

1 ADAM GORDON
United States Attorney
2 ERIN M. DIMBLEBY
Assistant U.S. Attorney
3 California Bar No. 323359
Office of the U.S. Attorney
4 880 Front Street, Room 6293
San Diego, CA 92101-8893
5 Telephone: (619) 546-6987
Email: Erin.Dimbleby@usdoj.gov

6 Attorneys for Respondents
7
8

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

11
12 KUY SY,

13 Petitioner,

14 v.

15 MARKWAYNE MULLIN; et al.,

16 Respondents.
17

Case No.: 26-cv-2538-TWR-SBC

RESPONSE TO PETITION

18
19
20 Petitioner has filed a habeas petition under 28 U.S.C. § 2241. On April 22, 2026, the
21 Court issued an ordered directing Respondents to show cause why Petitioner should not be
22 released from custody on that basis that Petitioner allegedly “was not provided sufficient
23 notice or an opportunity to be heard—as required by 8 C.F.R. §§ 241.13(i)(3) and
24 241.4(l)—prior to his re-detention on March 31, 2026.” ECF No. 2. As Petitioner was
25 provided sufficient notice and an opportunity to heard, Respondents respectfully oppose
26 release on that basis.

27 A noncitizen who is not removed within the removal period may be released from
28

1 ICE custody “pending removal . . . subject to supervision under regulations prescribed by
2 the Attorney General.” 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3); *see also* 8 U.S.C.
3 § 1231(a)(6). An order of supervision may be issued under 8 C.F.R. § 241.4, and the order
4 may be revoked under 8 C.F.R. § 241.4(l)(1) and a noncitizen will be “returned to custody”
5 when the conditions of release are violated. *See also* 8 C.F.R. § 241.5 (conditions of release
6 after removal period). The regulations further provide:

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

10 8 C.F.R. § 214.4(l) (emphasis added).

11 Here, ICE provided Petitioner with a Notice of Revocation of Release on March 17,
12 2026. Exhibit 1. The Notice of Revocation of Release informed Petitioner of the violations
13 justifying his re-detention:

14 *ICE has determined that you have violated conditions of your release that were listed*
15 *in the Order of Supervision you were issued at the time of your release from ICE*
16 *custody, e.g., you have violated the conditions of your release as follows: You failed*
17 *to report as directed and you have not reported to ICE since July 10, 2020. You*
failed to provide any notice to changes in residence.

18 Exhibit 1. ICE also provided Petitioner with an opportunity for an informal interview
19 March 17, 2026. Exhibit 2. After being provided written notice and an informal interview,
20 Petitioner was released as a potential *Chhoeun* class member and was instructed to report
21 for re-detention on March 31, 2026,¹ where he was then re-detained. Accordingly,
22 Respondents respectfully oppose release based on the grounds noted in the Court’s order.

23 DATED: April 27, 2026

ADAM GORDON
United States Attorney

25 *s/ Erin Dimbleby*
ERIN DIMBLEBY
Assistant United States Attorney

27 _____
28 ¹ ICE has since clarified that Petitioner is not a *Chhoeun* class member.