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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ALIREZA HASHEMI, Petitioner, v. KRISTI NOEM, Secretary of the Department of Homeland Security; et. al, Respondents.	No. 2:25-cv-10335-HDV-SP **FEDERAL RESPONDENTS' OPPOSITION TO PETITIONER'S *EX PARTE* APPLICATION FOR TEMPORARY RESTRAINING ORDER** **[Filed Concurrently with the Declaration of Christopher Jenson and Exhibits]** Honorable Hernán D. Vera United States District Judge

I. INTRODUCTION

Petitioner Patrik Nazarian, an Iranian national subject to a final removal order, was recently arrested and detained on October 22, 2025. In response, Petitioner has filed an immensely overlong *ex parte* application seeking a temporary restraining order for his release [Dkt. 3] (the "TRO Application"). Even looking past its egregious violation of Local Rule 11-6.1, the TRO Application is defective and should be denied.

Much of the TRO Application's length is spent downplaying Petitioner's long and serious criminal history, along with Petitioner's repeated failures to attend his supervised release ICE appointments. As explained in the concurrently filed Christopher Jenson Declaration, following Petitioner's latest conviction and his sentencing for domestic violence in 2018, he spent almost a year in jail followed by 48 months of probation. He was then required to annually return to ICE and report in person to its ERO unit under an OSUP. For the first two years, Petitioner successfully reported to ICE at his annual appointment, as required. On June 14, 2024, however, Petitioner failed to attend his annual ICE in-person appointment. On July 1, 2025, Petitioner again failed to attend his annual ICE in-person appointment. On July 2, 2025, Petitioner was notified to come in for an ICE appointment, which he again failed to attend.

On or about October 8, 2025, Petitioner reported to ICE, and explained he had medical issues, include psychosis. He was ordered to return on October 22, 2025, at which time he was arrested and processed for removal. He was issued a Notice of Revocation of Release dated October 22, 2025, a copy of which is attached to the Jenson Declaration. He was informed therein that "ICE has determined that you can be removed from the United States pursuant to the outstanding order of removal against you." Petitioner was also given an informal interview regarding his release revocation on that same date. *See id.*

Now detained, Petitioner argues he cannot be removed to Iran because that was not previously possible. But circumstances have changed markedly. Iranian nationals are now being removed to Iran. *See, e.g.,* www.bbc.com/news/articles/cgrql7gd10do (Sept. 30, 2025) (describing agreement for making removals to Iran, and the removals taking place).

Petitioner's travel documents to Iran have been requested. His arrest and detention are very recent events, and there is no evidence that his removal to Iran will not be timely.

Petitioner primarily complains that his detention for removal to Iran is "unreasonable" because he allegedly is not a flight risk. There are two problems with that assertion. *First*, Petitioner's repeated recent failures to attend his ICE appointments are strong evidence that he is a severe flight risk, and unlikely to follow a scheduled removal outside detention. *Second*, and more importantly, Petitioner's complaint is not relevant because 8 U.S.C. § 1236(a)(6) authorizes the government to detain individuals with final removal orders, without bond, for purposes of effectuating their removal. The limits on detention pursuant to a final removal order are delineated by *Zadvydas v. Davis*, 533 U.S. 678 (2001). Here, Petitioner makes no showing that his detention violates those constitutional limits on detention during the removal order period. Nor do they.

Finally, Petitioner argues that he needs access to his psychological medication. While access to medication for detainees is indeed important, it is not a basis for release. Detention centers are able to provide extensive medical services to detainees, including medication, and including outpatient services for particular extraordinary needs if that is warranted. More importantly here, the remedy for any such deficiency would be to provide the treatment, not to order release. It is well-established that habeas claims cannot be premised on complaints about conditions of confinement. *See Pinson v. Carvajal*, 69 F.4th 1059, 1073 (9th Cir. 2023). As the Ninth Circuit held, such claims lie outside the historic core of habeas corpus, for which the only available remedy is release, and thus the district court lacked jurisdiction to hear the petition regarding conditions of confinement. *Id.* at 1075. *See also Rhodes v. Pfeiffer,* No. CV 14-7687-JGB-KK, 2020 WL 4018608, at *2 (C.D. Cal. May 6, 2020) ("Petitioner's Motion essentially presents a challenge to the conditions of his confinement, which may not be addressed in this habeas corpus action.").

Accordingly, the TRO Application should be denied.

II. FACTUAL BACKGROUND

Petitioner is a native and citizen of Iran. *See* Jenson Decl., ¶ 3. On July 10, 2008, Petitioner was admitted to the United States as a Lawful Permanent Resident. *Id.*, ¶ 4.

