IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALERXI RONDON REYES, *Petitioner*, v. J.L. JAMISON, et al.; *Respondents*.	Case No.: 2:26-cv-1324

PETITIONER'S REPLY IN SUPPORT OF HIS PETITION FOR A WRIT OF HABEAS CORPUS

This case is a house of cards that falls on Respondents' premise that an arrest is the same as the commission of a crime. It is not. Respondents arrested Mr. Rondon Reyes, who an immigration judge (IJ) previously granted protection under the Convention Against Torture, for an alleged violation of his Order of Supervision (OSUP) and to allegedly effectuate his removal to an unidentified third country. Mr. Rondon Reyes, an individual released on an OSUP, has a strong liberty interest in his freedom, which cannot be stripped without adequate process. Here, there was no basis to revoke Mr. Rondon Reyes' OSUP because he did not commit a crime by merely being arrested and the only evidence on which Respondents rely constitutes inadmissible hearsay. Furthermore, the way Respondents revoked Mr. Rondon Reyes' OSUP violated his constitutional right to due process and the regulations under the Immigration and Nationality Act (INA). Lastly, Respondents have not shown that they possess travel documents to remove Mr. Rondon Reyes to a third country—one which they have not even identified.

Respondents raise three arguments in response to this Petition.[1] *See* ECF No. 8, Opp. Each fails. *First*, Respondents had no basis to revoke Mr. Rondon Reyes' OSUP because he did not commit a crime. His arrest on which they rely resulted in withdrawn charges and no conviction. *Second*, Respondents had no ability to remove Mr. Rondon Reyes at the time that they took him into custody on February 26, 2026, and it is Respondents' burden to show that they can remove him. *Third*, Respondents have not shown that the Acting Field Office Director has the authority to revoke an OSUP under the regulations. *Fourth*, Respondents did not provide Mr. Rondon Reyes with prompt notice "upon revocation" of the reasons for the revocation and the purported "informal interview" did not comport with the regulatory or constitutional requirements. Finally, Respondents' actions violate Mr. Rondon Reyes' substantive and procedural due process rights because they detained him without adequate process, in violation of the regulations, and without travel documents to effectuate his removal.

ARGUMENT

I. Respondents had no basis to revoke Mr. Rondon Reyes' OSUP.

Under the regulations, Respondents can only revoke a noncitizen's OSUP for two specific reasons. *See* 8 C.F.R. § 241.4(l)(2). First, if the noncitizen violates the terms of release; and second, if "(i) The purposes of release have been served; (ii) The [noncitizen] violates any condition of release; (iii) It is appropriate to enforce a removal order or to commence removal proceedings

[1] Respondents submitted fourteen exhibits in support of their opposition. *See* ECF Nos. 8-1–8-13, 10-1. Most of these exhibits document or describe Mr. Rondon Reyes' previous immigration and criminal history. Notably, every previous immigration violation or criminal conviction, except the arrest at issue here, occurred *before* an IJ granted Mr. Rondon Reyes protection under the Convention Against Torture on September 20, 2023. *See* ECF No. 8-9, IJ Order. Accordingly, this history was taken into consideration, and well-known to Respondents, when they released Mr. Rondon Reyes from their custody in 2023. *See* ECF No. 8-10, Ex. J, OSUP.

against a[] [noncitizen]; or (iv) The conduct of the [noncitizen] or any other circumstance, indicates that release would no longer be appropriate." *Id.*

Here, the Notice of Revocation of Mr. Rondon Reyes' OSUP states that he "violated a condition of [his] release" and that "it is appropriate to enforce the removal order entered against [him] as ICE has the ability and means to effectuate your removal." ECF No. 8-12, Ex. L, Notice of Revocation of Release and Worksheet (hereinafter "Revocation Notice"), at 3; ECF No. 8, Opp. at 13. The Revocation Notice, does not state *which* condition Mr. Rondon Reyes violated. ECF No. 8-12, Ex. L at 3. Instead, under the box marked "You violated a condition of your release," it states Mr. Rondon Reyes was "arrested" for various charges. *Id.* The Notice does not state that ICE has travel documents or is seeking travel documents to a third country. *Id.* Instead, under the box marked "It is appropriate to enforce the removal order entered against you as ICE has the ability and means to effectuate your removal," the boxes indicating Respondents have a travel document or are even "seeking a travel document" unchecked. *Id.* Instead, there is a check box next to the generic text stating Mr. Rondon Reyes' case "is under review for removal to an alternate country." *Id.*

The Revocation Notice is improper because Respondents have not shown that Petitioner violated a condition of his release. Respondents' assertion that Petitioner violated his OSUP through his "arrest and subsequent charges," ECF No. 8 at 14, is legally incorrect because an arrest does not constitute the commission of a crime or the association with criminal activity. Mr. Rondon Reyes has not been convicted of any crime; quite the opposite, the charges against him have all been withdrawn. *See* ECF No. 6, Notice of Factual Update. An arrest is not a violation of an OSUP when the government presents no reliable evidence to prove the facts asserted. And the only evidence Respondents rely on is unreliable and inadmissible hearsay from a police report. ECF

No. 8, Opp. at 6, 14 (citing ECF No. 8-11, Ex. K, Police Report). Police reports are not evidence that a crime has been committed. *See Schware v. Bd. Of Bar Examiners*, 353 U.S. 232, 241 (1957) ("The mere fact that a man has been arrested has very little, if any, probative value in showing that he engaged in any misconduct. An arrest shows nothing more than that someone probably suspected the person apprehended of an offense.").

