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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 Gamaliel Rodriguez Pastrana,
15 Petitioner,
16 v.
17 Fereti Semaia, *et al.*,
18 Respondents.

No. 2:26-cv-03880-CAS-DTB

**FEDERAL RESPONDENTS'
ANSWER TO PETITION
FOR A WRIT OF HABEAS CORPUS
BY A PERSON IN FEDERAL
CUSTODY (28 U.S.C. §2241)**

[Concurrently filed with Exhibits A-C]

Honorable David T. Bristow
United States Magistrate Judge

1 **I. INTRODUCTION**

2 Petitioner Gamaliel Rodriguez-Pastrana, filed his Petition for Writ of Habeas
3 Corpus (“Petition”) under 28 U.S.C. § 2241 requesting immediate release from
4 immigration detention. Dkt. 1, at 4. Petitioner has not shown that Respondents
5 improperly revoked his release on an order of supervision, nor has he shown that his
6 removal to Honduras is not reasonably foreseeable.

7 Respondents respectfully request that the Court deny the Petition.

8 **II. STATEMENT OF FACTS**

9 Gamaliel Rodriguez-Pastrana (“Petitioner”) is a native and citizen of Honduras.
10 See Exhibit A, at 1 (Written IJ Removal Order dated September 1, 2016). On September
11 28, 2012, the Petitioner was charged with inadmissibility pursuant to INA §
12 212(a)(6)(A)(i). *Id.* The Petitioner testified in support of his applications for relief on
13 June 3, 2014, and June 30, 2016. *Id.* at 2, 7. On September 1, 2016, the IJ issued a
14 written order denying Asylum, Withholding of Removal and Protection Under the
15 Convention Against Torture. *Id.* The Petitioner did not file an appeal. Dkt. 1, ¶ 4. On
16 March 12, 2025, ICE released the Petitioner on the order of supervision (OSUP). Exhibit
17 B (Notice of Revocation of Release). On April 9, 2026, Petitioner was issued a notice of
18 revocation of release revoking the Petitioner’s OSUP. *Id.* On the same date, the
19 Petitioner was given an informal interview for which no statement was given by the
20 Petitioner. Exhibit C (Informal Interview dated April 9, 2026). The Petitioner declined to
21 sign the documents. Exhibit B; Exhibit C.

22 On April 10, 2026, Petitioner filed the instant Petition [Dkt.1]. On the same date,
23 the Petitioner filed an *ex parte* application for a temporary restraining order (“TRO
24 Application”). Dkt. 2. On April 11, 2026, the Court provisionally granted Petitioner’s
25 TRO Application [Dkt. 3] by barring Respondents from transferring Petitioner outside
26 the Court’s jurisdiction pending a further order from the Court. See *Id.* On April 14,
27 2026, the Court issued a “Notice of General Order 26-05” and briefing schedule. See
28 Dkt. 7. The Court ordered the Respondents to Answer the Petition by April 20, 2026. *Id.*

Respondents hereby respond.

III. ARGUMENT

A. Petitioner Has Not Shown That There Is No Significant Likelihood of His Removal to Honduras in the Reasonably Foreseeable Future

The Petition should be denied because it fails to show that there is no significant likelihood of removal in the reasonably foreseeable future, as required by *Zadvydas v. Davis*, 533 U.S. 678 (2001). In *Zadvydas*, the Supreme Court held that an alien is not entitled to habeas relief, after a post-removal detention period of six months, unless the alien can show that there is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” 533 U.S. at 701; *see also Bonilla-Montano v. Holder*, 2010 WL 1727803 (C.D. Cal. Mar. 25, 2010) (M.J. Abrams) (discussing *Zadvydas* and recommending denial of petition for writ of habeas corpus), *adopted* 2010 WL 1727808 (C.D. Cal. April 26, 2010). The Ninth Circuit has explained that under *Zadvydas*, an alien must show that “he is stuck in a ‘removable-but-unremovable limbo.’” *Prieto-Romero v. Clark*, 534 F.3d 1053, 1063 (9th Cir. 2008). This means that the alien must show he “is unremovable because the destination country will not accept him or his removal is barred by our own laws.” *Id.* If the alien meets this burden, the United States must respond with sufficient rebuttal evidence. *See Zadvydas*, 533 U.S. at 701.

Here, Petitioner does not show that he has been detained for more than six months pursuant to a final removal order. Rather, he was recently taken into ICE custody on April 9, 2026, therefore being in custody for 11 days now. Exhibit B; Exhibit C. That is not enough to shift the burden.

Even if he had been detained for longer, the six-month presumption established by the Supreme Court in *Zadvydas* just shifts the evidentiary burden:

After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to

1 rebut that showing. And for detention to remain reasonable, as the period of
2 prior post removal confinement grows, what counts as the “reasonably
3 foreseeable future” conversely would have to shrink. This 6-month
4 presumption, of course, does not mean that every alien not removed must be
5 released after six months. To the contrary, an alien may be held in
confinement until it has been determined that there is no significant
likelihood of removal in the reasonably foreseeable future.

6 *Zadvydas*, 533 U.S. at 701. Thus, the noncitizen “may be held in confinement until it has
7 been determined that there is *no significant likelihood of removal in the reasonably*
8 *foreseeable future.” Id.* (italic emphasis added). Courts properly deny *Zadvydas* claims
9 under such circumstances. *See Malkandi v. Mukasey*, 2008 WL 916974, at *1 (W.D.
10 Wash. Apr. 2, 2008) (Martinez, J.) (denying *Zadvydas* petition where petitioner had been
11 detained more than 14 months post-final order); *Nicia v. ICE Field Off. Dir.*, 2013 WL
12 2319402, at *3 (W.D. Wash. May 28, 2013) (Martinez, J.) (holding petitioner “failed to
13 satisfy his burden of showing that there is no significant likelihood of his removal in the
14 reasonably foreseeable future” where he had been detained more than seven months
15 post-final order). That Petitioner does not yet have a specific date of anticipated removal
16 does not make his detention indefinite. *See Diouf v. Mukasey*, 542 F. 3d 1222, 1233 (9th
17 Cir. 2008) (where there is no evidence that the country of removal would refuse to
18 accept the petitioner or that removal is barred by the laws of the United States, that the
19 detention did not have a certain end date did not demonstrate that detention was
20 “indefinite”).