On or about August 16, 2013, Petitioner was convicted in the Superior Court for Orange County of Assault with a deadly weapon or force likely to produce great bodily harm in violation of CPC § 245(A)(4). *Id.*, ¶ 5. He was sentenced to 120 days jail and 3 years probation. *Id.*

On August 16, 2013, Petitioner was also convicted for a DUI, and sentenced to 114 days of jail and 3 years probation. *Id.*, ¶ 6.

On August 16, 2023, Petitioner was also convicted of Second Degree Burglary, for which he was sentenced to 16 days jail and 1 year probation. *Id.*, ¶ 7.

On January 24, 2014, ICE initiated removal proceedings by serving Petitioner with a Notice to Appear (NTA) charging him with having been convicted of an aggravated felony, a crime of violence, and a crime of moral turpitude, within five years of his admission to the United States. *Id.*, ¶ 8.

On April 22, 2015, the Superior Court for Orange County revoked Petitioner's probation, and instead sentenced him to two years of prison. *Id.*, ¶ 9.

On December 7, 2015, Petitioner was released to ICE custody from the Orange County Sherrif's Department. *Id.*, ¶ 10.

Petitioner filed an I-589 application for asylum and withholding of removal, seeking to avoid a removal order. *Id.*, ¶ 11.

On December 21, 2016, however, an Immigration Judge ordered Petitioner removed to Iran. *Id.*, ¶ 11. The Immigration Judge found that Petitioner's criminal convictions barred him from seeking asylum and withholding of removal. *Id.*

Petitioner was promptly transferred to a psychiatric institute, due to his acute psychiatric issues. *Id.*, ¶ 12. He was then discharged and returned to ICE custody. *Id.*

Petitioner appealed the removal order and bond denial with the BIA, but then withdrew that appeal on or about March 3, 2017.

On July 24, 2017, the BIA dismissed both appeals. *Id.*, ¶ 13.

On August 30, 2017, ICE/ERO released Petitioner on an Order of Supervision (OSUP), Form I-220B.

On July 11, 2018, Petitioner was convicted in the Superior Court of Los Angeles County of Willful Infliction of Corporal Injury, and sentenced to 233 days jail and 48 months or probation. *Id.*, ¶ 16.

On June 6, 2022, Petitioner was required to return in person and report to ERO. *Id.*, ¶ 17. He initially complied with that requirement. *Id.* ICE required Petitioner to report every year while under supervision. *Id.*

On June 15, 2023, Petitioner returned to ICE and reported in person. *Id.*, ¶ 18.

On June 14, 2024, however, Petitioner was required to return in person and report to ICE, but failed to appear and report. *Id.*, ¶ 19.

On July 1, 2025, Petitioner was again required to return in person and report to ICE, but again failed to appear and report. *Id.*, ¶ 20.

On July 2, 2025, Petitioner notified Petitioner to report to ICE for an interview and to receive paperwork. Petition again failed to appear. *Id.*, ¶ 21.

On October 8, 2025, Petitioner reported to ICE and was informed about how he had missed his appointments. *Id.*, ¶ 22. Petitioner stated that he had medical issues and a diagnosis of schizoaffective disorder and psychosis. *Id.*, ¶ 22. Petitioner was given a copy of his OSUP and required to report back on October 22, 2025. *Id.*, ¶ 23.

Petitioner reported back to ICE on October 22, 2025, and was arrested and detained. He was given a Notice of Revocation of Release, and provided an interview. *Id.*, ¶ 23; *see also* Exhibit A (Notice of Revocation of Release) and Exhibit B (Alien Informal Interview upon Revocation of Order of Supervision).

ICE has recently been able to timely obtain travel documents for Iran, and expects that a travel document for Petitioner will be issued and that ICE will effectuate his removal to Iran in the reasonably foreseeable future. *See* Jenson Decl., ¶ 27.

III. STANDARD OF REVIEW

Courts have recognized very few circumstances justifying the issuance of an *ex parte* temporary restraining order. *See Reno Air Racing Ass'n., Inc. v. McCord*, 452 F.3d 1126, 1131 (9th Cir. 2006). A TRO is "an extraordinary and drastic remedy ... that should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion." *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). For a TRO to issue, the movant must demonstrate: (1) a likelihood of success on the merits, (2) a likelihood of suffering irreparable harm in the absence of preliminary relief, (3) the balance of equities tips in its favor, and (4) the TRO is in the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

IV. ARGUMENT

A. Petitioner Has Not Shown That the Government Lacked Authority to Detain Him, That the Government Revoked His Release Improperly, Or That the Remedy Would Be His Immediate Release from Detention.

