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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Hamid SAMADI,

Petitioner,

v.

Jason STREEVAL, Warden of Stewart Detention Center, in his official capacity; George STERLING, Deputy Field Office Director of the Atlanta Field Office, U.S. Immigration and Customs Enforcement; Todd LYONS, in his official capacity as acting Director of U.S. Immigration and Customs Enforcement, Kristi NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security, and Pamela BONDI, in her official capacity as U.S. Attorney General; Daren MARGOLIN, Director for Executive Office for Immigration Review,

Respondents.

HEARING REQUESTED

Case No.: 4:25-cv-00131

PETITIONER'S RESPONSE TO RESPONDENTS' MOTION TO DISMISS AND REPLY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner Hamid Samadi has fully complied with the terms of his release on an Order of Supervision, while Respondents have not complied with the due process that should continue to be afforded to Mr. Samadi. In 2004, Mr. Samadi was released from U.S. Immigration and Customs enforcement ("ICE") custody on an order of supervision ("OSUP") after 10 months of detention, and he has attended his required ICE check-ins ever since. Despite Mr. Samadi's compliance with his OSUP, Respondents re-detained Mr. Samadi at his scheduled check-in in December 2025. Respondents re-detained Mr. Samadi, in front of his 10-year-old daughter, without considering the relevant individual facts of his case and without any plans to actually remove him to Iran, or to a third country.

Petitioner was instead swept up in Respondents' efforts to remove anyone and everyone they deem suitable, regardless of what the law requires of Respondents, before depriving a person of their freedom. Respondents provide no lawful authority for Petitioner's re-detention or indefinite detention. This Court has the power to and should "dispose of the matter as law and justice require" by granting the writ and ordering Mr. Samadi's release from detention. *See* 28 U.S.C. § 2243. Since being re-detained, Respondents have not identified a single country to which they are seeking to remove Mr. Samadi, despite his repeated requests for removal to an alternate third country. *See Exhibit A*, Samadi Affidavit and Attached Exhibit; *Exhibit B*, Affidavit of Fatemeh Sharif-Askary. Petitioner has now been in Respondents' custody at the Stewart Detention Center in Lumpkin County, Georgia for nearly three months, with no end in sight.

Mr. Samadi reported annually to ICE from 2004 until the present. There were no changed circumstances in Mr. Samadi's life in terms of criminal activity, or any other breach of the terms of his release. In fact, Mr. Samadi is currently married to a US Citizen, and he has two U.S. Citizen children. ICE did not inform Mr. Samadi of any ability to remove him, nor of any specific change in circumstance that warranted his unlawful re-detention. To date, ICE has not provided travel papers for him, and in fact had tried to obtain such papers for years but were unsuccessful in doing so.

II. ARGUMENT

A. Petitioner is Entitled to Relief Pursuant to *Zadvydas*

Mr. Samadi's claims are ripe for review. Respondents contend that the Court does not have subject matter jurisdiction to consider Counts One, Two, or Three solely because Mr. Samadi has not yet been detained at Stewart Detention Center for six months. See MTD at 11-16. First, Respondents ignore that Petitioner's due process claims (Counts 2 and 3) independently challenge Mr. Samadi's re-detention in the first instance, for which the length of detention has no bearing.

Second, Respondents misread *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). Should the Court find that the six-month presumptively reasonable period restarted with Mr. Samadi's redetention—it does not—even then, Mr. Samadi's claims are ripe for review because the "presumptively reasonable period" is simply that: a presumption. Id. ("[W]e think it practically necessary to recognize some presumptively reasonable period[.]"). Courts across the country have found as much. *See, e.g., Munoz-Saucedo v. Pittman*, 2025 WL 1750346, at *6 (D.N.J. June 24, 2025) ("[i]f a person 'can prove' that his removal is not reasonably foreseeable, then he can overcome the presumption"); *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008) ("[T]here is nothing inherent in the operation of the presumption itself that requires it to be irrebuttable."); *Trinh v. Homan*, F. Supp 3d 1077, 1092 (C.D. Cal. 2020) ("Zadvydas established a 'guide' for approaching detention challenges, not a categorical prohibition on claims challenging detention less than six months."); *Ali v. Dep't of Homeland Sec.*, 451 F. Supp. 3d 703, 708-09 (S.D. Tex.

