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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 Raphael GEVORGYAN,

Case No. 25-cv-03408

10 Petitioner,

11 v.

12 Kristi NOEM, Secretary, U.S.
13 Department of Homeland Security;
14 Pamela BONDI, U.S. Attorney General;
15 Todd LYONS, Acting Director,
16 Immigration and Customs Enforcement;
17 Jaime RIOS, Acting Director, Los
18 Angeles Field Office, Immigration and
19 Customs Enforcement, Enforcement and
20 Removal Operations; Fereti SEMAIA,
21 Warden, Adelanto ICE Processing
22 Center; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW;
IMMIGRATION AND CUSTOMS
ENFORCEMENT; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,

23 Respondents.

**PETITIONER'S REPLY IN
SUPPORT OF EX PARTE
APPLICATION FOR
TEMPORARY RESTRAINING
ORDER**

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11	26, 2025)	8
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14	<u>8 C.F.R. § 241.4(D)(2)(iii)</u>	7

**REPLY TO RESPONDENTS' OPPOSITION TO TEMPORARY
RESTRAINING ORDER**

Petitioner submitted an *ex parte* application for temporary restraining order and order to show cause on December 16, 2025. Respondents oppose that order and submitted their opposition on December 23, 2025. ECF No. 8. Pursuant to this Court's order of December 16, 2025, ECF No. 6, Petitioner's reply to Respondents' opposition is due today, December 26, 2025. Petitioner submits this timely reply.

ARGUMENT

I. Petitioner Presents Serious Questions Going To The Merits Of His Request For Release From Detention And Restoration Of His OSUP Status

A. Petitioner's detention is unlawful where Respondents failed to follow its release revocation procedures

"It is well-established that government agencies are required to follow their own regulations." *Delkash v. Noem*, No. 5:25-cv-01675-HDV-AGR, 2025 WL 2683988, at *5 (C.D. Cal. Aug. 28, 2025) (citing *United States ex rel Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954)). Here, Respondents have responded to Petitioner's allegations with (1) a declaration of Deportation Officer ("DO") Christopher Jenson; (2) a copy of Petitioner's 2019 Order of Supervision; (3) Notice of Revocation of Release dated November 12, 2025 ("Notice"); (4) Amended Notice of Revocation of Release dated December 23, 2025 ("Amended Notice"); and (5) a form entitled "Alien Informal Interview Upon Revocation of Order of Supervision." ECF No. 8-1. Each document is insufficient to demonstrate that

1 Petitioner's detention was lawful.

2 Petitioner filed his TRO application on December 16, 2025, ECF No. 4, and,
3
4 on that same day, the Court ordered Respondents to file an opposition by December
5 23, 2025. ECF No. 6. On the day that Respondents' opposition was due,
6 Respondents allege that they issued Petitioner an Amended Notice of Revocation
7 and held an informal interview *for the first time*. ECF No. 8-1, pp. 14 to 17. Notably,
8 Respondents did not notify Petitioner's counsel that this interview would be taking
9 place.
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12 This Amended Notice and interview cannot overcome the defects in
13 Petitioner's detention, however. First, 8 C.F.R. § 241.4(d)(1) requires that when a
14 noncitizen's release is revoked, he must be notified of the reason "upon revocation,"
15 not *forty-two* days into detention. The informal interview is to be provided
16 "promptly after his or her return to Service custody." *Id.* Petitioner was not offered
17 his purported informal interview until, again, *forty-two* days later, on December 23,
18 2025, on the day Respondents' opposition was due. Forty-two days cannot credibly
19 be considered "promptly," and, to their credit, Respondents do not even attempt to
20 argue otherwise. ECF No. 8, pp. 10-11. See *M.S.L. v. Bostock*, 2025 WL 2430267,
21 at *11 (D. Or. Aug. 21, 2025) (finding an informal interview given twenty-seven
22 days after petitioner was taken into custody cannot reasonably be construed as
23 prompt) (internal quotations omitted), see also, *Ceesay v. Kurzdorfer*, 781
24 F.Supp.3d 137, 166 (W.D.N.Y. May 2, 2025) (finding that the petitioner was not
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1 afforded even minimal due process protections when ICE failed to provide
2 petitioner with an informal interview upon his re-detainment); *Wing Nuen Liu v.*
3 *Carter*, Case No. 25-cv-03036-JWL, 2025 WL 1696526, at *2 (D. Kan. June 17,
4 2025) (finding “that officials did not properly revoke petitioner’s release pursuant
5 to § 241.13” because “most obviously . . . petitioner was not granted the required
6 interview upon the revocation of his release.”); *Hoac v. Becerra*, No. 2:25-cv-
7 01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding that
8 the petitioner was likely to succeed on a claim that his re-detainment was unlawful
9 because “there is no indication that an informal interview was provided to
10 Petitioner.”)