Petitioner argues he should not be detained, despite conceding he has a final removal order. But the INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The INA does not provide for a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231. When a noncitizen receives a final removal order, their detention is mandatory for the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's discretion under 8 U.S.C. § 1231(a)(6). Such detainees have due process protection; the Supreme Court has set forth the essential limitation, which is that after six months of post-removal order detention the burden shifts to the government to show that removal is possible. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). The noncitizen still "may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*, 701. Here, Petitioner does not attempt to make such a *Zadvydas* showing.

Instead, Petitioner argues that his October 22, 2025 detention is "unreasonable," because ICE previously released him under its OSUP. But the government's authority to re-detain individuals with final removal orders that ICE previously released does not require the type of intensive threshold evidentiary procedure that Petitioner suggests. "While the regulation provides the detainee some opportunity to respond to the reasons for revocation, it provides no other procedural and no meaningful substantive limit on this exercise of discretion as it allows revocation "when, in the opinion of the revoking official ... [t]he purposes of release have been served ... [or] [t]he conduct of the alien, or *any other circumstance*, indicates that release would no longer be appropriate." *Rodriguez v. Hayes*, 578 F.3d 1032, 1044 (9th Cir. 2009), *opinion amended and superseded*, 591 F.3d 1105 (9th Cir. 2010), citing §§ 241.4(l)(2)(i), (iv) (emphasis in original).

The government is thus broadly authorized to exercise its discretion to revoke such release pursuant to 8 CFR § 241.1(l)(1), and 8 CFR § 241.4(l)(2). *See Moran v. U.S. Dep't of Homeland Sec.*, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l) was a violation of their procedural due process rights and noting, "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to support their contention that they have a protected interest in remaining at liberty in the United States while they have valid removal orders.").

Here, release revocation procedure was properly followed. Petitioner was previously released, by ICE's decision, pursuant to an OSUP. Petitioner then repeatedly failed to appear for his in-person OSUP appointments in 2025. Petitioner was ultimately arrested and detained, and he was given a Notice of Revocation and an informal interview.

Petitioner fails to establish any deficiency in release revocation procedure. Even if he had, the appropriate injunctive remedy for any procedural deficiency would not be automatic release from custody, but rather to remedy the specific procedural deficiency. *In Ahmad v. Whitaker*, for example, the government revoked the petitioner's release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D. Wash. Jan. 3, 2019). The petitioner argued his release revocation was unlawful. In rejecting his claim, the court held that although the regulations called for an informal interview, petitioner could not establish "any actionable injury from this violation of the regulations" because the government had procured a travel document for the petitioner, and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S. District Court for the District of Massachusetts held that even if the ICE detainee petitioner had not received a timely interview following her return to custody, there was "no apparent reason why a violation of the regulation … should result in release." *Doe v. Smith*, 2018 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, "[I]t is difficult to see an actionable injury stemming from such a violation. Doe is not challenging the underlying justification for the removal order…. Nor is this a situation where a prompt interview might have led to her immediate release—for example, a case of mistaken identity." *Id.*

The Hon. Judge Blumenfeld recently denied a preliminary injunction motion in a somewhat similar case alleging a lack of sufficient re-detention process, noting that the evidentiary burden had not been met, and also that it was unclear that release would be the appropriate remedy for any violations of revocation procedure. *See Long Ton v. Kristi Noem, et al.*, 5:25-cv-02033-SB-AGR [Dkt. no. 17] (September 3, 2025) (Order Denying Application for Preliminary Injunction) (Exhibit C hereto).

The Hon. Judge Birotte Jr. likewise denied a TRO asserting a re-detention procedure challenge. *See Jose Angel Morales Sanchez v. Pam Bondi, et al.*, 5:25-cv-02530-AB-DTB [Dkt. no. 12] (October 3, 2025 order denying TRO). (Exhibit D hereto). The Court noted that "[p]etitioner has not produced evidence showing that the SDDO lacked authority to revoke supervision or that ICE's procedures were fundamentally flawed. Even more, the absence of additional details regarding the identity of the SDDO or a formal interview, while potentially imperfect under the regulations, does not negate the statutory authority provided by § 1231(a)(2)–(6)."

B. Petitioner has not shown a likelihood of success on the merits because he has not established that "there is no significant likelihood of removal in the reasonably foreseeable future."

Showing a likelihood of success on the merits is a requisite threshold issue. Indeed, "when a plaintiff has failed to show the likelihood of success on the merits, [the court] need not consider the remaining three *Winters* elements." *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir. 2015) (cleaned up). To succeed on a habeas petition, Petitioner must show that he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241. Although Petitioner is being detained in this district, he has not shown, and indeed cannot show, that his current custody is unlawful.

Under *Zadvydas v. Davis*, detention for six months following a final removal order is presumptively valid. 533 U.S. 678, 701 (2001). After that time, a noncitizen may request release, and it is his burden to show "there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* The law does not require that "every [noncitizen] not removed must be released after six months." *Id.* Instead, it prevents only "indefinite" or "potentially permanent" detention. *Id.* at 689–91.

