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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

ERNESTO REYNA,

Petitioner,

v.

WARDEN, NORTH FLORIDA DETENTION CENTER, et al.,

Respondents.

Case No. 3:26-cv-1174-JEP-PDB

PETITIONER'S PRO SE REPLY TO RESPONDENTS' RESPONSE

Petitioner Ernesto Reyna respectfully submits this Reply to Respondents' Response in opposition to the Petition for Writ of Habeas Corpus. This case is squarely controlled by two recent decisions from this Court, and the government's own exhibits confirm the violations Petitioner alleges. In *Benet Doval v. U.S. Immigration and Customs Enforcement*, Case No. 3:26-cv-247-JEP-SJH (M.D. Fla. Apr. 29, 2026), this Court held that ICE's failure to provide a prompt informal interview following re-detention violated 8 C.F.R. § 241.13(i)(3) and required immediate release of a Cuban national detained for

proposed third-country removal to Mexico. In *Lanvin-Valdez v. U.S. Immigration and Customs Enforcement*, Case No. 3:26-cv-180-JEP-SJH (M.D. Fla. Apr. 14, 2026), this Court held that ICE's reliance on generic descriptions of the third-country removal process to Mexico—without any specific timeline, confirmed acceptance, or travel documents—fails to establish a significant likelihood of removal in the reasonably foreseeable future.

Both grounds independently require relief here. Moreover, a careful review of the government's own exhibits reveals additional, serious defects that were not present in either *Benet Doval* or *Lanvin-Valdez*: (1) the Notice of Revocation is a blank template form that does not specify what condition Petitioner allegedly violated; (2) the revocation was signed seventeen days before Petitioner was taken into ICE custody, meaning the decision to re-detain was predetermined and no individualized assessment was possible; and (3) the Notice of Revocation invoked only a condition-of-release violation, yet Respondents now defend detention before this Court on the entirely different ground that removal to Mexico is foreseeable—a rationale ICE never cited in the revocation notice itself.

**1. THE GOVERNMENT'S OWN EXHIBITS CONFIRM THAT ICE VIOLATED
8 C.F.R. § 241.13(i)(3)**

A. The Notice of Revocation Is a Blank Template That Specifies No Violation.

When ICE re-detains a person previously released on supervision, its own regulations require that it notify the alien of "the reasons for revocation of his or her release." 8 C.F.R. § 241.13(i)(3). The purpose of this requirement is to ensure the detainee has meaningful notice of the specific grounds for revocation before the informal interview, so that he may "submit any evidence or information" to contest those grounds. *Id.*

The Notice of Revocation attached as Exhibit A to Respondents' Response speaks for itself. The checkbox selected states that Petitioner's OSUP was revoked because "you violated the condition of your release. Specifically, you [insert information about how condition of release violated]." Ex. A at 9 (emphasis added). The bracketed placeholder language was never filled in. ICE served Petitioner a boilerplate form that literally does not identify what condition he allegedly violated. A revocation notice that omits the very information it is designed to convey provides no meaningful notice at all and cannot satisfy the regulatory requirement. See *Grigorian v. Bondi*, No. 25-CV-22914-RAR, 2025 WL 2604573, at *10 (S.D. Fla. Sept. 9, 2025) (failure to provide notice and opportunity to respond violates § 241.13(i)(3)).

B. The Revocation Was Signed Seventeen Days Before Re-Detention, Confirming a Predetermined Decision.

The Notice of Revocation is signed and dated March 24, 2026. Ex. A at 10. Petitioner was not taken into ICE custody until April 10, 2026. Ex. B (detention history confirming

book-in date of April 10, 2026). ICE thus signed the revocation decision seventeen days before it took Petitioner into custody.

This sequence is fatal to Respondents' position. The regulation requires an individualized determination at the time of revocation that "changed circumstances" have created a "significant likelihood" of removal. 8 C.F.R. § 241.13(i)(2). It then requires a prompt informal interview after re-detention so the alien may respond. *Id.* § 241.13(i)(3). When the revocation decision is signed seventeen days before custody even begins, it demonstrates that no individualized assessment was made at the time of re-detention—the decision had already been finalized. The subsequent interview on May 21, 2026 was therefore not a meaningful opportunity to contest a pending decision; it was a post-hoc formality conducted after a predetermined outcome. See *Kong v. United States*, 62 F.4th 608, 619 (1st Cir. 2023) (re-detention under § 241.13(i)(2) requires "an individualized determination").