Apr. 2, 2020) (similar).

B. The petition should be granted because Respondents' re-detention of Mr. Samadi violates the Administrative Procedure Act, the Immigration and Nationality Act, and Federal Regulation

Under the INA and its implementing regulations, after an individual is released on OSUP, that release may only be revoked subject to formal processes and for limited reasons. 8 C.F.R. § 241.4(l)(1)-(2); see 8 U.S.C. § 1231(a)(3) (directing that following the removal period, the noncitizen "shall be subject to supervision"). Respondents' filing only supports the conclusion that they did not follow the requisite processes or make the necessary findings. See Knowles Decl.; I-213. First, a noncitizen's release may be revoked "in the exercise of discretion" when "[t]he purposes of release have been served"; the noncitizen "violates any condition of release"; revocation "is appropriate to enforce a removal order or to commence removal proceedings against [the noncitizen]"; or "[t]he conduct of the [noncitizen], or any other circumstance, indicates that release would no longer be appropriate." 8 C.F.R. § 241.4(l)(2). Here, ICE did not have a valid reason to revoke Mr. Samadi's release. It is undisputed that Mr. Samadi did not violate any terms of his release, including not committing any crimes that could constitute a material change in circumstances. See Samadi Decl.; see also Shaw Decl., I-213 at 2-3 (listing no violations of OSUP). Mr. Samadi's re-detention was not "appropriate to enforce a removal order," MTD at 6. Nor is "determining that there was significant likelihood of removal" one of the enumerated reasons justifying revocation. Knowles Decl. While Mr. Samadi's OSUP required that he assist ICE in "obtaining necessary travel documents," OSUP at 1, ICE made no such request before re-detaining Mr. Samadi, Samadi Decl. Second, the decision to revoke release can only be made by the Executive Associate Director unless in a "district director's opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate

[Director]," in which case the district director can revoke release. *Id.* Respondents provided a copy of the "Notice of Revocation of Release," and appear to concede that the decision to revoke Mr. Samadi's release was made by deportation officers—which is plainly improper under the regulations. Further, the Notice does not list any office address whatsoever. See Dkt 5-9; *Santamaria Orellana v. Baker*, 2025 WL 2841886, at *6 (D. Md. Oct. 7, 2025) (finding violation where revocation of release was not made by an Executive Associate Director or district director). Third, after the decision is made to revoke a noncitizen's OSUP, the noncitizen must be notified of the revocation and provided an informal interview. 8 C.F.R. § 241.4(l)(1).

Respondents failed to comply with both federal statute and regulations when re-detaining Petitioner. See 8 C.F.R. § 241.4(l)(1)-(2); 8 U.S.C. § 1231(a)(3); Samadi Decl.; *see also Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 159-66 (W.D.N.Y. 2025) (finding violations when unauthorized authority revoked petitioner's OSUP and respondents failed to provide an informal interview). Additionally, because Respondents have continued to fail to articulate a reasonable explanation for their decision to re-detain him, their decision violates the APA. See 5 U.S.C. § 706(2)(A) (directing courts to "hold unlawful and set aside agency action" that is arbitrary and capricious); *Dep't of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (requiring an agency to articulate a "satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made").