A police report is insufficient to deprive Mr. Rondon Reyes of his liberty and subject him to detention and deportation. In this country, adherence to due process prohibits the government from finding a person committed a crime without any process. Because there was no process here, Mr. Rondon Reyes cannot remain detained in civil custody. And even if there was process, Respondents' evidence does not show that Mr. Rondon Reyes committed a crime, which is required to revoke his OSUP. Further, Respondents have violated Mr. Rondon Reyes' procedural due process rights in revoking his OSUP prior to the conclusion of his criminal proceedings to determine whether he *did* commit a crime of which he should be found guilty.

A. Respondents have not shown that Petitioner "committed a crime."

Petitioner was arrested by Philadelphia police on December 6, 2025. ECF No. 8-11, Ex. K, Police Report. The charges from this offense were pending while Mr. Rondon Reyes was out of custody and complying with the criminal court process. ECF No. 1, Petition. On February 27, 2026, Respondents detained Petitioner on his way to criminal court, where a neutral judge was to determine Petitioner's guilt or innocence related to the charges. *Id.* All charges in this case have since been withdrawn by the prosecution. ECF No. 6, Notice of Factual Update. Nonetheless, ICE contends that Mr. Rondon Reyes' arrest constitutes a violation of his OSUP because an arrest with no conviction equates to the commission of a crime or association of criminal activity. ECF No. 8, Opp. at 14. This is incorrect for two reasons: first, the only evidence Respondents rely on is

unreliable inadmissible hearsay; and, second, an arrest, especially with no conviction, does not constitute the commission of a crime for purposes of OSUP revocation.

1. The Police Report, the only evidence regarding Mr. Rondon Reyes alleged criminal activity, is inadmissible hearsay.

Citing to a police report, Respondents assert Mr. Rondon Reyes has committed a crime or was associated with criminal activity. *See* ECF No. 8, Opp. (citing only ECF No. 8-12, Ex. K, Police Report). This evidence is hearsay and is not admissible. "Hearsay is a statement, other than one made by the declarant while testifying at trial, offered in evidence to prove the truth of the matter asserted." Fed. R. Evid. 801(c); *see* Fed. R. Evid. 1101 (confirming that hearsay rules apply to civil proceedings, which includes habeas proceedings).

Respondents seemingly submit the police report, *see* ECF No. 8-12, Ex. K, to prove the truth of the statements therein—that Mr. Rondon Reyes committed some allegedly criminal activity. But statements contained in police reports, when offered to prove criminal conduct, are inadmissible. *See Krepps v. Gov't of Virgin Islands*, 47 V.I. 662, 672, 2006 WL 1149216 (D.V.I. Apr. 13, 2006), *aff'd*, 438 Fed. Appx. 86 (3d Cir. 2010) ("Because of reliability concerns, the rules expressly exclude police reports as inadmissible hearsay.") (citing Fed. R. Evid. 801(a)–(b)) (defining hearsay). The Federal Rules of Evidence apply in proceedings held under 28 U.S.C. § 2241. Federal Rule of Evidence 1101 states that the Rules govern in "civil cases and proceedings," Fed. R. Evid. 1101(b), of which habeas proceedings are no exception. *See id.* 1101(b); Fed. R. Evid. 1101 advisory committee's note to subdivision (d) ("[Rule 1101] does not exempt habeas corpus proceedings."). As such, the Supreme Court has applied the Federal Rules of Evidence to determine the admissibility of evidence in habeas proceedings. *See, e.g.*, *Amadeo v. Zant*, 486 U.S. 214, 227 n.5 (1988).

Moreover, even *if* the police report were admissible, it is not reliable evidence of the commission of a crime. *See United States v. Lloyd*, 566 F.3d 341, 346 (3d Cir. 2009) (citing *United States v. Leekins*, 493 F.3d 143, 149 (3d Cir. 2007)) ("[P]olice reports are neither 'inherently reliable [nor] … inherently unreliable.'"). In assessing reliability of police reports, the Third Circuit "revert[s] to the general principle that the facts upon which a judge bases a [determination] must have 'sufficient indicia of reliability to support [their] probable accuracy.'" *Leekins*, 493 F.3d at 149. Police reports are used to bring charges, and at the preliminary stage "the Commonwealth [of Pennsylvania] need not prove the defendant's guilt beyond a reasonable doubt, but rather, must merely put forth sufficient evidence to establish a *prima facie* case of guilt." *Commonthwealth v. Karetny*, 583 Pa. 514, 880 A.2d 505 (Pa. 2005) (citation modified) (citing *Huggins*, 836 A.2d at 866 (citing *Commonwealth v. McBride*, 528 Pa. 153, 595 A.2d 589, 591 (1991))). To prove a *prima facie* case, the evidence "need only be such that, if presented at trial and *accepted as true*, the judge would be warranted in permitting the case to be decided by the jury." *Id.* (emphasis added). The evidence here—an arrest that led to withdrawn charges—indicates only one thing: that a person was arrested. *See Schware*, 353 U.S. at 241.