C. The Forty-One-Day Delay Before Any Interview Independently Violated the Regulation.

Even setting aside the defective notice and predetermined decision, the timing of the interview independently violated the regulation. ICE re-detained Petitioner on April 10, 2026, and did not conduct an informal interview until May 21, 2026—forty-one days later. This Court has already determined that an eighty-day delay under materially identical circumstances violated 8 C.F.R. § 241.13(i)(3) and required immediate release.

Benet Doval, slip op. at 5–7. The Court in Benet Doval further found that providing notice of the interview on the very same day as the interview independently violated the regulation by eliminating any practical opportunity to gather evidence. *Id.* Both defects are present here.

Every court to have addressed this question has found delays far shorter than forty-one days to be non-compliant. See *M.S.L. v. Bostock*, No. 6:25-CV-01204-AA, 2025 WL 2430267, at *11 (D. Or. Aug. 21, 2025) (27 days not prompt); *Bui v. Warden of the Otay Mesa Det. Facility*, No. 25-CV-2111, 2025 WL 2988356, at *4 (S.D. Cal. Oct. 23, 2025) (four months not prompt); *Pham v. Warden*, No. 1:25-CV-1873, 2026 WL 673404, at *13 (E.D. Cal. Mar. 10, 2026) ("[a]n interview weeks or months after revocation of release is not a prompt initial informal interview"). There is no authority holding that forty-one days satisfies the regulation's promptness requirement.

D. The Interview Record Confirms No Individualized Assessment Was Made.

The Alien Informal Interview form (Ex. A at 3) confirms that at the May 21 interview, Petitioner provided a written statement presenting substantial evidence in support of release: he had been on supervision since 2010 without missing a single appointment, and suffers from serious medical conditions including heart disease, bipolar disorder, chronic back problems, and a history of lung cancer. The form reflects that he requested restoration of his OSUP for medical reasons.

The form contains no written ICE response, no findings, no analysis of Petitioner's evidence, and no individualized determination that his medical circumstances or compliance history were considered. This stands in stark contrast to the I-213 Record of Deportable Alien (Ex. A at 35), in which the arresting officer noted that Petitioner "states he is in good health, and he is not currently taking any medication"—a characterization that directly conflicts with Petitioner's documented medical conditions. Either ICE failed to record his conditions at intake, or it disputes that they exist. Either way, the record confirms that ICE never conducted the individualized review the regulation demands. See *Kong*, 62 F.4th at 619.

2. ICE RELIED ON CONFLICTING AND SHIFTING RATIONALES, CONFIRMING THE ABSENCE OF A LAWFUL REVOCATION

The Notice of Revocation checked two boxes: one under 8 C.F.R. § 241.4(l) for violation of a release condition, and one under 8 C.F.R. § 241.13(i) also for violation of a release condition. Ex. A at 9–10. Critically, the § 241.13(i) box for "Circumstances have changed such that there is a significant likelihood of removal in the reasonably foreseeable future" was not checked. *Id.* ICE never invoked changed circumstances or foreseeability of removal as a basis for revocation in the notice it served on Petitioner.

Yet before this Court, Respondents now defend Petitioner's continued detention on the ground that removal to Mexico is allegedly foreseeable. This is a materially different rationale that was not stated in the revocation notice and was not presented to Petitioner

at his interview. An agency that invokes one justification for administrative action cannot defend that action in court on an entirely different ground. *SEC v. Chenery Corp.*, 332 U.S. 194, 196 (1947); see also *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000) (executive agencies must respect their own procedural rules and regulations).

The Notice of Removal to Mexico was not served on Petitioner until May 8, 2026—twenty-eight days after re-detention and thirteen days before the interview. Ex. A at 2. If foreseeability of Mexico removal was the true basis for revocation, ICE cannot explain why it signed the revocation seventeen days before re-detention, failed to check the changed-circumstances box on the revocation form, and did not notify Petitioner of the Mexico removal until nearly a month after taking him into custody. The shifting rationale is not a harmless technicality; it is evidence that ICE never made the required individualized finding under § 241.13(i)(2). See *Kong*, 62 F.4th at 619.

