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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

Reza Eric Nouri,	)	C/A No.: 8:25-cv-1905-JHW-DTB
	)	
Petitioner,	)	
	)	
v.	)	
	)	
Jennifer Herrera, Assistant Field Office Director,	)	
Orange County Detained Program, Los Angeles	)	
Field Office of U.S. Immigration and Customs	)	
Enforcement;	)	
	)	
Respondent.	)	

**APPLICATION FOR A TEMPORARY RESTRAINING ORDER OR IN THE
ALTERNATIVE PRELIMINARY INJUNCTION**

Respondent (“ICE”) revoked Petitioner’s order of supervision (“OSUP”) in violation of 8 C.F.R. § 241.13(i)(2)-(3). Courts around the country have rejected ICE’s attempts to re-detain noncitizens in violation of its own regulations. *Nguyen v. Hyde*, — F. Supp. 3d. —, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025) (granting habeas for unlawful re-detention); *Hoac v. Becerra*, No. 2:25-cv-1740, 2025 WL 1993771 (E.D. Ca. Jul. 16, 2025); *Phan v. Becerra*, No. 2:25-cv-1757, 2025 WL 1993735 (E.D. Ca. Jul. 16, 2025). This court should do the same and

1 restrain ICE from continuing to detain Petitioner by enjoining the unlawful notice of revocation
2 of release.

3 **LEGAL BACKGROUND**

4 ICE's post-order detention authority is not unlimited. *Zadvyas v. Davis*, 533 U.S. 678
5 (2001). Under *Zadvydas*, ICE can generally detain a noncitizen for up to six months, but at that
6 point, ICE can only continue to detain a noncitizen if their removal is significantly likely in the
7 reasonably foreseeable future. *Id.* This is enshrined in ICE's own post-*Zadvydas* regulations too.
8 *See generally* 8 C.F.R. § 241.4. The regulations give ICE the authority to release a noncitizen
9 with a final order of removal on an order of supervision under 8 C.F.R. § 241.13. *Id.* at
10 241.4(i)(7). Release on an order of supervised release ("OSUP") is indeed required when ICE
11 cannot show a significant likelihood of the noncitizen's removal in the reasonably foreseeable
12 future.
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15 Once ICE releases a noncitizen with a final order of removal on an order of supervised
16 release ("OSUP"), it can only revoke the OSUP for certain reasons following certain procedures.
17 *See, e.g., Nguyen v. Hyde*, — F. Supp. 3d. —, 2025 WL 1725791, at *3 (D. Mass. June 20, 2025)
18 (granting habeas for unlawful re-detention); *Hoac v. Becerra*, No. 2:25-cv-1740, 2025 WL
19 1993771 (E.D. Ca. Jul. 16, 2025); *Phan v. Becerra*, No. 2:25-cv-1757, 2025 WL 1993735 (E.D.
20 Ca. Jul. 16, 2025). ICE may revoke an OSUP for two reasons: (1) the noncitizen "violates any of
21 the conditions of release," 8 C.F.R. § 241.13(i)(1); or (2) ICE "determines that there is a
22 significant likelihood that the alien may be removed in the reasonably foreseeable future" "on
23 account of changed circumstances," *Id.* at § 241.13(i)(2):
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26 (2) *Revocation for removal.* The Service may revoke an alien's release under this
27 section and return the alien to custody if, on account of changed circumstances, the
28 Service determines that there is a significant likelihood that the alien may be
removed in the reasonably foreseeable future. Thereafter, if the alien is not released

1 from custody following the informal interview provided for in paragraph (h)(3) of
2 this section, the provisions of § 241.4 shall govern the alien's continued detention
3 pending removal.

4 (3) *Revocation procedures.* Upon revocation, the alien will be notified of the
5 reasons for revocation of his or her release. The Service will conduct an initial
6 informal interview promptly after his or her return to Service custody to afford the
7 alien an opportunity to respond to the reasons for revocation stated in the
8 notification. The alien may submit any evidence or information that he or she
9 believes shows there is no significant likelihood he or she be removed in the
reasonably foreseeable future, or that he or she has not violated the order of
supervision. The revocation custody review will include an evaluation of any
contested facts relevant to the revocation and a determination whether the facts as
determined warrant revocation and further denial of release.

10 8 C.F.R. § 241.13(i)(2)-(3). The regulations require ICE to consider the following factors to
11 determine whether removal is significantly likely in the reasonably foreseeable future:

12 (f) *Factors for consideration.* The HQPDU shall consider all the facts of the case
13 including, but not limited to, the history of the alien's efforts to comply with the
14 order of removal, the history of the Service's efforts to remove aliens to the country
15 in question or to third countries, including the ongoing nature of the Service's
16 efforts to remove this alien and the alien's assistance with those efforts, the
17 reasonably foreseeable results of those efforts, and the views of the Department of
18 State regarding the prospects for removal of aliens to the country or countries in
19 question. Where the Service is continuing its efforts to remove the alien, there is no
presumptive period of time within which the alien's removal must be accomplished,
but the prospects for the timeliness of removal must be reasonable under the
circumstances.