Respondents cannot rely on inadmissible hearsay or unreliable evidence to justify the revocation of Mr. Rondon Reyes' OSUP and they have not otherwise proven Mr. Rondon Reyes' involvement in any criminal activity beyond his mere arrest. Should this Court intend to consider the police report or Form I-213 as part of the record, Petitioner respectfully requests leave of the Court to seek discovery and examine the arresting police officer and ICE official who authored the narrative in the I-213 at a hearing so that he may be subject to cross-examination.

2. An arrest does not mean that a person committed a crime.

Many people are arrested for "alleged criminal activity" but not convicted of such activity.[2] For that reason, an arrest does not equate to the "commission of a crime." If it did, there would be no point in the criminal court process—individuals would go from arrest to punishment without ever testing the State's proof against them. This is not only illogical, but also defies the principles that undergird our entire criminal system. *See Taylor v. Kentucky,* 436 U.S. 478, 485–86 (1978) ("[T]he Due Process Clause of the Fourteenth Amendment must be held to safeguard 'against dilution of the principle that guilt is to be established by probative evidence and beyond a reasonable doubt.") (citing *Estelle v. Williams*, 425 U.S. 501, 503 (1961)). While the INA does not define the term "commit," Black's Law Dictionary defines the word "commit" as "[t]o perpetrate (a crime)." COMMIT, Black's Law Dictionary (12th ed. 2024). There is only one way to determine if a person perpetrated a crime: the State proves their guilt beyond a reasonable doubt. *See In re Winship*, 397 U.S. 358, 363–64 (1970) ("[An individual charged with a crime] is presumed innocent and the burden of proof is always on the State to prove the defendant guilty beyond a reasonable doubt 'of every fact necessary to constitute the crime with which he is charged.'").

We depend on the criminal process to determine whether an individual charged with a crime is, in fact, guilty of committing said crime. Respondents have not demonstrated that Mr. Rondon Reyes perpetrated a crime and the charges themselves have been withdrawn. ECF No. 6, Factual Update. The prosecution has withdrawn the charges and Respondents cannot relitigate such a finding now. *Id.*

[2] *See e.g.*, Samuel R. Gross, et al., Race and Wrongful Convictions in the United States, Nat'l Registry of Exonerations (Sept. 2022) https://perma.cc/7H3E-L32R ("Because of racial profiling, Black people are more likely to be stopped, searched, arrested and prosecuted in routine drug possession cases; as a result, they are also more likely to be convicted by factual mistakes.").

3. Revoking an OSUP for "alleged" criminal activity violates Mr. Rondon Reyes' procedural due process rights.

Allowing ICE to proceed with the premise that any contact with law enforcement constitutes the commission of a crime and therefore justifies revocation of an OSUP without due process sets a dangerous precedent. In this country, the Fifth Amendment provides that "[n]o person shall be . . . deprived of life, liberty, or property, without due process of law." U.S. Cons. amend. V. The procedural protections built into our criminal system are there to ensure individuals are not unjustly deprived of their liberty. Here, ICE seeks to evade these protections and effectively punish noncitizens for any alleged criminal activity or contact with law enforcement without process. Allowing ICE to engage in this practice poses a serious constitutional problem.

Mr. Rondon Reyes has a significant interest in his liberty. Revoking an OSUP on "alleged" criminal activity when Respondents have not shown that Mr. Rondon Reyes did indeed commit a crime violates Mr. Rondon Reyes procedural due process rights. Courts use the *Mathews v. Eldridge* balancing test to determine the adequacy of process in the context of civil immigration confinement. 424 U.S. 319, 321 (1976); *Gayle v. Warden Monmouth Cty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021). Here, the *Mathews* factors weigh in favor of allowing the criminal court process to determine whether Mr. Rondon Reyes committed a crime before subjecting him to civil detention for alleged criminal activity.

First, Mr. Rondon Reyes has a significant liberty interest in his freedom from detention. *See Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972) (recognizing that an individual on parole, a form of supervised release analogous to an OSUP, has a liberty interest under the Due Process Clause); *see also Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1972) (extending *Morrissey* to probation revocation); *Khachatur Zakaryan v. Bondi et al.*, No. EDCV 26-0384, 2026 WL 713014, at *3 (C.D. Cal. Feb. 3, 2026) (describing how parole is analogous to an OSUP). "[T]he liberty interest

protecting parolees from revocation without a hearing applies with equal force to noncitizens under orders of supervision." *Khachatur Zakaryan*, 2026 WL 713014, at *3; *see also Bulle v. Wesling*, No. 26-cv-019, 2026 WL 183840, at *2 (D.R.I. Jan. 23, 2026); *Villanueva v. Tate*, 801 F. Supp. 3d 669, 704 (S.D. Tex. 2025) (discussing *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Young v. Harper*, 520 U.S. 143 (1997); *Morrissey v. Brewer*, 408 U.S. 471 (1972)). Because any attempt to redetain a noncitizen previously released on an OSUP necessarily implicates his constitutionally protected liberty interests, "ICE violates a noncitizen's due process rights when the agency re-detains them and fails to comply with the[] revocation procedures." *Bulle*, 2026 WL 183840, at *2; *see also Villanueva*, 801 F. Supp. 3d at 704.

