removal. *Reno v. American-Arab Anti-Discrimination Committee (AADC)*, 525 U.S. 471, 482 (1999). Courts consistently hold that § 1252(g) eliminates subject-matter jurisdiction over challenges—including constitutional claims—to an arrest or detention for the purpose of executing a final removal order. *E.g., Camarena v. ICE*, 988

F.3d 1268, 1273-74 (11th Cir. 2021) (“[W]e do not have jurisdiction to consider ‘any’ cause or claim brought by an alien arising from the government’s decision to execute a removal order.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021); *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013).⁵

Here, Petitioner’s OSUP was revoked and he was detained for the purpose of executing a final removal order. *See* ECF No. 1-2 at 8-10. He remains well within the presumptively reasonable period of detention and ICE is in the process of executing removal. *Id.* This habeas action represents an effort to interfere with or halt that legal process in violation of § 1252(g)’s jurisdiction-stripping mandate.

Some courts have found jurisdiction to review compliance with OSUP revocation regulations. *E.g.*, *Cesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 154 (W.D.N.Y. 2025) (“In other words, while courts cannot question the discretion that is exercised, they can address the process used to exercise that discretion.”). Respectfully, those decision are mistaken. “When asking if a claim is barred by § 1252(g), courts must focus on the action being challenged.” *Camarena*, 988 F.3d at 1272 (cleaned up). Challenges to detention for noncompliance with OSUP revocation procedures fall directly within the jurisdiction-stripping provisions where—as here—the revocation

⁵ *See also Hamama v. Adducci*, 912 F.3d 869, 874 (6th Cir. 2018) (“Under a plain reading of the text of the statute, the Attorney General’s enforcement of long-standing removal orders falls squarely under the Attorney General’s decision to execute removal orders and is not subject to judicial review.”); *Tazu v. U.S. Attorney General*, 975 F.3d 292, 297 (3d Cir. 2020) (“The plain text of § 1252(g) covers decisions about whether and when to execute a removal order.”); *Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022); *E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021).

was for the purpose of executing a final order of removal. *Roe v. Oddo*, No. 3:25-cv-128, 2025 WL 3030692, at *11-14 (W.D. Pa. Oct. 30, 2025).⁶ There is simply no way to get around the plain language of the statute:

In addition, the [OSUP] revocation was clearly related to the execution of [alien's] final removal order. The decision to revoke the [OSUP], in other words, “arose from” the decision to “execute the removal order.” Under both statutory text and judicial precedent, Section 1252(g) bars judicial review of ICE’s revocation decision.

Nino v. Johnson, No. 16-cv-2876, 2016 WL 6995563, at *4 (N.D. Ill. Nov. 30, 2016) (cleaned up).

Ceballos challenges his detention as unlawful because ICE allegedly did not comply with regulatory requirements when it revoked his OSUP to remove him. Without a doubt, that is a fact pattern “arising from the decision or action” to “execute removal orders.” 8 U.S.C. § 1252(g). Ceballos also challenges his detention as unlawful based on an erroneous assertion that he has TPS, a form of protection against removal. The INA expressly strips the Court of jurisdiction in both circumstances. Any contrary conclusion defies reason.

As to Petitioner’s claim that detention is unlawful because the OSUP revocation was procedurally or substantively invalid, the OSUP revocation was itself the exercise of discretion to execute a removal order, which mandates detention pending removal. Accordingly, this claim is a direct attack on the propriety of that decision to execute a

⁶ See also *Van Phan v. Oddo*, No. 3:25-cv-348-KAP, 2026 WL 60337, at *2 (W.D. Pa. Jan. 8, 2026); *Lin v. Borgen*, No. 25-CV-05618 (MMG), 2025 WL 2158874, at *4 (S.D.N.Y. July 30, 2025).

removal order. As to his claim that detention is unlawful because he has TPS—which again, he does not—this challenges ICE’s decision to execute a removal order, a matter squarely within the confines of § 1252(g)’s prohibition. No matter how Ceballos packages his claims, at base he challenges ICE’s decision to—and actions taken to—execute his removal order. *See Westley v. Harper*, No. 25-229, 2025 WL 592788, at *5 (E.D. La. Feb. 24, 2025).

Ceballos’s claims fall squarely within the INA’s jurisdiction-stripping provision at 8 U.S.C. §§ 1252(g). The Court, therefore, lacks subject-matter jurisdiction and must dismiss.