3. FILING A FEDERAL HABEAS PETITION DOES NOT CURE ICE'S PRIOR REGULATORY VIOLATIONS

Respondents contend that any procedural defect was cured because Petitioner filed this habeas petition and has had an opportunity to present arguments in federal court. This Court rejected the identical argument in *Benet Doval*. Slip op. at 6–7. The regulation's purpose is prospective and pre-deprivation: the prompt informal interview is designed to occur before prolonged detention continues, so ICE can make an informed decision with the benefit of the detainee's input. A federal habeas proceeding initiated weeks after

unlawful re-detention cannot retroactively supply the pre-deprivation process the regulation demands. See *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

Accepting Respondents' argument would render 8 C.F.R. § 241.13(i)(3) a nullity: ICE could ignore the prompt-interview requirement in every case, confident that any detainee who manages to file a habeas petition will be deemed to have received the required process through federal litigation. That result is foreclosed by binding Eleventh Circuit precedent. *Gonzalez*, 212 F.3d at 1349. The defects here are moreover more severe than in *Benet Doval*—the revocation notice here was entirely blank as to the alleged violation, and the revocation decision was finalized before Petitioner was even taken into custody.

4. RESPONDENTS FAIL TO ESTABLISH A SIGNIFICANT LIKELIHOOD OF REMOVAL IN THE REASONABLY FORESEEABLE FUTURE

Petitioner was ordered removed to Cuba in December 2010. ICE released him on supervision in April 2011 precisely because Cuba's removal was not feasible. He remained on supervision for over fourteen years without incident. Respondents offer no explanation for what materially changed to make removal—now to a third country, Mexico—significantly likely after more than a decade of inaction.

Respondents' evidence of foreseeability consists entirely of a generic description of ICE's standard process for third-country removals to Mexico: field offices process third-country removals, Mexico's Instituto Nacional de Migración (INM) must provide "final

acceptance," and removals occur from once to several times per week. This is precisely the type of general process description this Court found insufficient in *Lanvin-Valdez*: "[T]hat declaration merely describes the general process for third-country removals to Mexico—there is no specific timeline provided for Petitioner's alleged 'imminent' removal. Nor is there any indication about whether Mexico will provide 'final acceptance' of Petitioner." *Lanvin-Valdez*, slip op. at 10.

The government's own exhibits confirm the absence of any individualized removal steps. As of the date of filing, Respondents have produced: no evidence that Mexico has accepted Petitioner or agreed to his transfer; no travel documents; no scheduled removal date; and no record of any concrete step toward Petitioner's individual removal. The Notice of Removal to Mexico (Ex. A at 2) was served May 8, 2026—but a notice of intent is not evidence of actual removal. The government bears the burden of rebutting the presumption that removal is not significantly likely once six months have elapsed. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002). Generic process descriptions, unaccompanied by individualized evidence of accepted travel documents, confirmed dates, or Mexico's acceptance of this specific petitioner, do not satisfy that burden. *Lanvin-Valdez*, slip op. at 9–10.

**5. THE ZADVYDAS CLAIM SHOULD BE DISMISSED WITHOUT PREJUDICE
TO THE EXTENT IT IS PREMATURE**

Respondents contend that Petitioner's Zadvydas claim is not yet ripe because he has been detained for less than six months since April 10, 2026. Petitioner acknowledges this argument and does not oppose dismissal without prejudice on the Zadvydas claim, consistent with this Court's approach in *Benet Doval*. See *Benet Doval*, slip op. at 4.

The Court need not reach the Zadvydas claim to grant full relief. ICE's independent regulatory violations under 8 C.F.R. § 241.13(i)(3)—the predetermined revocation decision, the blank notice, the forty-one-day delay, the same-day interview, and the absence of individualized findings—each independently render Petitioner's continued detention unlawful regardless of the duration of detention. *Benet Doval*, slip op. at 7–8. Should the Court decline to grant relief on the regulatory grounds, Petitioner respectfully requests the opportunity to renew his Zadvydas claim upon expiration of the six-month period.