Second, the risk of erroneous deprivation is high. Absent a finding of guilt in a criminal proceeding, the risk that ICE redetains a noncitizen accused of "committing a crime" (regardless of factual innocence) is high. *See supra* n. 2 (describing the risk of erroneous arrest due to racial profiling). A noncitizen's ICE detention often prevents him from attending criminal court, where the outcome of his innocence will be determined. This results in devastating consequences for a noncitizen. There is significant value in requiring that the phrase "commit a crime" be read to require a finding of guilt because the criminal system is designed to assess the individualized facts of an individual's innocence and guilt. *See In re Winship*, 397 U.S. at 363–64 ("[A] society that values the good name and freedom of every individual should not condemn a man for commission of a crime when there is reasonable doubt about his guilt.").

Finally, the burden on the government is low. Allowing the criminal process to go forward *before* revoking an OSUP for someone's alleged criminal activity does not outweigh the liberty interest at stake. To the contrary, the government has an interest in "minimizing the enormous impact of incarceration in cases where it serves no purpose." *Velasco Lopez v. Decker*, 978 F.3d

842, 854 (2nd Cir. 2020). "[U]nnecessary detention imposes substantial societal costs" and "needless detention" separates families and creates "ruptures in the fabric of communal life [which] impact society in intangible ways that are difficult to calculate in dollars and cents." *Hernandez-Lara v. Lyons*, 10 F.4th 19, 33 (1st Cir. 2021) (citation modified). The cost to the government and society of unnecessarily detaining someone for violating an OSUP is not high, especially when Respondents are unsure whether a violation has actually taken place and are actively usurping the criminal process designed to answer the exact question of Petitioner's guilt. Accordingly, the *Mathews* factors weigh in favor of requiring the government to wait for an adjudication of an individual's innocence or guilt before redetaining them for an alleged violation of an OSUP when such revocation is the result of alleged criminal activity.

II. PETITIONER'S DETENTION AND REVOCATION VIOLATE DUE PROCESS

Respondents detain Mr. Rondon Reyes because of an immigration official's determination that there is a reasonably foreseeable probability of his removal to an unknown country and because he allegedly violated the conditions of his release. Mr. Rondon Reyes cannot be removed to the Dominican Republic, as he has been granted protection from such deportation. Yet, the government asserts that Mr. Rondon Reyes' detention is "presumptively reasonable" under *Zadvydas*, as it intends to deport him to a third country. But the 90-day removal period has long since expired.[3] Post-order detention "reasonableness" is generally measured in terms of the statute's basic purpose, "assuring the [noncitizen]'s presence *at the moment* of removal." *Zadvydas v. Davis*, 533 U.S. 678, 700 (2001) (emphasis added). Mr. Rondon Reyes' redetention bears no connection to this purpose.

[3] The 90-day removal period expired 90 days after Mr. Rondon Reyes received a deportation order pursuant to his grant of CAT protection. This order was dated September 20, 2023, *see* ECF No. 8-9, Ex. I, IJ Order, and so the removal period expired December 19, 2023.

Mr. Rondon Reyes was previously released on September 20, 2023, after an IJ granted him protection under the Convention Against Torture, prohibiting his removal to the Dominican Republic. The removal period has long since passed and Respondents were not then able to obtain travel documents for Mr. Rondon Reyes to a third country. While the government has a stated interest in redetaining a noncitizen to effectuate his removal, there must be a significant likelihood that the noncitizen may be removed in the reasonably foreseeable future. Where the removal period has expired and Respondents have not shown that they have a travel document to effectuate removal, there is no significant likelihood of removal. *See e.g.*, *Tran v. Scott*, No. 2:25-cv-01886, 2025 WL 2898638, at *4–5 (W.D. Wash. Oct. 12, 2025) (finding no significant likelihood of removal where travel document request was not submitted until *after* the petitioner was redetained and had filed a habeas petition and where respondents failed to attach the travel document request to the supporting ICE declaration). Here, more than three weeks have passed since Respondents redetained Mr. Rondon Reyes. Respondents have yet to produce a travel document or plan for his imminent removal. Thus, his detention was, and remains, illegal.

Respondents put forth no facts to suggest that Petitioner's continued redetention is required—either to assure his presence at the moment that Respondents obtain a travel document *and* the means to deport him to a third country. Throughout his years of compliance with his OSUP, Respondents have never alleged that Petitioner failed to appear or apprise ICE of his place of residence. Now, all the sudden, Respondents assert that his removal is foreseeable. But to where? And when? And with what documents?

As described *supra*, Respondents put forth no evidence that Petitioner's removal is reasonably foreseeable. Respondents cannot remove him to the Dominican Republic, as he is protected by a grant of relief under the Convention Against Torture. ECF No. 8-9, Ex. I, IJ Order.

