

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MAURICIO CASTELLANOS-
GORRA,

Petitioner,

Case No. 2:26-cv-833-KCD-NPM

v.

WARDEN, et al. (all official capacity),

Respondents.

_____ /

Response to Habeas Petition

Petitioner Mauricio Castellanos-Gorra [Gorra] challenges the revocation of his Order of Supervision (“OSUP”) along with the resulting detention by U.S. Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”). Gorra alleges that the OSUP revocation was improper. The Federal Respondents disagree.

ICE properly exercised its discretion to revoke Gorra’s OSUP—a decision on which the Court is statutorily prohibited from reviewing. And detention during this period is reasonable. So, the Court should deny the Petition.

Background

Gorra is a citizen and national of Cuba who was initially paroled into the United States. Dkt. 1, ¶ 20; Ex. 1 (I-213). He received his LPR in 1986. *Id.* Gorra has numerous arrests and is a convicted sex offender (lewd and lascivious assault against

a person under 18, Assault on a Minor and DUI). *Id.* at ¶ 23; Ex. 1 at 2.

In 2002, Gorra was placed in removal proceedings. *Id.* at 24. On May 7, 2004, an IJ found him removable but deferred that removal. *Id.* at ¶ 25 (Illegible markings on the Order of Removal [OOR]). In 2006, ICE placed Gorra on an OSUP. *Id.*, at Ex. C. Another counsel filed a request to reopen the OOR, but it was denied, making the OOR a final order. *Id.*, at ¶¶ 28-9; Ex. 5, Case Information.

On October 25, 2025, ICE encountered and detained Gorra during a scheduled visit. *Id.*, at ¶ 30; Ex. 1. On November 8, 2025, Gorra was given a NOR, informing him of his removal to Mexico (Ex. 2, (NOR)) and a Warrant of Removal (Ex. 3)¹. Ice revoked Gorra's OSUP because the circumstances changed such that there is a significant likelihood of removal within the reasonably foreseeable future and he was given an opportunity for an informal interview, which he refused to do. Ex. 4 (Notice of Revocation of Release).

Petitioner claims he didn't violate the conditions of his release; However, under 8 CFR 241.13(i) the section relied upon to revoke Gorra's release, changed circumstances such that there is a SLRRFF is a basis to revoke the OSUP.

ICE revoked the OSUP to execute Gorra's removal order because circumstances changed and there is a significant likelihood of removal in the reasonably foreseeable future ("SLRRFF") and ICE offered an informal interview to contest the revocation and decision to detain, which he declined. Ex. 4.

¹ Ex. 1, at 4 (the I-213), states that on December 16, 2025, Ice gave Gorra notice of his removal to Mexico and that on December 18, 2025, he claimed to be in fear of removal to Mexico.

Gorra filed the Habeas Petition on March 21, 2026, alleging violation of Due Process and the *Accardi* Doctrine. Gorra is detained at Alligator Alcatraz. Today, he has been in ICE custody for approximately 166 days (not including time during previous detention). Ex. 6 and 7 (Detention History). This challenge follows.

Certified Habeas Return

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

Gorra has a final removal order. At this point, Gorra is removable from the United States. The Attorney General (through her delegates) has a statutory obligation to execute that removal. 8 U.S.C. § 1231(a)(5).

ICE is detaining Gorra under 8 U.S.C. § 1231(a)(6) pending his removal. ICE is working towards executing removal.

The period of Gorra’s detention is still well within the presumptively reasonable limits established in *Zadvydas*. Even if he were able to challenge detention before then, Gorra cannot show that there is no SLRRFF.

Discussion

Gorra challenges his detention under various theories. 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 did ICE violate any law in

proceeding with removal.

A. Substantive Due Process

Gorra claims his detention violates his substantive due process rights because there is no significant likelihood of removal in the reasonably foreseeable future.

In *Zadvydas v. Davis*, the Supreme Court held, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” 533 U.S. 683, 700-01 (2001). If removal is not practically attainable, detention no longer serves its statutory purpose of “assuring the alien's presence at the moment of removal.” *Id.* at 699. The Court found it unlikely Congress “believed that all reasonably foreseeably removals could be accomplished in [90 days].” *Id.* at 701. So, “for the sake of uniform administration in the federal courts,” it established a “presumptively reasonable period of detention” of six months—the 90-day removal period plus an additional 90 days. *Id.* Courts use a burden-shifting framework to judge the constitutionality of additional post-removal detention:

After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut the showing.