21 Petitioner has not shown that the government of Honduras will not issue a travel
22 document for him, or that there are any insurmountable barriers precluding his removal.
23 More generally, there are no institutional barriers to removing Petitioner to Honduras at
24 this time. Consequently, Petitioner’s continued detention is permissible to allow the
25 Respondents to execute the Petitioner’s final order of removal to Honduras. Exhibit A.
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B. Petitioner Has Not Shown That the Government Lacked Authority to Detain Him, That the Government Revoked His Release Improperly, Or That the Remedy Would Be His Immediate Release from Detention.

Petitioner argues he should not be detained, despite conceding he has a final removal order. *See* Petition, Dkt. 1, ¶ 4. But the INA governs the detention and release of noncitizens during and following their removal proceedings. *See Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). The INA does not provide for a pre-detention hearing. *See, e.g.*, 8 U.S.C. § 1231. When a noncitizen receives a final removal order, their detention is mandatory for the following 90 days. 8 U.S.C. § 1231(a)(2). After that time, detention is within ICE's discretion under 8 U.S.C. § 1231(a)(6). The government is thus broadly authorized to exercise its discretion to revoke release under this authority pursuant to 8 CFR § 241.1(l)(1), and 8 CFR § 241.4(l)(2). *See Moran v. U.S. Dep't of Homeland Sec.*, 2020 WL 6083445, at *9 (C.D. Cal. Aug. 21, 2020) (dismissing petitioners' claim that § 241.4(l) was a violation of their procedural due process rights and noting, "[Petitioners] fail to point to any constitutional, statutory, or regulatory authority to support their contention that they have a protected interest in remaining at liberty in the United States while they have valid removal orders.").

Here, ICE revoked the Petitioner's OSUP on April 9, 2026, when the Petitioner was issued a notice of revocation of release, which operated to revoke his OSUP. Exhibit B. Furthermore, the Petitioner was also provided with an informal interview on his revocation of release, however Petitioner provided no statement, in addition to declining to sign the notice of revocation form. *See* Exhibit B; Exhibit C. As stated on the Notice of Revocation form, the Petitioner's OSUP was revoked pursuant to 8 C.F.R. §241.4(I) because the purposes of release have been served. Exhibit B.

Consequently, Petitioner fails to establish any deficiency in release revocation procedure. Even if he had, the appropriate injunctive remedy for any procedural deficiency would not be automatic release from custody, but rather to remedy the specific procedural deficiency. *In Ahmad v. Whitaker*, for example, the government revoked the petitioner's

1 release but did not provide him an informal interview. *Ahmad v. Whitaker*, 2018 WL
2 6928540, at *6 (W.D. Wash. Dec. 4, 2018), *rep. & rec. adopted*, 2019 WL 95571 (W.D.
3 Wash. Jan. 3, 2019). The petitioner argued his release revocation was unlawful. In
4 rejecting his claim, the court held that although the regulations called for an informal
5 interview, petitioner could not establish “any actionable injury from this violation of the
6 regulations” because the government had procured a travel document for the petitioner,
7 and his removable was reasonably foreseeable. *Id.* Similarly, in *Doe v. Smith*, the U.S.
8 District Court for the District of Massachusetts held that even if the ICE detainee petitioner
9 had not received a timely interview following her return to custody, there was “no apparent
10 reason why a violation of the regulation ... should result in release.” *Doe v. Smith*, 2018
11 WL 4696748, at *9 (D. Mass. Oct. 1, 2018). The court elaborated, “[I]t is difficult to see
12 an actionable injury stemming from such a violation. Doe is not challenging the underlying
13 justification for the removal order.... Nor is this a situation where a prompt interview
14 might have led to her immediate release—for example, a case of mistaken identity.” *Id.*

15 The Hon. Judge Blumenfeld denied a preliminary injunction motion in a somewhat
16 similar case alleging a lack of sufficient re-detention process, noting that the evidentiary
17 burden had not been met, and also that it was unclear that release would be the appropriate
18 remedy for any violations of revocation procedure. *See Long Ton v. Kristi Noem, et al.*,
19 5:25-cv-02033-SB-AGR [Dkt. no. 17] (September 3, 2025).

20 The Hon. Judge Birotte Jr. likewise denied a TRO asserting a re-detention procedure
21 challenge. *See Jose Angel Morales Sanchez v. Pam Bondi, et al.*, 5:25-cv-02530-AB-DTB
22 [Dkt. no. 12] (October 3, 2025 order denying TRO). The Court noted that “[p]etitioner has
23 not produced evidence showing that the SDDO lacked authority to revoke supervision or
24 that ICE’s procedures were fundamentally flawed. Even more, the absence of additional
25 details regarding the identity of the SDDO or a formal interview, while potentially
26 imperfect under the regulations, does not negate the statutory authority provided by
27 § 1231(a)(2)–(6).”
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1 **IV. CONCLUSION**

2 The Petition should be denied.

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4 Dated: April 20, 2026

Respectfully submitted,

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15 * The undersigned, counsel of record for the Federal Respondents certifies that this
16 brief contains 1,748 words, which complies with the word limit of L.R. 11-6.1.
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