14 Additionally, to extent that Respondents argue that the November 12, 2025
15 Notice provided Petitioner notice that his detention was to effectuate his removal to
16 Armenia, it is not clear who signed the Notice. ECF No. 8, pp. 10-11. Petitioner
17 assumes it was Deportation Officer (“DO”) D. Young, whose name is typed on the
18 Proof of Service. ECF No. 8-1, pp. 11-12. The Amended Notice is signed by DO J.
19 Preciado. A DO lacks authority to revoke an order of release. The regulation at 8
20 C.F.R. § 241.4(l)(2)(iii) permits the Executive Associate Commissioner to revoke
21 the release of a non-citizen if it is appropriate to enforce a removal order. Courts
22 have also recognized that the equivalent official in the current leadership structure
23 of ICE – the Executive Associate Director – may have that authority. A DO,
24 however, is not authorized to revoke an Order of Supervision to enforce a removal

1 order. *See e.g., Rombot v. Souza*, 296 F.Supp.3d 383, 385 (D. Mass. Nov. 8, 2017)
2 (noting that the regulation, on its face, refers to titles in force under the former INS,
3 and thus, it is not clear an ICE Field Office Director can revoke an order of
4 supervision to enforce a removal order); *see also Ceesay v. Kurzdorfer*, 781
5 F.Supp.3d at 162 (noting that the authority of the Executive Associate
6 Commissioner of INS was transferred to the Executive Associate Director of ICE
7 and finding that an Assistant Field Office Director is not the equivalent of the
8 Executive Associate Director); *Santamaria Orellana v. Baker*, 2025 WL 244087, *
9 *6 (D. Md. Aug. 25, 2025) (only the Executive Associate Commissioner or a district
10 director can revoke release); *Zhu v. Genalo*, --- F.Supp.3d ----, 2025 WL 242352, *
11 8 (S.D.N.Y. Aug. 26, 2025) (same); *Santamaria Orellana v. Baker*, 2025 WL
12 2841886, *5-6 (D. Md. Oct. 7, 2025) (reiterating that the requirement that a specific
13 senior official sign a notice of revocation is not merely a housekeeping matter and
14 again ordering Santamaria Orellana's release after his re-detention by immigration
15 officials). Indeed, a DO is even lower on the supervisory chain than an Assistant
16 Field Office Director, and thus, DO Preciado lacked authority to revoke Petitioner's
17 release.
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19
20 Respondents also allege that Petitioner's removal is reasonably foreseeable,
21 but they offer no evidence that Armenia would be more likely to accept Petitioner
22 now than they were in 2019. ECF No. 8, p. 8. DO Christopher Jenson asserts in his
23 declaration that travel documents for Petitioner were requested from the Armenian
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1 Consulate on November 19, 2025. ECF No. 8-1, p. 3, ¶ 19. Nevertheless,
2 Respondents filed their opposition more than a month later, on December 23, 2025,
3 yet they provide no information as to Armenia's response to that request. *Id.*
4 Petitioner, however, does have information regarding the status of this request, as
5 his mother attended an appointment with the Armenian consulate days after the
6 request and was informed that travel documents would not be provided because
7 they have no record of Petitioner being a citizen. ECF No. 4-4, p. 2, ¶ 5.