C. <u>Petitioner's Re-detention is Not Justified</u>

The six-month period "reasonably necessary" to bring about a noncitizen's removal who has been granted withholding of removal starts at the beginning of the removal period. This conclusion is consistent with *Zadvydas* and 8 U.S.C. § 1231. *See, e.g., Sagastizado Sanchez v. Noem*, No. 25-cv-00104, at *14 (S.D. Tex. Nov. 14, 2025) ("If the government "can be presumed to be working to effectuate removal in good faith, that presumption does not reset at the time a noncitizen is re-detained after being released on an order of supervision during which time the Government could have been taking steps to effectuate the noncitizen's removal."); *Zavvar v. Scott*, No. CV 25-2104-TDC, 2025 WL 2592543 (D. Md. Sept. 8, 2025), at *4 ("[T]here is, at a minimum, a reasonable argument that the six-month period runs continuously from the beginning of the removal period, even if the noncitizen is not detained throughout that period."); *Tadros v. Noem*, No. 25-4108-EP, 2025 WL 1678501, at *3 (D.N.J. June 13, 2025) (finding that a final order of removal triggered the six-month period). Indeed, the facts of *Zadvydas* only considered situations in which a noncitizen was continuously detained from the issuance of a removal order, while the government attempted to remove them. 533 U.S. at 684-86. *Zadvydas* did not address the factual circumstance here, in which a noncitizen is released from detention on an OSUP, more than six months have elapsed without removal, and a noncitizen is subsequently re-detained. *Sagastizado Sanchez*, No. 25-cv-00104, at *14 ("[T]he 180-day period—and therefore the presumption of reasonable detention—does not reset simply because a noncitizen is redetained.").

Petitioner's re-detention and continued detention violates substantive due process, regardless of the amount of time that he has been detained. Freedom from physical restraint "lies at the heart of the liberty that that the Due Process Clause protects." *Zadvydas*, 533 U.S. at 690; *see also Jimenez v. Bostock*, 2025 WL 2430381, at *6-7 (D. Or. Aug. 22, 2025). ("[F]reedom from government custody is fundamental."). This protection applies regardless of a person's immigration status. *See Zadvydas*, 533 U.S. at 690; *see also Mathews v. Diaz*, 426 U.S. 67, 77 (1976). "In the context of immigration, a period of detention must 'bear[] a reasonable relation to the purpose for which the individual was committed.'" *Gamez Lira v. Noem*, 2025 WL 2581710, at *2 (D.N.M. Sept. 9, 2025) (finding likelihood of success on merits of substantive due process claim) (*quoting Demore v. Kim*, 538 U.S. 510, 516-17 (2003)); *see Jackson v. Indiana*, 406 U.S. 715, 738 (1972) (similar). Civil immigration detention thus runs afoul of the due process clause when it no longer bears a reasonable relation to the detention statute's purpose. Here, Respondents purport to justify the re-detention of Petitioner generally under 8 U.S.C. § 1231 to enforce Petitioner's removal order. MTD at 12. The purposes of post-order detention under 8 U.S.C. § 1231 are to ensure an individual's presence for imminent removal and, secondarily, to prevent danger to the community. *See Zadvydas*, 533 U.S. at 690, 697. Neither justification is present here.

Further, the United States District Court for the District of Massachusetts recently held that a petitioner's detention was no longer presumptively reasonable. *See Duran Siguenza v. Moniz*, 1:25-cv-11914 (D. Mass Sept. 2025). The Court recalled that the parties argued whether the "presumptively reasonable six-month period of detention restarted when Petitioner was re-detained or must be calculated to account for his prior two-month period of immigration detention…[finding that] [m]ost courts to consider the issue have concluded that the *Zadvydas* period is cumulative, motivated, in part, by a concern that the federal government could otherwise detain noncitizens indefinitely by continuously releasing and re-detaining them." Id. at 6. *See Nguyen v. Scott*, No. 25-cv-01398, 2025 WL 2419288, at *13 (W.D. Wash. Aug. 21, 2025); *Escalante v. Noem*, No. 25-cv-00182, 2025 WL 2206113, *3 (E.D. Tex. Aug. 2, 2025); *Diaz-Ortega v. Lund*, No. 19-cv-670, 2019 WL 6003485, at *7 n.6 (W.D. La. Oct. 15, 2019), report and recommendation adopted, No. 19-cv-670, 2019 WL 6037220 (W.D. La. Nov. 13, 2019); *Hamama v. Adducci*, No. 17-cv-11910, 2019 WL 2118784, at *3 (E.D. Mich. May 15, 2019); *Sied v. Nielsen*, No. 17-cv-06785, 2018 WL 1876907, at *6 (N.D. Cal. Apr. 19, 2018); *Chen v. Holder*, No. 14-cv-2530, 2015 WL 13236635, at *2 (W.D. La. Nov. 20, 2015). The Court in *Duran* reasoned that