Id.

Ice has detained Gorra for 166 days, two weeks shy of the end of the presumptively reasonable 180 days. Gorra’s petition is premature because his current detention has not exceeded 180 days. As the Eleventh Circuit recognized, “[t]he Supreme Court's stated rationale for establishing a presumptively reasonable

‘6-month period’ for detention pending removal supports our conclusion that this period commences at the beginning of the removal period.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 n.3 (11th Cir. 2002).

Because the six-month period for presumptively reasonable detention has not expired, and there is a pending removal of Gorra to Mexico, *Zadvydas*’s burden-shifting framework does not apply. Gorra does not meet his burden. His primary reason he argues the government cannot remove him is his DCAT, but as explained below, Gorra misapplies that argument. The Court should find no good reason to believe ICE cannot remove Gorra in the reasonably foreseeable future, so his detention does not violate his substantive due process rights. In fact, the court is getting inundated with Habeas petitions where ICE has attempted to deport petitioner to Mexico, but the refuse to go.

B. Procedural Due Process and Accardi

Gorra’s remaining claims challenge three aspects of the procedure ICE used to revoke his release and re-detain him. First, he alleges ICE detained him without providing notice and an opportunity to be heard. But the evidence shows ICE served him with a written notice of revocation of release on April 8, 2026. It indicates ICE revoked his release under 8 C.F.R. § 241.13(i) because ICE determined there is now a significant likelihood of removal in the reasonably foreseeable future. Gorra was also provided with documentation that ICE planned to deport him to Mexico. Thus, ICE provided Gorra with adequate notice of the reason for his detention. The regulations required ICE to give Gorra a chance to respond in an informal interview.

The interview was held on April 8, 2026, so Gorra had an opportunity to be heard. ICE provided Gorra with the basic elements of procedural due process.

And second, Gorra claims ICE did not make the findings required by the laws and regulations governing revocation. § 241.13(i) allows ICE to revoke release “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.” Manuel Arias purportedly made that determination.

Also, ICE's regulations strike the constitutional Due Process balance by guaranteeing written notice and an informal interview that allows the individual to respond, which Gora had an opportunity. *See* 8 C.F.R. § 241.13(i).

Also, Gorra cannot show no SLRRFF exists. *See Zadvydas*, 533 U.S. at 689. At this point, ICE is working toward removal “the reasonably foreseeable future.” *See id.* It recently took Gorra into detention and claims that there is SLRRFF. There are no allegations—much less evidentiary support—to rebut ICE’s SLRRFF determination.

The respondents request the Court find that ICE satisfied the procedural requirements of the Fifth Amendment and the applicable regulations

C. No removal to Cuba

Gorra harps on the fact that he cannot be deported “to Cuba” because of his DCAT. That is correct. However, Gorra fails to address that he can be deported to another third world county, like Mexico.

Gorra filed an application for withholding of removal under Article 3 of the Convention Against Torture (“CAT”), alleging that he would be subject to torture if

he were deported to Cuba. Dkt. 1, Ex. B.

On May 7, 2004, an immigration judge issued an order finding that Gorra's asylum application was untimely and he is removable. *Id.* The immigration judge denied Gorra's application for withholding of removal. *Id.* The Order of Removal did not identify any third country to which Gorra could be removed. *Id.*

Gorra also argues that because he has a CAT, he cannot be removed from the United States. That argument flies in the face of established Supreme Court precedence. *Nasrallah v. Barr*, 590 U.S. 573, 582 (2020) (noting that a "CAT order does not disturb the final order of removal" and that an alien granted such relief may still be removed to another country where he is not likely to be tortured. (citing 8 C.F.R. §§ 1208.17(b)(2), 1208.16(f)).

Thus, although Gorra might not be deportable to Cuba, he is deportable to another country, to wit: Mexico.

D. Accardi Doctrine.

The *Accardi* doctrine—resulting from *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 74 S.Ct. 499, 98 L.Ed. 681 (1954)—"stands for the unremarkable proposition that an agency must abide by its own regulations." *Chevron Oil Co. v. Andrus*, 588 F.2d 1383, 1386 (5th Cir. 1979). "It goes without saying that ICE, like all government agencies, must follow its own regulations." *Roble v. Bondi*, 803 F. Supp. 3d 766, 774 (D. Minn. 2025). "[A]gency deviation from its own regulations and procedures may justify judicial relief in a case otherwise properly before the court."

