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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**M-S-L, an adult,**

Case No. 6:25-cv-01204-AA

Petitioner,

**REPLY IN SUPPORT OF MOTION  
TO DISMISS**

v.

**DREW BOSTOCK; TODD LYONS; U.S.  
IMMIGRATION AND CUSTOMS  
ENFORCEMENT; KRISTI NOEM; U.S.  
DEPARTMENT OF HOMELAND  
SECURITY; PAMELA BONDI,**

Respondents.

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Petitioner's habeas petition should be denied as this Court does not have jurisdiction over this matter because Petitioner was detained due to violation of the Orders of Supervision after having previously been removed under a final order of removal.

I. Petitioner Inappropriately Relies Upon 8 U.S.C. § 1231(a)(6)<sup>1</sup>.

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<sup>1</sup> Respondent's brief incorrectly cites 8 U.S.C. § 1231(a)(6) on the last page of the Motion to Dismiss, rather than 8 U.S.C. § 1231(a)(5), as was appropriately cited throughout the Motion.

Respondent is proceeding to execute the final order of removal previously entered against Petitioner under 8 U.S.C. § 1231(a)(5). This section addresses the reinstatement of removal orders against aliens illegally reentering the United States. As it states, “the prior order of removal is reinstated from its original date and is not subject to being reopened or reviewed...” *Id.* Unlike Section 1231(a)(6), there is no individualized determination made regarding Petitioner’s risk to the community; and whether Petitioner is “likely to comply with the order of removal.” 8 U.S.C. 1231(a)(6). The prior order of removal is reinstated and is not subject to review and the alien shall be removed under the prior order at any time after the reentry. *Id.*

Further, Respondent’s decision to detain Petitioner was not arbitrary, capricious, an abuse of discretion or otherwise contrary to law. 5 U.S.C. § 706(2)(A). Petitioner failed to appear for a check-in with Respondent on July 9, 2025, in Stockton, California ICE office as required. Instead, Petitioner appeared at an ICE office in Eugene, Oregon. As indicated in the Order of Supervision, Petitioner was not to travel outside of California for more than 48 hours without first having notified “*this agency office ... and obtaining approval from this agency office of such proposed travel.*” ECF 14-3.

Upon learning that Petitioner was now residing in Oregon, and investigation was conducted, which revealed that Petitioner did not provide notice of the move, nor was approval given for the relocation. [Will supplement with Declaration from the U.S. Department of Homeland Security upon receipt.]

Respondent cannot dispute that the Notice of Revocation was provided to Petitioner two days after the detention. Respondent further agrees that the form utilized inappropriately referenced the wrong Code. This clerical error was corrected, and a revised Notice of Revocation is being served upon Petitioner. Although the form did not fully explain the reasons for the

revocation, it clearly states it was based upon the review of [petitioner's] case and the existing order of removal. The amended Notice of Revocation will properly reference 8 C.F.R. 241.4, rather than 8 C.F.R. 241.13, and will explicitly state that the determination to revoke Petitioner's release was made pursuant to 8 C.F.R. 241(l)(2)(ii). Review of the revocation is set forth in 8 C.F.R. 241.4(l)(3). [Will supplement with Declaration.]

When Petitioner arrived at the Eugene, Oregon office, rather than the Stockton, California office, she was undisputably in violation of the Order of Supervision and detention of Petitioner was appropriate. 8 U.S.C. 1231(a)(5); 8 C.F.R. 241.4(l)(2)(ii).

II. Petitioner Cannot Rely Upon Ineffective Assistance of Counsel to Excuse Failure to Comply with Order of Supervision.

Even if we are to presume the  mentioned in Petitioner's Declaration [ECF 17-2], Petitioner's claim must fail as it does not comply with *Matter of Lozada* and provide (1) an affidavit setting forth the agreement with counsel; (2) notification to counsel and afford them an opportunity to respond; and (3) indicate that Petitioner filed a disciplinary complaint. 19 I. & N. Dec. 637, 639 (B.I.A. 1988).

More importantly, Petitioner was clearly aware of the importance of compliance with the Order of Supervision based upon her past compliance and acknowledge signature on the Order. ECF 14-3. The Order specifically required her to (1) appear in person at the time and place specified; (2) not travel outside California for more than 48 hours without first having notified this agency office of the dates and places and obtaining approval from this agency office of such proposed travel; and (3) furnish written notice to this agency office of any change of residence 48 hours prior to such change. ECF 14-3. The terms of Petitioner's release required her appearance at the ICE office located in Stockton, California. Petitioner did not provide notice of her intent to

move to Oregon, did not obtain approval for such a move and failed to report to Stockton, California ICE office as ordered – all violations of the Order of Supervision.

III. Conclusion

Respondent's Motion to Dismiss should be granted as this Court does not have jurisdiction over this matter and further, even if this Court should deem it has jurisdiction, Respondent's detention of Petitioner was appropriate under the law.

Respectfully submitted this 6th day of August 2025.

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