B. Constitutionally Lawful Detention

Even if the Court disagrees with the above, it must still deny the writ. Ceballos cannot make a claim for unlawfully prolonged detention.

1. Detention of Aliens Ordered Removed.

After a final removal order, an alien must be removed within ninety days—i.e., the removal period. 8 U.S.C. § 1231(a)(1); *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001). During the removal period, the alien must be detained. 8 U.S.C. § 1231(a)(2); *Zadvydas*, 533 U.S. at 683. An alien may be detained beyond that removal period, a period known as the “post-removal” period. 8 U.S.C. §§ 1231(a)(1)(C), (a)(6); *Zadvydas*, 533 U.S. at 683; *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021).

There is no statutory limit on how long ICE can detain an alien during the post-removal period. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022). Yet indefinite detention would present obvious constitutional concerns. *Id.* So the Supreme Court

has interpreted this post-removal period to allow extended detention for “a period reasonably necessary to bring about that alien’s removal from the United States.” *Zadvydas*, 533 U.S. at 689. In all, a reasonable length of detention “is presumptively six months.” *Guzman Chavez*, 594 U.S. at 529; *see also Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (stating six-month period is inclusive of any ninety-day removal period).

If the presumptively reasonable period expires without removal, then a burden-shifting framework comes into play regarding the significant likelihood of removal in the reasonably foreseeable future (“SLRRFF”). *Zadvydas*, 533 U.S. at 689. But before that six-month period expires, any habeas challenge to the detention itself is premature. *E.g.*, *Akinwale*, 287 F.3d at 1051-52; *Guo Xing Song v. U.S. Attorney General*, 516 F. App’x 894, 899 (11th Cir. 2013); *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009).⁷ At bottom, “This presumptively reasonable six month period must have expired at the time of the filing of a petition.” *E.g.*, *Jiang v. Mukasey*, No. 2:08-cv-773-FtM-29DNF, 2009 WL 260378, at *2 (M.D. Fla. Feb. 3, 2009) (Steele, J.); *Noel v. Glades Cnty. Sheriff*, No. 2:11-cv-698-FtM-29SPC, 2011 WL 6412425, at *2 (M.D. Fla. Dec. 21, 2011) (Steele, J.).

2. TPS

⁷ Some districts disagree. *Cesar v. Achim*, 542 F. Supp. 2d 897, 902 (E.D. Wis. 2008). Of course, *Akinwale* binds the Court. Even if it did not, *Cesar* and any progeny are incorrect. *Zadvydas* recognized the presumptive six-month period for the specific “sake of uniform administration in the federal courts.” *Zadvydas*, 533 U.S. at 701. That was not an invitation to make up exceptions to this ripeness doctrine—like *Cesar* did.

The Immigration Act of 1990 established a program for providing temporary shelter in the United States on a discretionary basis for aliens from designated countries experiencing ongoing armed conflict, environmental disaster, or “extraordinary and temporary conditions” that temporarily prevent those aliens’ safe return or, in the case of environmental disasters, temporarily render the country unable to handle adequately the return of its nationals. Pub. L. No. 101-649, 104 Stat. 4978. The statute authorizes the Secretary of Homeland Security, “after consultation with appropriate agencies of the Government,” to designate countries for TPS if she finds:

(C) . . . there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the [Secretary] finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

8 U.S.C. § 1254a(b)(1)(C). When the Secretary designates a country for TPS, eligible aliens who are granted TPS may not be removed from the United States and are authorized to work for the duration of the country’s TPS designation, so long as they remain in valid temporary protected status. 8 U.S.C. § 1254a(a), (c); *see Sanchez v. Mayorkas*, 593 U.S. 409, 412 (2021).

Venezuela was first designated for TPS in March 2021. 86 Fed. Reg. 13574 (Mar. 9, 2021). This designation was extended twice: on September 8, 2022 and October 3, 2023. *See* 87 Fed. Reg. 55024 (Sept. 8, 2022); 88 Fed. Reg. 68130 (Oct. 3, 2023). The 2023 extension also purported to re-designate Venezuela for TPS anew, opening up registration to Venezuelan nationals who up until that point would not have been otherwise eligible. 88 Fed. Reg. at 68130 (“initial applicants for TPS under

this designation must demonstrate that they have been continuously physically present in the United States since October 3, 2023, the effective date of this redesignation of Venezuela for TPS.”). The result of the 2023 Federal Registration was two separate designations: the 2021 designation (which was extended by way of the FRN) and the 2023 designation (which served as a redesignation under the FRN). *Id.*