Should Respondents decide to deport him to a third country, it must provide Mr. Rondon Reyes with due process. *Khouzam v. Att'y Gen.*, 549 F.3d 235, 257 (3d Cir. 2008). "The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* (quoting *Mathews*, 424 U.S. at 333). In short, a noncitizen must be "afforded notice and a full and fair hearing prior to his imminent removal" in order for the government to meet its constitutional due process obligation. *Id*; *see also AARP v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles [noncitizens] to due process of law in the context of removal proceedings. . . . Procedural due process rules are meant to protect against the mistaken or unjustified deprivation of life, liberty, or property. . . . [The Supreme Court has] long held that no person shall be removed from the United States without opportunity, at some time, to be heard.") (citation modified); *Zadvydas*, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent."); *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) ("[N]otice must be afforded within a reasonable time and in such a manner as will allow [the noncitizen] to actually seek . . . relief."); *see also e.g., D.V.D. v. U.S. Dep't of Homeland Sec.*, No. CV 25-10676, 2026 WL 521557, at *16 ("[A] noncitizen cannot properly raise a fear-based claim regarding a third country before receiving notice of removal to that country."). Because Mr. Rondon Reyes has protection under the Convention Against Torture, there are additional administrative hurdles to his removal and the government has not provided any evidence regarding plans for third country removal.[4] Respondents have provided no evidence that they have even requested travel documents

[4] Respondents have not described whether they have contacted any third countries. Respondents have not indicated whether they have applied for travel documents for Mr. Rondon Reyes. Respondents appear to have no plan other than to hold Mr. Rondon Reyes in detention. If Respondents did have travel documents for Mr. Rondon Reyes or a plan for his removal, presumably they would have provided such information to the court. They did not.

to any third country or that any third country is willing to accept Mr. Rondon Reyes. Instead, it seems the government is seeking a different strategy—arrest now and justify later. But that is impermissible. Keeping Mr. Rondon Reyes detained throughout this process when Respondents cannot prove that they are ready to remove him *now* violates his substantive due process rights. *See Zadvydas*, 533 U.S. at 700.

III. Revocation of Petitioner's OSUP was Unlawful Based on the Applicable Regulations.

A. The government's revocation of Mr. Rondon Reyes' OSUP violated section 241.4 because Mr. Rife is not authorized under section 241.4 to revoke an OSUP.

Respondents incorrectly argue that the Acting Field Office Director can revoke an OSUP. ECF No. 8, Opp. at 17. The regulations are clear that he cannot; only Todd Lyons, Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement, can revoke an OSUP, or delegate that authority to a district director when revocation is in the public interest or circumstances do not permit referral to the Executive Associate Commissioner. Contrary to Respondents' assertion, the Acting Field Office Director is not the District Director, so he has no authority to revoke orders of supervision. *See* ECF No. 8, Opp. at 16 ("[T]he term 'district director,' [] is the equivalent of a Field Office Director . . . .") (citing 8 C.F.R. § 1.2, which defines the term "district director") *Id.* But, under 8 C.F.R. § 1.2, for the terms including "director" to encompass "an official in an acting capacity," that individual must have been "delegated the function or authority for a particular geographic district, region, or area." *Id.* Respondents have not shown that Mr. Rife, the *Acting* Field Office Director has received such delegation.

Even assuming, *arguendo*, that the Acting Field Office Director is the same as the Field Office Director, the regulations do not define Field Office Director and District Director as the same. The regulation at 8 C.F.R. § 287.5, titled "Exercise of power of immigration officers," lays out the authority and responsibilities of various immigration officers. This regulation, which was amended as recently as September 5, 2025, "supports a conclusion that District Directors and Field Office Directors are separate entities because those positions are dealt with separately." *Ndoye v. Joyce et al.*, No. 26-cv-1219, 2026 WL 765635, at *4 (S.D.N.Y. Mar. 17, 2026). Part (e), titled "[p]ower and authority to execute warrants," explains the different powers and authorities given to different immigration officials to execute warrants. *Id.* (citing 8 C.F.R. § 287.5(e)). Subpart (2) of this section is titled "[i]ssuance of arrest warrants for immigration violation," and states which ICE official(s) may issue arrest warrants. Section 287.5(e)(2)(i) lists, as one type of official with such authority: "District directors (except foreign)." Another subsection, § 287.5(e)(2)(xxxix), lists "Field Office Directors" as another type of official with such authority. *But see Ndoye*, 2026 WL 765635, at *4 (acknowledging that some courts have stated in dicta that Field Office Directors may have certain authority to revoke OSUPs that does not inure to Assistant Field Office Directors) (citation modified). Here, Respondents have not shown that Mr. Rife is a "District Director" under the regulations. Accordingly, he did not have the authority to revoke Mr. Rondon Reyes' OSUP and Mr. Rondon Reyes is entitled to release on that basis alone.

B. Respondents' revocation of Petitioner's OSUP violated section 241.4 because Mr. Rife did not make the required public interest finding.

Whether or not Mr. Rife had the authority to revoke Mr. Rondon Reyes' OSUP, it is uncontroverted that the District Director may only do so, "when, in [their] opinion, revocation is in the public interest and circumstances do not reasonably permit referral of the case to the Executive Associate Commissioner." 8 C.F.R. § 241.4(l)(2); *see also Ndoye*, 2026 WL 765635, at

*4. Below Mr. Rife's signature, the Notice of Revocation of Release contains a "[n]ote" that "8 C.F.R. § 241.4 revocation must be EAD [Executive Associate Commissioner] or FOD [Field Office Director] where there is a public interest to do so and referral to EAD not reasonable; 241.13 may be by RMD." ECF No. 8-12, Ex. L, Revocation Notice, at 4. But there is no indication on the Notice itself that Mr. Rife engaged in the required fact finding and determined that (1) it was "in the public interest" to revoke Mr. Rondon Reyes' release, and (2) Mr. Rondon Reyes' case could not reasonably be referred to the Executive Associate Commissioner for the revocation decision. *Id.*