20 8 C.F.R. § 241.13(f). Where ICE does not follow these procedures or cannot support its claim
21 that a noncitizen's removal is significantly likely in the reasonably foreseeable future, the re-
22 detention is unlawful and a habeas is appropriate. *Nguyen v. Hyde*, — F. Supp. 3d. —, 2025 WL
23 1725791, at *3 (D. Mass. June 20, 2025) (granting habeas for unlawful re-detention); *Hoac v.*
24 *Becerra*, No. 2:25-cv-1740, 2025 WL 1993771 (E.D. Ca. Jul. 16, 2025); *Phan v. Becerra*, No.
25 2:25-cv-1757, 2025 WL 1993735 (E.D. Ca. Jul. 16, 2025).
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FACTS

Petitioner Reza Eric Nouri (“Nouri”) escaped Iran in 1978 as an 11-year-old. After the Islamic revolution, his parents would be detained as political and religious dissidents. CAT Report (attached as Ex. A). He acquired lawful permanent residence in 1986 and, since then, Mr. Nouri has lived in the United States. In 2016, however, an immigration judge ordered Mr. Nouri removed but deferred his removal to Iran because Mr. Nouri has demonstrated that, if returned to Iran, it is more likely than not he would be tortured. He received relief under the “Convention Against Torture.” The government did not appeal, and it released him on an OSUP in 2016. OSUP Documents (attached as Ex. B).

Since 2016, Mr. Nouri has fully complied with his OSUP. He’s had no interaction with law enforcement. He’s updated them of address changes. And he has remained willing and able to respond to any inquiry from ICE. Further, he has checked in with U.S. Immigration and Customs Enforcement (“ICE”) at least 10 times. *Id.* ICE has never asked him to complete applications for travel documents to a third country. If it did, he would have done so. But ICE has taken no action to pursue third country removal of Mr. Nouri. Ever. However, on August 27, 2025, Mr. Nouri was taken into custody at his annual check in.

After being taken into custody, ICE issued Mr. Nouri a notice of revocation of release. Notice of Revocation (attached as Ex. C). ICE does not claim it revoked his OSUP because he violated its terms; rather, ICE claims it revoked his OSUP due to a “change in circumstance which allows ICE to remove you to an alternate country.” *Id.* After they took him into custody, ICE asked Mr. Nouri the following questions:

- a. What is your political preference?
- b. Do you have any social media?

1 c. Did you stop in a third country on your trip from Iran to the United States in
2 1978?

3 d. Do you have a passport or travel document?

4 e. What level of education do you have?

5
6 None of these questions are relevant to determine whether there are a change circumstances that
7 would indicate his removal to a third country is significantly likely in the reasonably foreseeable
8 future. Mr. Reza answered the questions and complied completely by answering that: (1) he has
9 no political preference; (2) he has no social media; (3) he couldn't remember whether he stopped
10 in a third-country on his flight from Iran in 1978 when he was eleven years old; (4) he does not
11 have a passport or travel document; and (5) he has a college degree. ICE revoked Mr. Nouri's
12 OSUP on account of "changed circumstances" and claims it retains authority to detain him under
13 8 C.F.R. § 241.4—the wrong regulation.
14

15 ICE did not provide Mr. Nouri individualized reasons for revocation in violation of
16 § 241.13(i)(3). Rather, the notice it issued him is a form notice and, other than putting Mr.
17 Nouri's name and alien registration number on it, it is completely boiler plate. ICE did not
18 provide Mr. Nouri an opportunity to respond to the reasons for revocation stated in the
19 notification in violation of § 241.13(i)(3), because again, it contains no individualized reasons.
20 ICE did not give Mr. Nouri an opportunity to submit any evidence or information that shows
21 there is no significant likelihood he will be removed in the reasonably foreseeable future in
22 violation of § 241.13(i)(3). ICE did not conduct an evaluation of any contested facts relevant to
23 the revocation in violation of § 241.13(i)(3). And ICE never considered the factors at § 241.13(f)
24 as part of any decision to revoke Mr. Nouri's OSUP. ICE is aware that his removal is not
25 significantly likely in the reasonably foreseeable future because Assistant Field Office Director
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1 Herrera confirmed to Mr. Reza's counsel that "he's not getting removed anytime soon." ICE's
2 revocation of Mr. Nouri's OSUP is unlawful and it must be enjoined and his continued detention
3 restrained.