On January 10, 2025, former DHS Secretary Alejandro Mayorkas issued a notice extending the 2023 Venezuela Designation for 18 months, allowing a consolidation of filing processes such that all eligible Venezuela TPS beneficiaries (whether under the 2021 or 2023 designations) could obtain TPS through October 2, 2026. 90 Fed. Reg. 5,961 (Jan. 17, 2025). The Executive Branch administration changed shortly thereafter with the inauguration of President Trump and Secretary Kristi Noem replaced former Secretary Mayorkas. Secretary Noem then purported to (1) vacate the January 2025 extension and consolidation and restore the status quo that existed prior to its publication, namely the two-track 2021 and 2023 designations; and (2) terminate the 2023 TPS designation for Venezuela. 90 Fed. Reg. 8,805 (Feb. 3, 2025); 90 Fed. Reg. 9,040 (Feb. 5, 2025). Litigation ensued.

At present, as reflected in USCIS’s TPS landing page—cited by Petitioner at ¶ 38—for 2023 designation recipients, “TPS beneficiaries who received TPS-related employment authorization documents (EADs), Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026, expiration dates on or before February 5, 2025 will maintain work authorization and their documentation will remain valid until October 2, 2026, pursuant to the U.S. District Court for the Northern District of

California's order dated May 30, 2025.”⁸ The 2021 designation was terminated effective November 7, 2025. *Id.*; *see also* 90 Fed. Reg. 43,225 (Sept. 8, 2025).

C. Ceballos's Detention is Lawful.

1. Because Ceballos Lacks TPS at Present, He is Amenable to Detention and Removal.

Ceballos was initially designated for TPS under the 2021 designation. Petition, ¶ 32. To the extent that he suggests ongoing eligibility for TPS under this designation, this fails because the 2021 TPS designation for Venezuela was terminated effective November 7, 2025. 90 Fed. Reg. at 43,225. Furthermore, the documentation demonstrates that his TPS expired on September 11, 2025. *See* ECF No. 1-2 at 4. Either way you cut it, his TPS under the 2021 designation has expired. To the extent that Ceballos asserts that he retains ongoing TPS through the 2023 designation, he fails to sufficiently demonstrate as such. While it may be accurate to conclude that a 2021 registrant who did not depart the United States would also fit within the eligibility criteria of a 2023 registrant, a 2021 TPS recipient does not automatically become a 2023 registrant. As the 2023 Mayorkas extension/re-designation states: “For individuals who have already been granted TPS under either of Venezuela's designations, the re-registration period runs from January 17, 2025, through September 10, 2025. USCIS will issue new EADs with an October 2, 2026 expiration date to eligible beneficiaries granted TPS under either of Venezuela's designations who timely re-register and apply for EADs.” 90 Fed. Reg. at 9,562. In other words, a 2021

⁸ *See* <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last accessed Mar. 30, 2026).

TPS recipient had to apply within a specified timeframe. Petitioner indeed did so. *See* ECF No. 1-2 at 14.

But the catch is that by the time Petitioner had applied—in April 2025—the 2025 Mayorkas TPS extension/re-designation for Venezuela had been terminated by subsequent action taken by former Secretary Noem. 90 Fed. Reg. at 9,040. Accordingly, as reflected twice over in *NTPSA I*, the first major district court case addressing TPS for Venezuelans under the current administration, only those TPS recipients who had filed applications to register between the date on which Secretary Mayorkas’s January 2023 extension/re-Designation was published (January 17, 2025) and the date the termination effected by Secretary Noem was published (February 5, 2025) received documentation indicating valid authorization until October 2, 2026. *See, Nat’l TPS All. v. Noem*, 798 F. Supp. 3d 1108, 1131 (N.D. Cal. 2025), *aff’d*, 166 F.4th 739 (9th Cir. 2026) (order granting partial summary judgment); *Nat’l TPS All. v. Noem*, No. 25-cv-1766-EMC (N. D. Cal. May 30, 2025), Dkt. 162 at 10 (granting relief to those TPS holders who received TPS documentation based on the 2023 Mayorkas extension/re-designation up to and including February 5, 2025). In further support, Respondents direct the Court to USCIS’s TPS Venezuela website—referenced by Petitioner at ¶ 38—which explains that “TPS beneficiaries who received TPS-related employment authorization documents (EADs), Forms I-797, Notices of Action, and Forms I-94 issued with October 2, 2026, expiration dates on or before February 5, 2025 will maintain work authorization and their documentation will remain valid until