Here, Petitioner does not challenge the validity of his final removal order or that 8 U.S.C. § 1231(a)(6) governs his detention. Indeed, Petitioner chose not to appeal his final order of removal. However, Petitioner argues, without evidentiary support, that he should be released because his removal to Iran is not reasonably foreseeable. That contention is factually incorrect and contravenes *Zadvydas*.

It is factually incorrect because circumstances have recently changed such that removals to Iran are now both possible and being conducted.

It also contravenes *Zadvydas*, where the Supreme Court instructed that detention for six months following a final removal order is presumptively valid.

> 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 that showing. And for detention to remain reasonable, as the period of prior

> postremoval confinement grows, what counts as the "reasonably foreseeable future" conversely would have to shrink. This 6–month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.

Zadvydas, 533 U.S. at 701. Thus the noncitizen "may be held in confinement until it has been determined that there is *no significant likelihood of removal in the reasonably foreseeable future*." *Id.* (italic emphasis added).

Here, there is certainly a significant likelihood that Petitioner will be removed to Iran in the reasonably foreseeable future. He was detained just days ago, on October 22, 2025. There is no bar against Petitioner's removal to his home country of Iran and the government is currently arranging for that removal. *See* Jenson Decl. ¶¶ 24-27.

Courts properly deny *Zadvydas* claims under such circumstances. *See Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D. Wash. Apr. 2, 2008) (Martinez, J.) (denying *Zadvydas* petition where petitioner had been detained more than 14 months post-final order); *Nicia v. ICE Field Off. Dir.*, 2013 WL 2319402, at *3 (W.D. Wash. May 28, 2013) (Martinez, J.) (holding petitioner "failed to satisfy his burden of showing that there is no significant likelihood of his removal in the reasonably foreseeable future" where he had been detained more than seven months post-final order). That Petitioner does not yet have a specific date of anticipated removal does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th Cir. 2008) (where there is no evidence that the country of removal would refuse to accept the petitioner or that removal is barred by the laws of the United Sates, that the detention did not have a certain end date did not demonstrate that detention was "indefinite").

Because Petitioner has failed to establish a likelihood of success on his claims that his detention is unlawful, the petition should be denied.

C. Petitioner has not shown he will suffer irreparable harm absent a TRO

Petitioner has not demonstrated that he will suffer irreparable injury absent his release by TRO. To show irreparable harm, he must demonstrate "immediate threatened injury." *Caribbean Marine Servs. Co., Inc. v. Baldrige*, 844 F.2d 668, 674 (9th Cir. 1988) (citing *L.A. Mem'l Coliseum Comm'n v. Nat'l Football League,* 634 F.2d 1197, 1201 (9th Cir. 1980)). "Issuing a preliminary injunction based only on a possibility of irreparable harm is inconsistent with [the Supreme Court's] characterization of injunctive relief as an extraordinary remedy that may only be awarded upon a clear showing that the plaintiff is entitled to such relief." *Winter*, 555 U.S. at 22.

Petitioner suggests that being subjected to unjustified detention itself constitutes irreparable injury. However, the fact remains that Petitioner is subject to a final order of removal, which order he declined to challenge, and that the government has taken steps to effectuate removal to his country of origin in the foreseeable future. Petitioner's detention is "common to all [noncitizens] seeking review of their custody or bond determinations." *See Resendiz v. Holder*, 2012 WL 5451162, at *5 (N.D. Cal. Nov. 7, 2012).

D. The Balance of Interests Favors the Government

It is well settled that the public interest in enforcement of the United States's immigration laws is significant. *See, e.g.*, *United States v. Martinez-Fuerte*, 428 U.S. 543, 556–58 (1976); *Blackie's House of Beef, Inc. v. Castillo*, 659 F.2d 1211, 1221 (D.C. Cir. 1981) ("The Supreme Court has recognized that the public interest in enforcement of the immigration laws is significant.") (citing cases); *see also Nken v. Holder*, 556 U.S. 418, 435 (2009) ("There is always a public interest in prompt execution of removal orders[.]"). This public interest outweighs Petitioner's private interest here. Petitioner asks the Court to declare his detention unlawful, despite the government's valid reasons and statutory bases for detaining him to effectuate his removal pursuant to valid final removal order that he does not challenge.

V. CONCLUSION

Petitioner's TRO Application should be denied.

Dated: October 30, 2025

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE WITH L.R. 11-6.2

The undersigned, counsel of record for Respondent, certifies that the memorandum of points and authorities contains [ ] words, which complies with the word limit of L.R. 11-6.1.

Dated: October 30, 2025

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