"Petitioner has provided good reason to believe that his removal is not significantly likely in the reasonably foreseeable future and Respondents have failed to rebut that showing…[because Respondents] have not been able to even identify a third country that might be willing to accept him, let alone secure travel documents for Petitioner". *Id. at 7.*

As explained in Petitioner's Declaration, Respondents have had more than 20 years to follow the law to remove Mr. Samadi and have failed to do so. Respondents themselves admit having no reliable timeline as to when they plan to effectuate Petitioner's removal. See Knowles Decl. ¶ 18 ("in the process of requesting a travel document for the Petitioner…funding is currently delayed due to the lapse in appropriations…[a]s soon as…no longer in lapsed status, ICE/ERO will proceed"). "[T]he first justification—preventing flight—is weak or nonexistent where removal seems a remote possibility at best." *Zadvydas*, 533 U.S. 678, 690. Such is the case here. Respondents provide no evidence or argument for how ICE is able to achieve the statutory purpose—ensuring Petitioner's presence for his removal, if and when ICE is able to carry it out—by less restrictive means. Second, Respondents have not shown that Petitioner's detention is reasonably related to the goal of community safety on the basis that he is a "particularly dangerous individual[]." *Zadvydas*, 533 U.S. at 691. The Knowles Declaration and the I-213 make no such assertion. "[O]nce the flight risk justification evaporates, the only special circumstance present is the alien's removable status itself, which bears no relation to a [noncitizen]'s dangerousness." *Zadvydas*, 533 U.S. at 691-92. Mr. Samadi's "removable status" is the very justification Respondents' assert here. MTD at 12. Because Petitioner's detention bears no rational relation to the purpose of 8 U.S.C. § 1231, each day that he continues to be deprived of his liberty violates his substantive due process rights.

Second, Mr. Samadi has been deprived of his liberty without the process due at every stage of his redetention and now indefinite detention. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings." *J.G.G.*, 604 U.S. at 673; *see also Velasquez Salazar v Dedos et al*, Case 1:25-cv-00835, ECF 28 at 9 (D.N.M. Sept. 17, 2025) ("The Due Process Clause's protections extend to all persons in the United States, including non-citizens."). Due process also requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (*quoting Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)). Where the government seeks to deprive an individual of a protected interest, such as their liberty, the Supreme Court has directed that courts balance three factors to determine what process is due: (1) "the private interest that will be affected"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest[.]" Id. at 335. Courts have applied this framework in similar circumstances to Petitioner's. *See, e.g., Jimenez*, 2025 WL 2430381, at *6-7 (applying Mathews factors to uphold immigration petitioner's right to an individualized custody determination); Transcript and Oral Decision, *O-J-M- v. Bostock*, Case No. 3:25-cv-00944-AB at 37-38 (D. Or. July 14, 2025) (applying *Mathews* test to grant writ of habeas corpus based on "a very concerning deprivation of petitioner's constitutional due process rights"); *E.A. T.-B. v. Wamsley*, 2025 WL 2402130, at *3-6 (W.D. Wa. Aug. 19, 2025) (applying *Mathews* factors to assess right to pre-deprivation hearing). The first Mathews factor strongly favors Mr. Samadi. As described in his Petition, Mr. Samadi has a strong interest in freedom from physical confinement and in a notice and an opportunity to be heard prior to any restraint of his liberty. *See also Foucha v. Louisiana*, 504 U.S. 71, 80 (1992) ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)). The second and third *Mathews* factors also heavily favor Mr. Samadi because he requests only the procedural safeguards that are already enshrined in statute, regulations, and ICE's policies. Respondents failed to follow their own regulations in re-detaining Mr. Samadi when he was originally released with an OSUP. 8 C.F.R. § 241.4(l)(1)-(3). Courts across the country have found that revocation of release on an OSUP without following the required procedures constitutes a deprivation of due process. These procedures are "not merely a housekeeping requirement" but rather "implicate due process" *Santamaria Orellana*, 2025 WL 2841886, at *6 (finding the requirement that "only an ICE Executive Associate Director make a determination to revoke release … is art of a procedural framework, designed to insure the fair processing of an action affecting an individual" (internal quotations omitted)); see also *Villanueva v. Tate*, No. CV H-25-3364, 2025 WL 2774610, at *6 (S.D. Tex. Sept. 26, 2025) ("In the absence of some evidence showing that Villanueva's Order of Supervision was lawfully revoked by someone with the authority to do so and for a reason lawfully permitted, the government has failed to show that it afforded Villanueva with due process in connection with the purported revocation of his Order of Supervision."); *Cifuentes Rivera v. Arnott*, No. 4:25-cv-00570-RK (W.D. Mo. Oct 7, 2025) ("Federal district courts across the country have recently found that an initial informal interview is required under the relevant regulations when an order of supervision is revoked (regardless of the actual reason given for revocation) and that ICE violates a detained alien's constitutional rights to procedural due process when the alien is not afforded the initial informal interview that is plainly required under ICE's own regulations."); *Ceesay*, 781 F. Supp. 3d at 163-64 (collecting cases and rejecting the government's argument that an initial informal interview is only required if supervision is revoked based on a violation of conditions of release).