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9 Respondents ask this Court to follow *Ton v. Noem*, but there, the petitioner
10 did not provide any indication that he could not be removed to China. *See Ton v.*
11 *Noem*, No. 5:25-cv-02033-SB-AGR, 2025 WL 2995068, at *3 (C.D. Cal. Sept. 3,
12 2025). By contrast, here, Respondents attempted to remove Petitioner in 2019 and
13 were unable to do so, and Respondents do not identify a change in circumstance
14 that will allow them to now remove Petitioner to Armenia.

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16 Respondents also point to *Sanchez v. Bondi*, but that case does not support
17 Respondents' position. *See Sanchez v. Bondi*, No. 5:25-cv-02530-AB-DTB, 2025
18 WL 3190816 (C.D. Cal. Oct. 3, 2025). *Sanchez* is not persuasive because it lacked
19 any analysis as to whether there was a change in circumstances related to
20 respondents' ability to effectuate petitioner's removal. *See generally id.* Moreover,
21 longstanding authority contravenes *Sanchez's* conclusion that administrative
22 regulations do not limit statutory discretion. *See NLRB v. Welcome-Am. Fertilizer*
23 *Co.*, 443 F.2d 19, 20 (9th Cir. 1971) ("When administrative bodies promulgate rules
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1 or regulations to serve as guidelines, these guidelines should be followed. Failure
2 to follow such guidelines tends to . . . deny adequate notice contrary to fundamental
3 concepts of fair play and due process.” (citation omitted)); *EGAE v. Fudge*, No.
4 3:23-cv-00003-JMK, 2023 WL 5957144, at *6 (D. Alaska Sept. 13, 2023) (same);
5 *VanLeeuwen v. Farm Credit Admin.*, 577 F. Supp. 264, 277–78 (D. Or. 1983)
6 (“Even if an agency has absolute statutory discretion over particular actions, the
7 agency’s regulations limit that discretion and provide a source of legal standards for
8 judicial review.” (citing *Glacier Park Found. v. Watt*, 663 F.2d 882, 885–86 (9th
9 Cir. 1981))).
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13 Where Respondents have failed to follow their release revocation procedures,
14 Petitioner’s re-detention is unlawful. See *Delkash*, 2025 WL 2683988, at *5.
15 (collecting cases); *Nazarian v. Noem*, No. EDCV 25-02694-KK-ADSx, 2025 WL
16 3236209, at *5 (C.D. Cal. Nov. 3, 2025); *Esmail v. Noem*, No. 2:25-cv-08325-
17 WLH-RAO, 2025 WL 3030590, at *6-7 (C.D. Cal. Sept. 12, 2025).
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20 B. Petitioner does not have to wait six months to challenge his detention

21 Respondents maintain that because Petitioner has been in their custody for
22 less than six months, he has no basis to challenge the likelihood of his removal
23 under *Zadvydas*. ECF No. 8, p. 7. To be sure, *Zadvydas* provided that a six-month
24 detention is where the “presumption” of constitutional reasonableness ends.
25 *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). But “[p]resumptively reasonable does
26 not equate to mandatory.” *Gibson v. United States*, No. 2:03-CR-2083-WFN-1,
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1 2017 WL 10775070, at *1 (E.D. Wash. May 23, 2017); *see Rita v. United States*,
2 551 U.S. 338, 366 (2007) (“As the Court acknowledges . . . *presumptively*
3 reasonable does not mean *always* reasonable; the presumption . . . must be
4 genuinely rebuttable.” (Stevens, J., concurring) (emphasis in original) (citing *id.* at
5 345–48)). And other courts have found release immediately necessary even where
6 petitioners have been detained less than six months. *See, e.g., Esmail*, 2025 WL
7 3030590, at *5-6 (finding petitioner likely to succeed on merits of wrongful
8 detention claim where immigration detainee was in custody for ten days); *Delkash*,
9 2025 WL 2683988, at *2 (granting petitioner’s release from detention where he was
10 in immigration custody for only two months); *Nazarian*, 2025 WL 3236209, at *5
11 (noting that “because Petitioner challenges his re-detention after already being
12 released on an OSUP, ‘ICE’s own regulations [] place the burden on ICE to show
13 changed circumstances that make removal significantly likely in the reasonably
14 foreseeable future.’” (quoting *Sun v. Noem*, No. 3:25-CV-02433-CAB-MMP, 2025
15 WL 2800037, at *2 (S.D. Cal. Sep. 30, 2025))). Lastly, Respondents ignore that 8
16 C.F.R. § 241.13 was added after *Zadvydas*, so the *Zadvydas* Court never allowed
17 for six-month detentions in contravention of federal regulations. *See Hassanzadeh*
18 *v. Warden, Desert View Facility*, No. ED CV 25-2113-DMG (MAAx), 2025 WL
19 3306272, at *3 (C.D. Cal. Nov. 25, 2025) (explaining that “Section 241.13 was
20 added in 2001 (in light of *Zadvydas*) and applies where the alien has provided good
21 reason to believe there is no significant likelihood of removal . . . in the reasonably