4 ARGUMENT

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6 A temporary restraining order or preliminary injunction is "an extraordinary remedy
7 never awarded as of right." *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 24 (2008). The
8 Administrative Procedure Act expressly permits courts to enjoin agency actions that would cause
9 irreparable harm. 5 U.S.C. § 705. Courts apply the traditional factors for an injunction to
10 evaluate stays under § 705. *Hsiao v. Stewart*, 527 F. Supp. 3d 1237, 1248 (D. Haw. 2021). A
11 party seeking such an order must show: (1) a likelihood of success on the merits; (2) a likelihood
12 of irreparable harm in the absence of the injunction; (3) that the balance of hardships tips in the
13 movant's favor; and (4) that the public interest is not disserved by the issuance of the injunction.
14 *Id.* The first two factors are the most important. *Nken v. Holder*, 556 U.S. 418, 434 (2009). But
15 the third and fourth factors typically "merge when the Government is the opposing party." *Id.* at
16 435.

19 I. Mr. Nouri's detention is unlawful.

20 Mr. Nouri is "in custody in violation of the Constitution or laws or treaties of the United
21 States" because ICE's decision to re-detain Mr. Nouri "is not in compliance with 8
22 C.F.R. § 241.13(f), (i)(2)." *Nguyen*, 2025 WL 1725791 at *5. ICE violated its own regulations
23 when it revoked Mr. Nouri's OSUP, and ICE is required to follow its own regulations. *United*
24 *States ex rel Accardi v. Shaughnessy*, 347 U.S. 260 (1954).
25

26 ICE "may revoke an alien's release under this section and return the alien to custody if,
27 on account of changed circumstances, the Service determines that there is a significant likelihood
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1 that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2). If
2 ICE identifies changed circumstances and determines there is a significant likelihood that an
3 alien may be removed in the reasonably foreseeable future, *then* ICE must: (1) notify the citizen
4 for the reasons; (2) conduct an interview and afford the noncitizen an opportunity to respond to
5 those reasons for revocation; and (3) accept any evidence or information that he or she believes
6 shows their removal is not likely. 8 C.F.R. § 241.13(i)(3). The revocation review must include an
7 evaluation of contested facts and consider the following factors in such analysis:
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9
10 (f) *Factors for consideration*. The HQPDU shall consider all the facts of the case
11 including, but not limited to, the history of the alien’s efforts to comply with the
12 order of removal, the history of the Service’s efforts to remove aliens to the country
13 in question or to third countries, including the ongoing nature of the Service’s
14 efforts to remove this alien and the alien’s assistance with those efforts, the
15 reasonably foreseeable results of those efforts, and the views of the Department of
16 State regarding the prospects for removal of aliens to the country or countries in
17 question. Where the Service is continuing its efforts to remove the alien, there is no
18 presumptive period of time within which the alien’s removal must be accomplished,
19 but the prospects for the timeliness of removal must be reasonable under the
20 circumstances.

21 8 C.F.R. § 241.13(f).

22 Here, ICE’s revocation of Mr. Nouri’s OSUP is unlawful for various reasons. First, ICE
23 did not identify any factual changes in circumstances that makes his removal significantly likely
24 in the reasonably foreseeable future. ICE seems to think its newfound willingness to remove
25 noncitizens to third countries is a “change in circumstance,” but the regulation requires a change
26 in *factual* circumstances that would make removal to a third country likely. For example, if ICE
27 got permission to remove Mr. Nouri to Canada, that would be a factual change in circumstance
28 rendering his removal likely. But a willingness on the part of a new administration to pursue
third country removals is not a “change in circumstance” that renders his removal to a third
country more likely. The following regulation makes it clear that a “change in circumstance”

1 must be factual as it requires ICE to give Mr. Nouri an opportunity to respond to those reasons
2 and provide counter evidence. 8 C.F.R. § 241.13(i)(3). ICE did not and cannot identify a factual
3 change in circumstance that makes it likely Mr. Nouri will be accepted by a third country for
4 deportation.
5

6 Second, the revocation notice is deficient because it does not provide sufficient facts or
7 information about the “change in circumstances” for Mr. Nouri to rebut. Even if he wanted to
8 rebut the reasons, the revocation notice does not give him sufficient notice because it is a boiler
9 plate, form notice of revocation. There is no indication ICE gave Mr. Nouri an individualized
10 determination. Rather, ICE revoked his OSUP as a matter of course without any individualized
11 review or rationale for his revocation. This too violates the regulations and renders his detention
12 unlawful.
13

14 Third, after ICE revoked his OSUP, ICE did not follow any of the procedures in 8 C.F.R.
15 § 241.13(i)(3). It did not notify him of specific reasons for the revocation; it did not conduct an
16 “informal interview promptly after his or her return to Service custody to afford the alien an
17 opportunity to respond to the reasons for revocation stated in the notification.” *Id.* It did not
18 permit Mr. Nouri to “submit any evidence or information that he or she believes shows there is
19 no significant likelihood he or she be removed in the reasonably foreseeable future.” *Id.* And the
20 review did not include an evaluation of any contested facts relevant to the revocation and a
21 determination whether the facts as determined warrant revocation and further denial of release.”
22 *Id.* ICE simply ignored these regulatory rights.
23
24