October 2, 2026 . . . ” (emphasis in original).⁹

Though Petitioner has shown that he applied in April 2025, he was too late given the posture of TPS for Venezuela at that time. That is why he has presented nothing to demonstrate that he was issued an EAD with an October 2, 2026 expiration date—none was issued. And as both USCIS and the District Judge overseeing a key case concerning TPS for Venezuela have recognized, only those who properly applied between January 17, 2025 and February 5, 2025 fall within the population of folks that continue to have valid status and work authorization at this time. Ceballos has not met his burden in demonstrating that his detention is unlawful based on TPS when he has not demonstrated that his prior grant of TPS is active currently.¹⁰

2. Revocation of Petitioner’s OSUP Was Legally Sound.

Petitioner’s allegations of violation of OSUP and immigration regulations are mistaken and asks the Court to review decisions it plainly lacks jurisdiction over. In short, ICE exercised its discretion to revoke OSUP and complied with its obligations in doing so. Regulations—particularly 8 C.F.R. §§ 241.4 and 241.13—specify procedures for ICE to revoke OSUPs. ICE gave Ceballos notice and the reasons for his revocation along with a prompt informal interview to respond, satisfying either regulation.

ICE provided Ceballos with notice and an informal interview. *See* ECF No. 1-2

⁹ Available at <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last accessed Mar. 30, 2026).

¹⁰ Though not expressly argued, to the extent Petitioner may suggest that he was not provided with written notice of his loss of TPS, Respondents aver that the FRN terminating TPS for Venezuela provided sufficient notice of the automatic loss of such status consistent with 8 C.F.R. § 244.19.

at 8-10; *see also* Exhibit E. In exercising its discretion, ICE revoked the OSUP under either of two alternative grounds: 8 C.F.R. § 241.4(l) based on ICE's ability and means to execute his final order; or 8 C.F.R. § 241.13(i) based on changed circumstances, namely that there is a significant likelihood of removal in the reasonably foreseeable future. ECF No. 1-2 at pp. 8-10. ICE also provided an informal interview to allow Ceballos to respond, which he declined to provide a statement for. Exhibit E. The procedure described above is exactly what the relevant regulations require. 8 C.F.R. §§ 241.13(i); 241.4(l). Since ICE did not violate any regulations, habeas fails.

Section 241.13 “establishes special review procedures for those aliens who are subject to a final order of removal and are detained . . . where the alien has provided good reason to believe there is no significant likelihood of removal . . . in the reasonably foreseeable future.” *Id.* § 241.13(a). If ICE determines there is no SLRRFF at a given point in time, it can release him under an OSUP—which happened for Ceballos in 2011. *Id.* § 241.13(h); *see* ECF No. 1-2 at 8. But release on OSUP does not equate to legal status to remain in the United States forever. OSUPs must specifically “promote the ability of [ICE] to effect the alien’s removal as ordered, or removal to a third country, should circumstances change in the future.” 8 C.F.R. § 241.13(h)(1).

Nor is an OSUP the final word on SLRRFF. Notably, it may revoke “if, on account of changed circumstances, [ICE] determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). ICE must then provide an informal interview—allowing the alien to respond and submit any evidence regarding SLRRFF. *Id.* § 241.13(i)(3). If ICE

determines revocation and detention remain appropriate, an alien may seek another request for review based on any additional evidence. *Id.* § 241.13(j).

Likewise, the procedure required by § 241.4 does not change the outcome. That provision sets out procedures and “authority to continue an alien in custody or grant release or parole.” 8 C.F.R. § 241.4(a). Certain officials “may continue an alien in custody beyond the removal period . . . pursuant to the procedures described in this section.” *Id.*

For aliens released on OSUP, authorities have broad powers to revoke that supervision order. *Id.* § 241.4(l). Again, notice and interview procedures apply when ICE revokes release due to violations of OSUP conditions. *Id.* § 241.4(l)(1), (3). Yet one subsection—§ 241.4(l)(2)—does not include those notice, explanation, or interview requirements. *Id.* § 241.4(l)(2); *Tanha v. Warden, Balt. Detention Facility*, No. 1:25-cv-02121-JRR, 2025 WL 2062181, at *6 n.10 (D. Md. July 22, 2025). Regardless, of the notice procedure required, § 241.4(l) vests broad “discretion” if “in the opinion of the revoking official” ICE should “enforce a removal order” (among other options). 8 C.F.R. § 241.4(l)(2).

