UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

BHARATBHAI PATEL, Petitioner, v. KRISTI NOEM, et al., Respondents.	Case No. 1:26-cv-211

PETITIONER'S AMENDED RESPONSE TO BRIEF REGARDING DETENTION

Petitioner Bharatbhai Patel, through his counsel, files this response to the government's brief regarding his detention.

When Petitioner's OSUP was revoked on November 28, 2025, the sole basis the government provided was that "[b]ased on your criminal convictions for Bribery and Conspiracy, your Order of Supervision is hereby revoked." (Doc. 11-5). But those were the convictions for which he was ordered removed in the first instance. (*See id.*). The government now seeks a do-over. It has issued a new notice of revocation following almost five months in detention, where it now states that revocation is made under 8 C.F.R. § 241.4(l) because "ICE has the ability and means to effectuate your removal" and points to a June 8, 2026 deadline now that "ICE has obtained a travel document" for Petitioner. (Doc. 27-2). But the government admitted through these proceedings that it did not have such travel document until recently. (*See* Doc. 27 at 2; 27-5 (travel document issued on February 19, 2026)).

The government's post-detention efforts to comply with the law are insufficient; Petitioner is not lawfully detained. That is, ICE is required to notify an individual of the reasons

for revocation of release "*upon revocation*." 8 C.F.R. § 241.4(l)(1) (emphasis added). The reasons for the revocation cannot merely parrot the regulatory language but must be particularized to the individual. *See Puertas-Mendoza v. Bondi*, 2025 WL 3142089, at *4 (W.D. Tex. Oct. 22, 2025) (finding ICE violated their own regulations where Order of Supervision revocation letter merely contained cursory and conclusory language); *see also Roble v. Bondi*, 803 F. Supp. 3d 766, 771 (D. Minn. 2025) (finding insufficient a generalized written notice under § 241.13(i)(3), and that "parroting the regulatory text" is unacceptable). In the Fifth Circuit, the "[f]ailure to adhere to regulations can constitute a denial of due process of law." *Francois v. Garland*, 120 F.4th 459, 465 (5th Cir. 2024) (quoting *Arzanipour v. I.N.S.*, 866 F.2d 743, 746 (5th Cir. 1989)).

ICE is also required to provide the individual with an initial informal interview regarding Order of Supervision revocation "*promptly* after his or her return to Service custody." 8 C.F.R. § 241.4(l)(1) (emphasis added). But the government only did that on May 15, 2026, almost five months after Petitioner was detained. (Doc. 27-3). *K.E.O. v. Woosley*, 2025 WL 2553394, at *6 (W.D. Ky. Sept. 4, 2025) (finding 90 days without notice is neither "upon revocation" nor "prompt" as required by the statute and implementing regulation). Not only that, but the government did so without informing Petitioner's immigration counsel, Lucy Lu, whose appearance (G-28) has been on file with DHS since February 8, 2026 for "[a]ll matters before ERO. *See* Exhibit 1. Petitioner suffers from Parkinson's and dementia, *see* Pet., and his attorney was required to be present for this interview, but she was not informed by ICE and did not know about the interview until reading the government's evidence.

Courts have ordered petitioners released after ICE's failure to comply with its Order of Supervision revocation regulations. *See, e.g.*, *Gomez-Simeon v. Bondi*, 2025 WL 3470872 (W.D.

Tex. Nov. 24, 2025) (ordering release 33 days after re-detention where ICE did not serve Order of Supervision revocation and did not provide a prompt revocation interview); *Puertas-Mendoza*, 2025 WL 3142089 (ordering release 98 days after re-detention where ICE served revocation letter three weeks after re-detention and attempted to interview without counsel present); *Villanueva v. Tate,* 801 F. Supp. 3d 689, 704-05 (S.D. Tex. 2025) (S.D. Tex. Sept. 26, 2025) (ordering release 68 days after re-detention where ICE did not issue a revocation notice, failed to interview and did not give a reason for revocation).

Next, while the government has now finally provided evidence that Petitioner's deferred action was revoked, *see* (Doc. 27-1 at 2 ("Additionally, your deferred action status has been terminated."), it has provided no evidence that Petitioner received the process required following revocation of deferred action or employment authorization. 8 C.F.R. § 274a.14(b)(2) ("the alien will be granted a period of fifteen days from the date of service of the notice [of intent to revoke employment authorization] within which to submit countervailing evidence."). Moreover, the government's basis for the denial, that Petitioner did not respond to a notice of intent, is not true. *See* Exhibit 2 (excerpted appeal). Petitioner has appealed that determination and until there has been a final determination, his deferred action is undisturbed.

Finally, the fact that Petitioner's deferred action was only revoked following months of detention shows that the government unlawfully detained him in the first instance. The efforts now to fix their mistakes are too little, too late. *Nguyen v. Noem*, 2026 WL 237282, at *10 (S.D. Tex. Jan. 28, 2026) (the proper remedy for ICE's failure to comply with its regulations is "not only immediate release from ongoing detention, but also reinstatement of his former OSUP.").

WHEREFORE, Petitioner Bharatbhai Patel respectfully requests that the Court find that Respondents' evidence supporting alleged lawful detention is insufficient and that the TRO be reinstated pending further proceedings.

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/s/ James M. Slater

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document will be served on all counsel of record via CM/ECF.

Dated: May 22, 2026

/s/ James M. Slater

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