Respondents submit another document entitled "OSUP Revocation Worksheet." ECF No. 8-12, Ex. L, at 1. This document contains various statements, none of which are completed by Mr. Rife, and none of which explain whether or why it is in the public interest to revoke Mr. Rondon Reyes' OSUP or why his case could not be referred to the Executive Associate Commissioner. The deportation officer who signed the form states that Mr. Rondon Reyes "will be brought into ICE custody" because "of the probability of removal per HQ RIO."[5] *Id.* The officer's "case summary" and "recommendation" do not mention the public interest and do not state who is a part of HQ RIO. This matters because only certain individuals have the authority to make this finding, and saying "HQ RIO" does not establish that Todd Lyons did so. *See supra* Sec. III.A. Respondents assert that there was a reasoned process because a supervisory officer, assistant field office director, and deputy field office director all concurred.[6] ECF No. 8, Opp. at 17. But, none of these

[5] To the extent the Court finds that the Notice of Revocation is sufficient to show that the District Director made the required factual findings, Petitioner respectfully requests an evidentiary hearing to examine Mr. Rife regarding his findings.

[6] All four of these individuals signed the form on February 27, 2026. Yet, Respondents also assert in the Form I-213, that Mr. Rondon Reyes was arrested during a targeted arrest at his home. ECF No. 8-4, I-213. It is unclear how during a targeted arrest on February 27, 2026 allegedly related to criminal activity from December 6, 2025, Respondents did not have time to contact the EAC. In

individuals satisfy the requirement that the "district director" make certain factual findings. 8 C.F.R. § 241.4(l)(2).

Respondents' post hoc contention in a legal brief that Mr. Rife "made a discretionary determination that revocation was in the public interest" and decided referral to the Executive Associate Commissioner was not reasonable, *see* ECF No. 8, Opp. at 17, is insufficient. *See Yao v. Almodovar*, No. 25-cv-9982, 2025 WL 3653433, at *3 (S.D.N.Y. Dec. 17, 2025) ("A 'post hoc rationalization' first articulated in litigation, however, carries little weight."); *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 486 (S.D.N.Y. 2025) (rejecting ICE's position, "adopted post hoc and raised for the first time in this litigation"). Respondents post hoc contention regarding his alleged criminal activity and its communication with headquarters are also insufficient. If Respondents communicated with headquarters, it could have asked the Executive Associate Commissioner to sign the revocation notice. Furthermore, if Respondents truly believed that Mr. Rondon Reyes was a danger and therefore it was in the public interest to detain him based on his December 6, 2025 arrest, surely it would have arrested him at some point between December 6, 2025 and February 27, 2026. Rather, it waited until February 27, 2026, the day of his criminal court date, likely because it made their work easier—not because it was in the public interest. Respondents have provided no evidence that either the "public" or Congress has an interest in removing Mr. Rondon Reyes, an individual with CAT protection, before he completes his criminal court process to determine his guilt or innocence. Nor have Respondents credibly shown why it is

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the Form I-213, Respondents state that "[t]he target of this operation was RONDON-REYES, Alerxi, a previously deported Criminal Alien. . . ."). *Id.* It does not state why he was the target on February 27, 2026. Moreover, to the extent that Respondents rely on the Form I-213, Petitioner respectfully requests an opportunity for an evidentiary hearing to cross-examine the officers regarding tthe I-213's contents.

all of the sudden in the "public interest" to effectuate his removal, when the government determined the opposite when released him approximately three years ago.

Because Mr. Rife did not have authority to revoke Mr. Rondon Reyes' OSUP, Mr. Rondon Reyes is entitled to release on this basis alone. *See Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 162 (W.D.N.Y. 2025) (finding that petitioner was entitled to release because the person who revoked his OSUP lacked authority to do so). In *Villanueva v. Tate*, the court held that in the "absence of some evidence showing that Villanueva's [OSUP] 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 [petitioner] with due process in connection with the purported revocation of his [OSUP]." 801 F. Supp. 3d 689, 699–700 (S.D. Tex. 2025). So too here, where Mr. Rondon Reyes' OSUP was revoked by someone without the authority to do so.

C. Respondents' revocation of Petitioner's OSUP violated section 241.4 because it did not provide him with the required notice and informal interview.

Here, Respondents offer the Notice of Revocation of Release, ECF No. 8-12, Ex. L, Revocation Notice, at 3, to show that it properly notified Petitioner of the reasons for the revocation of his OSUP. ECF 8 at 18. This notice advised Petitioner that he "violated a condition of [his] release," and listed several charges arising from Petitioner's arrest. *Id.* Without noting a date of the arrest, this is presumably in reference to Petitioner's December 6, 2025 criminal arrest. According to the Form I-213, Respondents then, allegedly, administratively arrested Mr. Rondon Reyes at 7:38 A.M., but did not serve him with this form until 16:11 [4:11 P.M.], over eight hours later. *See* ECF No. 8-4, Ex. D, Form I-213 (noting arrest at 7:38 A.M.); ECF No. 8-12 (dating the certificate of service at time: "1611"). The regulations require that the Notice of Revocation of release "must be supplied '[u]pon revocation.'" *Funes*, 2025 WL 3263896, at *17 (quoting 8 C.F.R. § 241.1(l)(1)). It was not.