ICE has also continued to detain Petitioner without the custody review procedures due under 8 C.F.R. § 214.13 or ICE's own policy. While Petitioner does not concede that the custody review procedures under 8 C.F.R. § 214.13 are constitutionally sufficient, Respondents' failure to follow them can nevertheless constitute a violation of due process. *See Diouf v. Napolitano*, 634 F.3d 1081, 1092 (9th Cir. 2011) (holding that post-order custody review procedures under 8 C.F.R. § 241.4 do not meet minimum due process requirements); *K.E.O. v. Woosley*, No. 4:25-CV-74-RGJ, 2025 WL 2553394, at *4-6 (W.D. Ky. Sept. 4, 2025) (finding due process violation where ICE failed to provide notice and interview as required under 8 C.F.R. § 241.13). So too for failure to follow ICE's own policies. *See Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) ("An agency's failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual's constitutional right to due process.") (internal quotations omitted). In sum, Respondents have violated and continue to violate Mr. Samadi's due process rights. Had Respondents provided Mr. Samadi the process he is due, they would have been compelled to conclude that Mr. Samadi's facts and circumstances do not support redetention nor continued detention, resulting in his freedom.

D. <u>Petitioner's Claim Pursuant to the Administrative Procedure Act is Cognizable</u>

Respondents are incorrect that this Court cannot find Mr. Samadi's detention unlawful based on a violation of the Administrative Procedure Act ("APA") in habeas. See MTD at 4. Claims under the APA are permitted in "any applicable form of legal action, including…habeas corpus." 5 U.S.C. § 703. Mr. Samadi brings this habeas corpus petition in the district of his confinement, not to challenge summary deportation, but rather to challenge unlawful detention. *See Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 WL 2822640 (E.D.N.Y. Oct. 3, 2025) (distinguishing J.G.G. from a habeas case challenging a parole revocation and citing to 5 U.S.C. §

703). Mr. Samadi's APA claims are not barred in habeas, and courts have found as much. *See, e.g., Y-Z-L-H- v. Bostock*, 792 F. Supp. 3d 1123, 1143-46 (D. Or. 2025) (finding purported termination of parole without following proper procedure a violation of the APA); *Mohammed H. v. Trump*, 786 F. Supp. 3d 1149, 1159- 61 (D. Minn. 2025) (granting habeas based on APA violation).

III. CONCLUSION

For the foregoing reasons, Petitioner submits that Respondents' Motion to Dismiss shall be denied, and the Petition be granted to effectuate Mr. Samadi's immediate release from custody.

Dated: March 3, 2026.

Respectfully submitted,

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