This “regulation permits the Government extraordinarily broad discretion to revoke an OSUP.” *Tran v. Baker*, No. 1:25-cv-01598-JRR, 2025 WL 2085020, at *4 (D. Md. July 24, 2025). In fact,

the regulation does not compel the Government to demonstrate what facts or factors, if any, it considered in deciding to revoke; nor does the regulation (or any other authority of which the court has been made aware) require the Government to demonstrate what, if any, steps it took to effect or secure removal prior to OSUP revocation.

Id.; see also *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *6 (S.D. Fla. Sept. 9, 2025) (noting differences between both subsections). Judge Steele and Judge Dudek have both recently recognized the deference afforded to ICE when it decides the time is appropriate to revoke an OSUP and enforce a removal order. See *Valdes-Santovenia v. Ripa*, No. 2:25-cv-01063-JES-DNF, 2025 WL 3771264, at *3 (M.D. Fla. Dec. 31, 2025) (Steele, J.); see also *Tran v. Warden, Florida Soft Side South*, No. 2:25-cv-1224-KCD-NPM (M.D. Fla. Mar. 10, 2026), Dkt. 16 at pp.19-20 (“To the extent this Court has any role in questioning that operational judgment, our posture must be highly deferential.”).

As described above, ICE revoked OSUP. This was based on its discretionary determinations under either § 241.4(l) or § 241.13(i) and Ceballos cannot establish a violation under either regulation, particularly where notice and an informal interview were provided the very day he was detained. And to the extent that Ceballos challenges revocation based on the signatory to the document—Petition, ¶ 36— “any other regulatory imperfections, such as delayed notice or minimal explanation, do not strip ICE of its statutory authority” or otherwise support a habeas claim for unlawful detention. *Morales Sanchez v. Bondi*, No. 5:25-cv-02530-AB-DTB, 2025 WL 3190816, at *3 (C.D. Cal. Oct. 3, 2025). Furthermore, Respondents aver that Ceballos was initially placed on OSUP in 2011 based on lack of SLRRFF to Venezuela, meaning that revocation of OSUP would properly fall under 8 C.F.R. § 241.13(i). The operative procedures for revocation under § 241.13(i) do not have the same limitations on

signature authority that § 241.4 has, rather indicates that OSUP can be revoked if circumstances change such that SLRRFF exists. 8 C.F.R. § 241.13(i)(2). *See Tran*, No. 2:25-cv-1224-KCD-NPM, Dkt. 16 at pp. 18-19. And ICE’s reference to both 8 C.F.R. §§ 241.4 and 241.13 are not fatal. *Tran*, No. 2:25-cv-1224-KCD-NPM, Dkt. 16 at pp. 24 (rejecting argument that use of the wrong regulatory label is irrelevant where the core rationale has not changed and the reasoning articulated is sound under the correct label).

Crucially, the actual decision to revoke is entirely discretionary and beyond the Court’s review—any judicial review is arguably limited to the process by which revocation occurred.¹¹ *Navarro v. Bondi*, No. 8:25-cv-3213-KKM-NHA, 2025 WL 3275944, at *2 (M.D. Fla. Nov. 25, 2025) (“In the present context, courts differentiate between the decision to revoke an OSUP and a failure to follow procedures in doing so.” (cleaned up)); *Cesay*, 781 F. Supp. 3d at 154. Put bluntly: courts “will not further scrutinize ICE’s discretionary decision” in that regard. *Oddo*, 2025 WL 1892445, at *8; *Yi Mei Zhen v. ICE*, No. 3:25-cv-01507-PAB, 2025 WL 2258586, at *10 (N.D. Ohio Aug. 7, 2025).

What’s more, even if the Court could get to the issue of SLRRFF, Ceballos cannot show its absence. It appears his argument is that ICE’s inability to remove years ago plus his mistaken belief that he has TPS means there is no SLRRFF. Petition, ¶ 38. Not so. Ceballos falls short on lack of SLRRFF because there is no impediment to

¹¹ Again, the revocation of an OSUP is clearly a “decision or action” to “execute removal orders” stripped from the Court’s jurisdiction. 8 U.S.C. § 1252(g).

his removal from the United States at this time as he does not retain TPS protection, as discussed in detail *supra*. See *Godinez Perez*, 2025 WL 2806557, at *3 (holding SLRRFF not established on conclusory allegations for alien who had withholding of removal to home country).