Respondents own documents show it did not provide Mr. Rondon Reyes with the reasons for the revocation or for his detention at the time of his arrest. Accordingly, he was presumably detained for over eight hours "without any indication as to why he was being detained before the Notice of Revocation of Release was served on him." *Martinez v. JL Jamison*, No. 26-cv-00718, 2026 WL 700335, at *4 (E.D. Pa. Mar. 12, 2026) (J. Kenney). "Courts have held that noncitizens who have been detained under similar circumstances have not been provided with adequate notice." *Id.* (citing *Funes*, 2025 WL 3263896, at *18 (finding that Funes was not given a notice of revocation of release "[u]pon revocation" because "she did not receive the notification until many hours after revocation" when she already "had been placed in a cell")). Accordingly, Respondents did not provide Petitioner with the required notice "upon revocation" in violation of the regulations.

Next, Respondents failed to provide Mr. Rondon Reyes with the required informal interview for three reasons. *See* 8 C.F.R. § 241.13(l)(1) ("The [noncitizen] will be afforded an initial informal interview *promptly* after his or her return to Service custody . . . .") (emphasis added).

First, the regulations state that the interview must occur "promptly." *See* 8 C.F.R. § 241.4(l) (providing that a noncitizen "be afforded an initial informal interview promptly after his or her return to Service custody to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification[]"). ICE did not comply with § 241.4(l)'s interview requirement because the alleged "interview" was conducted seven days after Respondents detained Mr. Rondon Reyes, though Respondents' evidence is unclear about whether an "interview" actually occurred. *See* 8 C.F.R. § 241.4(l(1); *Martinez*, 2026 WL 700335, at *3 (citing *Zhu v. Genalo,* 798 F. Supp. 3d 400, 412 (S.D.N.Y. 2025) ("When ICE revokes a noncitizen's OSUP

pursuant to its discretionary authority under Section 241.4(l)(2), 'redetention under Section 241.1 requires notice and an informal interview.'")).

Here, the interview did not take place prior to or upon revocation. The Notice of Revocation of Release, served on Mr. Rondon Reyes more than eight hours after his initial arrest states that he will receive an informal interview on March 2, 2026, three days after his arrest. ECF No. 8-12, Ex. L, Revocation Notice. Respondents own documents show they did not interview Mr. Rondon Reyes until March 5, 2026, seven days after his detention. This is not prompt. *See Ceesay*, 2025 WL 1284720, at *21 (finding that petitioner was not afforded even minimal due process protections when ICE failed to provide petitioner with an informal interview upon his re-detainment); *Wing Nuen Liu v. Carter*, No. 25-cv-03036, 2025 WL 1696526, at *2 (D.Kan. June 17, 2025) (finding "that officials did not properly revoke petitioner's release pursuant to § 241.13" because "most obviously . . . petitioner was not granted the required interview upon the revocation of his release."); *Dudamel v. Jamison*, No. cv-26-361, 2026 WL 498612, at *5 (E.D. Pa. Feb. 23, 2026) (stating that failing to provide petitioner with the informal interview within 16 days of re-detention violates 8 C.F.R. section 241.4(l)(1)).

Second, the stated purpose of the "informal interview" was not satisfied here. The regulations state that the purpose of the interview is to "afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(l)(1). Although 8 C.F.R. § 241.1(l)(1) and § 241.13(i)(3) do not specify exactly what must occur during the informal interview, notice and a "meaningful opportunity to be heard" are required. *Martinez*, 2026 WL 700335, at *6; *Funes*, 2025 WL 3263896, at *23. Respondents own documents show that the "interview" did not comport with due process or the regulatory procedure.

An individual cannot receive notice or a meaningful opportunity to be heard if he was not provided the reasons for the revocation in a language he understands. *See Marcinas v. Lewis*, 92 F.3d 195, 204 (3d Cir. 1996) ("[P]rocedural rights would be meaningless in cases where the judge and . . . applicant cannot understand each other."); *see also Augustin v. Sava*, 735 F.2d 32, 37 (2d Cir. 1984) ("A hearing is of no value when the [noncitizen] and the judge are not understood. . . . The very essence of due process is a 'meaningful opportunity to be heard.'" (citation modified)); *Mendoza v. United States*, 755 F.3d 821, 827 (7th Cir. 2014) ("A criminal defendant is denied due process when he is unable to understand the proceedings due to a language difficulty."). None of Respondents' documents indicate that any of the forms were read to Mr. Rondon Reyes in Spanish, or that an interpreter was provided. *See* ECF No. 8-12, Ex. L, Revocation Notice (not listing an interpreter or proof of interpretation in the Proof of Service); ECF No. 10-1, Informal Interview Form (not listing whether the interviewing officer spoke Spanish or conducted the interview in Spanish or with an interpreter). In fact, the *only* document that even hints at the use of an interpreter is the "Warrant of Arrest of Alien," which indicates that the document was allegedly read to Mr. Rondon Reyes in Spanish, but lists the name and the interpreter as "null." ECF No. 8-13, Ex. M, Administrative Warrant. No other documents regarding revocation of the OSUP contain such a certificate. *See* ECF No. 8-12, Ex. L, Notice of Revocation, 10-1, Informal Interview Form.