1 foreseeable future.” (cleaned up)).

2 C. The proper remedy is to order Petitioner’s immediate release

3 Respondents assert that, even if the Court accepts that Petitioner’s detainment
4 was procedurally inadequate, the proper remedy is not Petitioner’s release, but an
5 order “to remedy the specific procedural deficiency that might be established.” ECE
6 No. 8, p 12. Here, Petitioner has raised a serious question going to the merits with
7 respect to three different procedural deficiencies—proper revocation of his release,
8 a prompt informal interview where he could contest his detention, and likelihood of
9 his removal in the reasonably foreseeable future. These deficiencies implicate all
10 stages of Petitioner’s re-detention, and providing these protections after
11 Respondents already detained Petitioner would not cure his initial detention lacking
12 the requisite due process. Petitioner’s release is necessary to return him to the status
13 quo, or “the last uncontested status which preceded the pending controversy.” *Hoac*
14 *v. Becerra*, 2025 WL 1993771, at *7 (cleaned up) (quoting *GoTo.com, Inc. v. Walt*
15 *Disney Co.*, 202 F.3d 1199, 1210 (9th Cir. 2000)); *Nazarian*, 2025 WL 3236209, at
16 *7 (“While Respondents argue the proper relief is remedying the specific procedural
17 defects rather than releasing Petitioner from custody, . . . the Court rejects this
18 argument. Here, Petitioner’s release is necessary to return him to the status quo.”);
19 *Esmail*, 2025 WL 3030590, at *6 (“Providing Petitioner an interview ex post facto,
20 while keeping him detained in ICE’s custody, would not remedy the apparent
21 constitutional violation that Petitioner has suffered in being re-detained without any
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1 measure of due process. The fact that he was not given an interview renders his
2 detention unlawful in the first place, necessitating his release.”)

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4 **II. The Government’s Compelling Interest In Steady Enforcement Of**
5 **Immigration Laws Would Not Be Undermined By Granting Petitioner**
6 **The Limited Relief He Seeks.**

7 Respondents state that the Government has a compelling interest in steady
8 enforcement of immigration laws, but they do not explain how that would be
9 undermined by ordering Petitioner’s release. Petitioner does not ask this Court to
10 order that Petitioner not be removed to Armenia pursuant to the order of removal.
11 He merely requests that this Court order the government to do what the law
12 compels: grant him release on the OSUP unless and until Respondents comply with
13 its procedures for revocation of the OSUP, including detaining him only if his
14 removal is reasonably foreseeable.
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16

17 Respectfully Submitted,
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19 DATED: December 26, 2025

20 s/ Keli M. Reynolds
21 KELI M. REYNOLDS
22 Olmos & Reynolds Law Group, LLP
23 Attorney for Petitioner
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WORD COUNT CERTIFICATION

The undersigned, counsel of record for Petitioner certifies that this Memo contains
2,699 words, which complies with the word limit of L.R. 11-6.1.

s/ Keli M. Reynolds
KELI M. REYNOLDS
Attorney for Petitioner