6. THE APPROPRIATE REMEDY INCLUDES RESTORATION TO THE PRIOR ORDER OF SUPERVISION

When a court finds that re-detention violated ICE's own regulations, the proper remedy is release—not a do-over of the flawed administrative process. *Benet Doval*, slip op. at 8–9; *Grigorian*, 2025 WL 2604573, at *10–11. Petitioner does not seek unconditional release. He requests restoration to the Order of Supervision (OSUP) issued on April 19, 2011, which governed his conduct for over fourteen years.

Restoration to the prior OSUP is the appropriate remedy for three reasons. First, Petitioner complied fully with every term of his OSUP for more than fourteen years without missing a single appointment or violating any condition. The government's own revocation notice—to the extent it contains any operative text at all—does not identify any specific violation he committed. Second, the prior OSUP already contains appropriate supervision conditions tailored to Petitioner's circumstances, including reporting requirements. There is no basis in the record to impose stricter conditions now. Third, Petitioner suffers from serious medical conditions including heart disease, bipolar disorder, chronic back problems, and a history of lung cancer that require ongoing care he cannot receive in detention. Release to supervision serves the government's legitimate interest in monitoring Petitioner while ensuring he receives necessary medical treatment.

If the Court determines that the prior OSUP cannot be automatically restored, Petitioner alternatively requests release within 24 hours subject to reasonable conditions of supervision consistent with 8 U.S.C. § 1231(a)(3), with the Court retaining jurisdiction to enforce compliance and to address any future Zadvydas claim should ICE continue to fail to effectuate removal.

CONCLUSION

The government's own exhibits confirm what the petition alleges. ICE signed a predetermined revocation decision seventeen days before taking Petitioner into custody. It served him a blank template form that failed to identify any specific violation. It waited

forty-one days to conduct an interview, gave him no advance notice to prepare evidence, conducted the interview and served the notice on the same day, made no written findings in response to his documented medical conditions and fourteen years of compliance, and now defends detention in federal court on a foreseeability rationale it never cited in the revocation notice. This is not a close case. It presents more serious procedural violations than this Court found dispositive in Benet Doval, combined with the same failure of foreseeability evidence this Court found dispositive in Lanvin-Valdez.

For the foregoing reasons, Petitioner respectfully requests that this Court grant the relief set forth below.

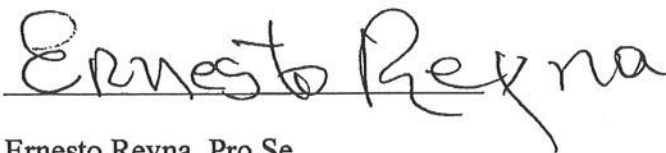
PRAYER FOR RELIEF

WHEREFORE, Petitioner Ernesto Reyna respectfully prays that this Court:

1. GRANT the Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241;
2. DECLARE that Petitioner's re-detention and continued detention violates 8 C.F.R. § 241.13(i)(3) and the regulations of the U.S. Department of Homeland Security;

3. ORDER Respondents to release Petitioner within 24 hours of the Court's Order, and to provide Petitioner access to a telephone to arrange transportation from the detention facility;
4. ORDER that Petitioner be restored to his preexisting Order of Supervision dated April 19, 2011, under the same terms and conditions previously in effect, including all reporting requirements;
5. RETAIN jurisdiction over this matter to enforce compliance with the Court's Order and to address any future claims arising from Respondents' continued failure to effectuate removal; and
6. GRANT such other and further relief as this Court deems just and proper.

Respectfully submitted,

A handwritten signature in black ink that reads "Ernesto Reyna". The signature is written in a cursive, flowing style with a horizontal line underneath the name.

Ernesto Reyna, Pro Se

Baker Correctional Institute

20706 U.S. Highway 90 W

Sanderson, FL 32087

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 06-03-2026, 2026, a true and correct copy of the foregoing Reply was sent by U.S. Mail to:

Middle District of Florida-Jacksonville Division

300 North Hogan St

Jacksonville, FL 32202

Ernesto Reyna

Ernesto Reyna, Pro Se