25 To the extent ICE claims it interviewed Mr. Nouri, it is worth noting that *none* of the
26 questions it asked relate to whether there has been a change in circumstances. ICE asked Mr.
27 Nouri the following questions:
28

- 1 a. What is your political preference?
- 2 b. Do you have any social media?
- 3 c. Did you stop in a third country on your trip from Iran to the United States in
- 4 1978?
- 5
- 6 d. Do you have a passport or travel document?
- 7 e. What level of education do you have?

8 None of these relate to the factors identified in 8 C.F.R. § 241.13(f). And it is wholly
9 inappropriate to consider “political preference” during a custody review—especially from a
10 foreign national who cannot vote in the United States. ICE failed to do the analysis its own
11 regulations require.

12
13 Finally, the Assistant Field Office Director’s factual claim that Mr. Nouri is “not getting
14 removed any time soon” wholly undermines ICE’s claim that his removal is now, somehow
15 significantly likely in the reasonably foreseeable future. ICE cannot revoke an OSUP unless or
16 until it identifies facts that demonstrate a change in circumstance that make it significantly likely
17 that he will be removed in the reasonably foreseeable future. That has not happened here. Rather,
18 ICE issued him a boiler plate notice and took him into detention to fill their quotas. And then it
19 refused to follow its own procedures to permit Mr. Nouri to contest its alleged findings.

20
21 For these reasons and others, Mr. Nouri is likely to succeed on the merits of his claim
22 because ICE violated its own regulations when it revoked his OSUP and took him into detention
23 absent any actual change in circumstance.

24
25 **II. Mr. Nouri’s detention is causing irreparable harm.**

26 Mr. Nouri’s unlawful detention is causing him irreparable harm. First, there is no
27 mechanism to repair the unlawful deprivation of liberty that Mr. Nouri is suffering. The
28

1 Respondent is immune to monetary damages, and even if he could sue for money, no amount of
2 money can replace his freedom. Second, if Mr. Nouri is removed to a third country without
3 additional process, he is at serious risk of detection and attack by Iran. In just the last month, the
4 United States and other countries have spoken out about Iran's efforts to attack, intimidate, and
5 threaten Iranian nationals in third countries. In fact, on July 31, 2025, the United States and other
6 countries in the North Atlantic Treaty Organization published a Joint Statement on Iran's Threat
7 Activity in America and Europe:

9 We are united in our opposition to the attempts of Iranian intelligence services to
10 kill, kidnap, and harass people in Europe and North America in clear violation of
11 our sovereignty. These services are increasingly collaborating with international
12 criminal organizations to target journalists, dissidents, Jewish citizens, and current
 and former officials in Europe and North America. This is unacceptable.

13 Iran Reports at 1 (attached as Ex. D). If Mr. Nouri is removed to a third country without any
14 additional process, it will put him at significant risk of harm from the country he fled as a child.
15 Finally, Mr. Nouri's detention will be indefinite. ICE has taken no steps for Mr. Nouri to be
16 removed to a third country. It has not asked him to complete any application for a travel
17 document from any third country. This is significant because Mr. Nouri has no passport or other
18 travel document. This detention promises to be indefinite and, therefore, irreparable.

20 **III. Equities favor restraining the current detention.**

21 The equities easily favor Mr. Nouri. ICE released him on an OSUP in 2016. He has
22 followed every term of the OSUP. He has checked in nearly a dozen times. And he has continued
23 to build his family and life in Orange County. ICE does not and cannot demonstrate that Mr.
24 Nouri is a flight risk or a danger to the community because he has repeatedly shown up to
25 immigration proceedings and ICE check ins, and frankly, he has no documents that would allow
26 him to flee the country. The detention serves no purpose as his removal is not likely ever, let
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1 alone in the reasonably foreseeable future. Meanwhile, ICE will suffer no harm from forgoing
2 detention for Mr. Nouri. Under his current OSUP, it could require him to wear an ankle monitor
3 or check in on a more regular basis. Foregoing detention would in fact save ICE bed space and
4 money that it could use on detaining noncitizens that it is able to remove or that are genuine
5 threat to the community. Stopping unlawful, arbitrary detention is in the public interest and,
6 therefore, the equities favor Mr. Nouri.
7

8 **CONCLUSION**

9 For these reasons, this Court should restrain ICE from continuing to detain Mr. Nouri at
10 this time by enjoining the legal effect of the Notice of Revocation of Release.
11

12 August 27, 2025

Respectfully submitted,

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