Jean v. Nelson, 727 F.2d 957, 976 (11th Cir. 1984).

ICE followed all its own regulations.

E. Complying with OSUP Regulations

Gorra's challenge to alleged violations 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 Gorra's OSUP and complied with its obligations in doing so.

Regulations—particularly 8 C.F.R. § 241.13—specify procedures for ICE to revoke OSUPs. ICE gave Gorra notice and the reasons for his revocation—that satisfies the regulation.

ICE provided Gorra notice of revocation. In exercising its discretion, ICE revoked the OSUP due to changed circumstances because it determined it is appropriate to enforce the removal order, and it has the means to do so. An informal interview occurred for Gorra to have an opportunity to contest the revocation and detention.

The procedure described above is exactly what the relevant regulation requires. 8 C.F.R. §§ 241.13(i). 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, Gorra can be released under an OSUP—which happened for Gorra. *Id.* § 241.13(h).

These 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.” *Id.*

The facts here track *Tran*. In *Tran*, petitioner was released on OSUP because his removal to Vietnam was not reasonably foreseeable. 2026 WL 672969, at *1. Petitioner invoked regulatory compliance to challenge redetention after two decades. The Court disagreed—holding this fact pattern implicated § 241.13. *Id.* at *7. That’s notable because “unlike its counterpart, § 241.13 contains no rigid signature requirement limiting revocation authority to field office directors or other specific high-ranking officials. It simply says the agency can revoke an order of supervision if changed circumstances mean removal is now significantly likely.” *Id.* at *7.

Here, the situation is similar. Gorra was released on OSUP in 2006. There was no SLRRFF then. Simply put, the requirements of § 241.13 apply.

Nor is an OSUP the final word on SLRRFF. ICE can revoke them. *Id.* § 241.13(i). 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.” *Id.* § 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).

ICE has easily satisfied this standard. “[T]he regulations do not demand a full-

blown evidentiary trial or a judicial-style opinion before ICE can yank an alien back from release. Section 241.13(i) leaves the determination of whether ‘circumstances have changed’ squarely in the agency’s hands.” *Tran*, 2026 WL 672969, at *8. Where ICE “pivoted to an entirely new strategy” by finding a new removal country, “[t]hat geographical shift matters” because “[t]he specific diplomatic roadblocks, repatriation dead-ends, and missing paperwork that thwarted his return to [the home country] simply do not apply to this new destination”—“charting a new course to a new country is the very definition of a changed circumstance.” *Id.* This holding aligns with ICE’s charting of a new course of seeking removal now.

As described above, ICE revoked the OSUP. Because ICE provided Gorra notice required by either § 241.4(l) or § 241.13(i), he cannot establish a violation. In short, “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); *see also Tran*, 2026 WL 672969 at *8 (“When the Government pursues a completely different diplomatic route, it stands to reason that the old obstacles are left behind. For the agency’s purposes under the regulations, charting a new course to a new country is the very definition of a changed circumstance.”).

Crucially, the actual decision to revoke is entirely discretionary and beyond the

Court’s review—it can only maybe review the process by which revocation occurred.² *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)); *Ceesay*, 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).

Even if some further notice and an interview were required or there was some procedural hiccup, the proper relief would be ordering that to occur. *See 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”). Indeed, the Court just recognized this outcome:

Second, even if a procedural defect occurred—if, for example, the “informal interview” required by § 241.13(i)(3) was delayed—it does not follow that the outcome is immediate release. The remedy for a procedural violation is generally a new proceeding that cures the defect, not a windfall of liberty that effectively decides the merits of the case.

Banjoko v. Rambosk, No. 2:26-cv-58-KCD-DNF, 2026 WL 145467, at *2 (M.D. Fla. Jan. 20, 2026). The remedies sought of release from custody are “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”). At most, the proper remedy for these allegations would be

² 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)

ordering ICE to provide notice and an informal interview before removal. *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.”).

At this stage, ICE has already provided minimum notice and hearing required by regulation. An informal interview occurred. But even if it were delayed or otherwise deficient, that would not warrant release. The remedy would be whatever curative process the Court deems appropriate.

In short, ICE did not violate the OSUP or regulations raised in the Petition. Nor have any due process violations occurred.

Conclusion

For those reasons, the Court should deny the Petition.

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Respectfully submitted,

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