Such an interview "is meant to afford the [noncitizen] an opportunity to respond to the reasons for revocation stated in the notification." 8 C.F.R. § 241.4(l)(1); *see also Funes*, 2025 WL 3263896, at *23 *("That provision [section 241.4(l)] was designed to give noncitizens the minimal elements of due process—notice and an opportunity to be heard—and to do so close in time to the infringement of their liberty interest."). An individual cannot do so if he is not afforded an interpreter. Furthermore, a noncitizen "may submit any evidence or information that he or she

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." § 241.13(i)(3). But the record does not contain any evidence that Mr. Rondon Reyes was given such an opportunity.

Third, the record does not reflect that the "informal interview" was an interview at all. Although Respondents submitted an interview form as evidence that an informal interview took place, the contents of the form fail to show that a constitutionally and regulatory sufficient interview was actually conducted. Most of the form is left blank. *See e.g.*, *Zhang v. Genalo et al.*, --- F. Supp. 3d ---, No. 25-cv-06781 2025 WL 3733542, at *14 (E.D.N.Y. Dec. 28, 2025) (describing how while the interview form had petitioner's name on it, it failed to "provide a reliable basis to conclude that the interview was actually conducted" because ICE officers had left most of the form blank). The interview form contains two sentences of handwritten notes purportedly of the officer, given the identification of Mr. Rondon Reyes as the "subject." ECF No. 10-1, Informal Interview Form. It does not confirm whether the interviewer spoke Spanish. *Id.* It does not confirm whether the "interview" provided Mr. Rondon Reyes with the reasons for revocation. *Id.* It does not contain a question and answer format to indicate what questions were asked and how they were answered. *Id.* It does not indicate the duration of the "interview." *Id.* It does not explain whether Mr. Rondon Reyes had an opportunity to gather documents or submit documents. *Id.*

At the bottom of the form, a box is checked indicating that Mr. Rondon Reyes provided a written statement. *Id.* But no written statement is attached. *Id.* The document's existence, purporting to be proof of an "informal interview," says nothing of the contents of that interview, and thus cannot establish that Mr. Rondon Reyes had meaningful notice and an opportunity to respond to the reasons for the revocation of the OSUP. Moreover, as this Court stated in *Mauricio Martinez v. JL Jamison et al.*, "the court is not naïve enough to think that this interview would

have changed anything at the time, given the lock step, one-size-fits all approach then in play." 2026 WL 700335, at *6.

ICE's own exhibits provided in response to other habeas petitions indicate that ICE does not and has not, considered the circumstances here to constitute the required interview. For example, in *McSweeney v. Warden of Otay Mesa Detention Facility*, ICE argued that it had properly provided the petitioner with an informal interview by including as an exhibit a "Record of Personal Interview" conducted "[p]ursuant to 8 C.F.R 241.4(i)(3)." 2025 WL 2998376, 25-cv-02488-RBM-DEB, (S.D. Cal. Oct. 24, 2025) ECF No. 9-2 at 31. The Record of Personal Interview spans three pages and lists several questions that deportation officers asked the petitioner, including "[d]o you have any information to submit to the Review Panel that you believe provides a basis for your release?" *Id.* at 31–33. In *J.L.R.P v. Wofford*, ICE argued that it had properly provided the petitioner with an informal interview by including as an exhibit a document titled "Alien Informal Interview Upon Revocation of Order of Supervision Under 8 C.F.R. § 241.4(l); 8 C.F.R. § 241.13(i)." No. 1:25-cv-01464-KES-SKO (HC), 2025 WL 3190589, at *3 (E.D. Cal. Nov. 14, 2025). That document stated that "an initial informal interview was conducted ... and that Petitioner gave an oral response," which was "handwritten in Spanish, apparently by the interviewing ICE agent." *Id.*

Because the interview form here does not indicate whether an interview was conducted in Spanish, or whether an actual interview was conducted at all, it does not comport with due process or the regulatory procedure.

IV. The Appropriate Remedy is Mr. Rondon Reyes' Immediate Release.

The proper remedy for the government's violation of the Due Process Clause, the INA and implementing regulations is Mr. Rondon Reyes' release from custody. A habeas court is empowered to "dispose of the matter as law and justice require." 28 USC §§ 2241(a), 2243. "The

traditional function of the writ of *habeas corpus* is to secure release from unlawful executive detention." *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 323 (3d Cir. 2020) (citing *Munaf v. Geren*, 553 U.S. 674, 693 (2008)). In similar cases where the government detained a noncitizen in violation of the INA, its regulations, and due process rights, district courts have found that the appropriate remedy is release. *See e.g.*, *Dudamel*, 2026 WL 498612, at *9 (E.D. Pa. Feb. 23, 2026); *see also Funes*, 2025 WL 3263896, at *25 (ordering release of habeas petitioner after finding breach of due process for failure to follow 8 C.F.R. § 241.4(l) and collecting cases evidencing same).

CONCLUSION

Petitioner respectfully requests that this Honorable Court grant this petition for writ of habeas corpus because he is detained in violation of federal law and/or the Constitution. Petitioner further requests this Court order his immediate release from custody.

Dated: March 23, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Reply In Support of Petitioner's Writ of Habeas Corpus and all attachments using the CM/ECF system. All parties are participating in the CM/ECF system.

Dated: March 23, 2026

Respectfully Submitted,

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