Even were further notice and an interview required, the proper relief would be ordering additional process, not outright release. See *Tran*, No. 2:25-cv-1224-KCD-NPM, Dkt. 16 at p. 25 (“The writ of habeas corpus is a profound remedy, not a penalty for bureaucratic typos.”); see also *Yi Mei*, 2025 WL 2258586, at *10 n.19 (noting “even if these procedures have not yet been completed, courts have found that such procedures may take place after the detention has occurred”). The remedy sought—release from custody—is “an overreach and not the appropriate cure.” *Tanha*, 2025 WL 2062181, at *6; see also *Tran*, 2025 WL 2085020, at *6-7 (holding errors in notice procedure “do not entitle [petitioner] to release from detention”). The proper remedy for these allegations would be—at most—ordering ICE to provide Ceballos with whatever addition process the Court deems appropriate. See, e.g., *I.V.I. v. Baker*, No. JKB-25-1572, 2025 WL 1811273, at *3 (D. Md. July 1, 2025) (“And while habeas is a proper vehicle to challenge detention that is without statutory authority or violative of the Constitution, it is not a proper vehicle for vindicating every procedural error the Government may have committed along the way.”).

True, some courts have ordered release when they believed ICE should have provided more robust notice and hearing. E.g., *Grigorian*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *8-10. Respectfully, many of these decisions appear driven by

policy disagreement with the current immigration enforcement environment rather than grounding in any cognizable law. To be clear, there is nothing in the INA or relevant regulatory scheme providing for full-blown evidentiary hearings when ICE revokes OSUP. The regulations mandate notice and—in some instances—and opportunity to be heard via an informal interview. 8 C.F.R. §§ 241.4(l)(1); 241.13(i)(3). And if that does not result in release, the alien can request a more thorough review. 8 C.F.R. §§ 241.4(l)(3); 241.13(j).

At this stage, ICE has provided the minimum notice and hearing required by regulation. To conclude otherwise would read more requirements into the regulations than exist, an act of policymaking and action inappropriate for a due process or *Accardi* challenge. *See, e.g., Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (“The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.” (cleaned up)).

3. Petitioner Has Not Been Detained Unreasonably.

Petitioner has only been in detention since February 27, 2026. There is no record of any prior period of detention post-final order. *See generally* Petition.¹² ICE is well under the 180-day period of detention considered presumptively reasonable. That is fatal to the Petition at this juncture. *Akinwale*, 287 F.3d at 1051-52. As discussed *supra* Petitioner’s contention that he cannot be detained for the purpose of removal based on TPS is based on the erroneous conclusion that TPS remains valid. And it

¹² Undersigned has also confirmed no prior post-order detention with ICE’s Office of the Principal Legal Advisor.

goes without saying an alien must be detained (or otherwise in custody) to effect removal unless the alien leaves voluntarily. Ceballos has not left voluntarily and ICE is now attempting to remove him. If the Court accepts his position, it is unclear how ICE would be able to remove him—which ICE is actively working toward. *But see Wong Wing v. United States*, 163 U.S. 228, 235 (1896) (“We think it clear that detention or temporary confinement, as part of the means necessary to give effect to the provisions for the exclusion or expulsion of aliens, would be valid. Proceedings to exclude or expel would be vain if those accused could not be held in custody . . . while arrangements were being made for their deportation.”).

Put simply, this case is unripe. The burden-shifting analysis into SLRRFF has not been triggered. *Guzman Chavez*, 594 U.S. at 529 (cleaned up); *see also Jennings*, 583 U.S. at 298-99; *Clark v. Martinez*, 543 U.S. 371, 378 (2005); *Jama v. ICE*, 543 U.S. 335, 347-48 (2005). Until the Supreme Court recognizes a *Zadvydas* challenge *during* that six-month period, the Court cannot create that cause of action where none exists in derogation of *Akinwale*. *See* 287 F.3d at 1052 (“This six-month period thus must have expired . . . in order to state a claim under *Zadvydas*.”).

To require detailed justification from ICE before the *Zadvydas* period expires is a significant infringement on separation-of-powers principles. Essentially every question related to immigration is “exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference.” *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952). This is not a recent development. *Trump*

v. Hawaii, 585 U.S. 667, 702 (2018) (“For more than a century, this Court has recognized that the admission and exclusion of foreign nationals is a fundamental sovereign attribute exercised by the Government’s political departments.” (cleaned up)). That power, however, is always “subject to important constitutional limitations.” *Zadvydas*, 533 U.S. at 695. “In these cases, we focus upon those limitations.” *Id.*

Other principles of judicial review come into play too. *Id.* at 700. Courts “recognize primary Executive Branch responsibility” in this field. *Id.* They must also “give expert agencies decisionmaking leeway in matters that invoke their expertise.” *Id.* Important here, that includes “Executive Branch primacy in foreign policy matters.” *Id.* These basic separation-of-powers principles “require courts to listen with care when the Government’s foreign policy judgments, including, for example, the status of repatriation negotiations, are at issue, and to grant the Government appropriate leeway when its judgments rest upon foreign policy expertise.” *Id.*

The Executive branch is attempting to remove Ceballos in line with what the law allows. Unless and until his detention raises a constitutional problem—i.e., after six months—the political branches (namely, the Executive) must be permitted to proceed without interference. Even if the Court were to get past the bright-line cutoff, there is no way for Ceballos to show absence of SLRRFF. *See Zadvydas*, 533 U.S. at 689. At this point, ICE is working toward removal in the reasonably foreseeable future and is attempting to obtain travel documents that would allow Petitioner’s repatriation to Venezuela. ECF No. 1-2 at 8, 9. And even should that prove unfruitful, ICE has

already expressed an alternative intention to pursue third-country removal.¹³ *Id.*

ICE may revoke an OSUP in its discretion based on its discretionary determinations—which are substantively unreviewable. ICE can continue to detain if an alien does if it continues to conclude that detention is necessary following an informal interview. That is exactly what happened here. Ceballos is free to contest SLRRFF with ICE again using the regulatory procedure and providing evidence in support of his position. Alternatively, if he is not removed within the 180-day presumptively reasonable timeframe under *Zadvydas* he can refile a habeas petition to challenge SLRRFF before the Court. Until then, this action is premature and there is nothing for the Court to review.

D. Ceballos Lacks Standing to Bring an APA Claim.

By the APA's terms, relief is available only for final agency action "for which there is no other adequate remedy in court." 5 U.S.C. § 704. Thus, Petitioner's APA claims are independently barred by this limitation in 5 U.S.C. § 704. In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, "necessarily imply the invalidity of their confinement" those claims "must be brought in habeas." 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, "given 5 U.S.C.

¹³ Ceballos asserts that he has not been provided with the opportunity to contest third country removal. Petition, ¶ 43. This argument puts the cart before the horse as ICE has made clear that it is pursuing removal to Venezuela at the onset. ECF No. 1-2 at 8, 9. Petitioner has made no specific claim that ICE has or will prohibit his ability to challenge third country removal—if circumstances dictate his need to do so in the future. Petitioner asks that this Court "preemptively referee a dispute that has not even played out at the agency level." *Tran*, No. 2:25-cv-1224-KCD-NPM, Dkt. 16 at p. 27.

§ 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.” *Id.* at 1007 (Kavanaugh, J. concurring).

Here, as in *J.G.G.*, habeas is an “adequate remedy” through which Petitioner can challenge his detention. Even if Petitioner’s APA claims had merit, which they do not, the result would be the same as that in habeas—release from detention. The Supreme Court’s holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234- 35 (1953)); *see also Tran v. Warden, Florida Soft Side South*, No. 2:25-cv-1224-KCD-NPM (M.D. Fla. Mar. 10, 2026), Dkt. 16 at pp. 16-17.

Conclusion

For the foregoing reasons the Court should deny the Petition. To the extent that the Court grants any relief, the only proper relief would be whatever notice and hearing requirement it believes proper—not outright release.

Date: January 23, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/ Amanda Saylor
Amanda Saylor
Assistant United States Attorney
Lead Counsel for Federal Respondents
Florida Bar No. 1031480
400 North Tampa Street, Suite 3200

Tampa, Florida 33602
Telephone: (813) 274-6020
Facsimile: (813) 274-6198
Email: Amanda.Saylor@usdoj.gov