

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

GAMALIEL RODRIGUEZ
PASTRANA,

Petitioner,

v.

FERETI SEMAIA, Warden of the
Adelanto Detention Center, et al.,

Respondents.

Case No. 2:26-cv-03880-CAS (DTB)

**REPORT AND
RECOMMENDATION OF UNITED
STATES MAGISTRATE JUDGE**

This Report and Recommendation is submitted to the Honorable Christina A. Snyder, United States District Judge, pursuant to the provisions of 28 U.S.C. § 636 and General Order 05-07 of the United States District Court for the Central District of California.

///

///

///

///

///

I.

PROCEEDINGS

On April 10, 2026, petitioner Gamaliel Rodriguez Pastrana (“Petitioner”), through counsel, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. (Docket No. 1).¹ The Petition solely alleges that Petitioner’s detention violates his right to due process under the Fifth Amendment. (Petition at 16).

On April 10, 2026, Petitioner filed a Motion for Temporary Restraining Order and Preliminary Injunction (“Motion”). (Docket No. 2). On the same date, Petitioner declined to consent to a Magistrate Judge. (Docket No. 4). In light of Petitioner’s declination, on April 11, 2026, the Court provisionally granted the Motion until a further order from the assigned district judge, and enjoined Respondents from transferring Petitioner outside this jurisdiction pending a further order from or a hearing before the assigned district judge. (Docket No. 3). On April 12, 2026, this matter was assigned to a District Judge. (Docket No. 5).

On April 14, 2026 (in light of General Order 26-05, see Docket No. 6), the District Judge granted in part and denied in part the Motion, enjoining Respondents from transferring Petitioner outside of this District until further order of the Court. (Docket No. 7).

On April 20, 2026 (pursuant to General Order 26-05’s briefing schedule, see Docket No. 6 at 2, 5), Respondents filed an Answer to the Petition (“Answer”), with attached exhibits. (Docket No. 9).

On April 23, 2026, Petitioner filed a Reply. (Docket No. 10).

On May 7, 2026, Petitioner’s counsel filed a Declaration in support of the Petition and the Motion. (Docket No. 11).

///

¹ For the parties’ pleadings and exhibits, the Court cites to the CM/ECF pagination at the top of each page.

1 On May 8, 2026, Respondents filed an Opposition to the Motion (Docket No.
2 12), accompanied by the supporting declaration of Miguel Russi (“Russi Decl.”)
3 (Docket No. 12-1).

4 Thus, this matter is now ready for decision. For the reasons set forth below,
5 the Court recommends that habeas relief be granted.

6 II.

7 BACKGROUND

8 Petitioner is a 37 year-old native and citizen of Honduras. (Petition at ¶¶ 2,
9 27; Docket No. 9-1 at 2; Russi Decl. at ¶ 2). On or about July 4, 2012, Petitioner
10 entered the United States, without inspection. (Petition at ¶ 2; Docket No. 9-1 at 2).
11 According to Petitioner, he served as a key witness and ultimately was “unjustly”
12 charged in a human smuggling case in Arizona. (Petition at ¶¶ 2, 28-30, 37). On
13 September 18, 2012, pursuant to a plea agreement, Petitioner was convicted of
14 solicitation to commit human smuggling, a class 6 felony in Arizona. (*Id.* at ¶ 30).
15 The imposition of Petitioner’s sentence was suspended pending the completion of
16 probation, which Petitioner successfully completed, and final judgment was ordered
17 in 2013. (*Id.*).

18
19 On September 20, 2012, the Department of Homeland Security issued a
20 Notice to Appear, charging Petitioner with inadmissibility pursuant to Immigration
21 and Nationality Act (“INA”) § 212(a)(6)(A)(i).² (Docket No. 9-1 at 2). On an
22 unspecified date in September 2012, Petitioner was transferred to Immigration and
23 Customs Enforcement (“ICE”) custody. (Petition at ¶¶ 2, 31). On September 28,
24 2012, removal proceedings commenced. (Docket No. 9-1 at 2-3). Petitioner filed
25 applications for asylum, withholding of removal, and protection under the
26

27 ² INA § 212(a)(6)(A)(i) is codified at 8 U.S.C. § 1182(a)(6)(A)(i), which provides that: “An
28 alien present in the United States without being admitted or paroled, or who arrives in the United
States at any time or place other than as designated by the Attorney General, is inadmissible.”

1 Convention Against Torture. (Petition at ¶¶ 3, 31; Docket No. 9-1 at 3). On October
2 22, 2012, the immigration judge found Petitioner inadmissible as charged. (Docket
3 No. 9-1 at 3). In December 2012 (after a few months in immigration custody),
4 Petitioner was granted a \$7,500.00 bond and was released without any order of
5 supervision. (Petition at ¶¶ 2, 31).

6 On September 1, 2014, following Petitioner's testimony on June 3, 2014, the
7 immigration judge denied Petitioner's applications for asylum, withholding of
8 removal, and protection, and ordered Petitioner removed. (Docket No. 9-1; Petition
9 at ¶¶ 4, 31). Petitioner did not file an appeal. (Petition at ¶ 4). Petitioner has been
10 subject to a final order of removal since September 1, 2016. (Russi Decl. at ¶ 4;
11 Petition at ¶ 4).

12 On March 12, 2025, after receiving a "Notice to Obligor to Deliver Alien,"
13 Petitioner checked in at the ICE office in Los Angeles. (Petition at ¶ 5). On that
14 date, ICE released Petitioner on an Order of Supervision ("OSUP"), "which included
15 in-person ICE check-ins, home visits, telephone calls, and biometric collection using
16 a mandatory phone application installed on his cell phone." (Petition at ¶ 5; Docket
17 No. 9-2 at 2). In January 2026, Petitioner was given a GPS ankle monitor. (Petition
18 at ¶ 5). Petitioner has been fully compliant with the OSUP. (*Id.*).

19 On April 9, 2026, Petitioner appeared for his scheduled check-in with ICE,
20 when he was issued a Notice of Revocation of Release, stating that: "Your release
21 has been revoked pursuant to 8 C.F.R. § 241.4(i)" because "[t]he purposes of release
22 have been served." (Docket No. 9-2; Petition at ¶¶ 5, 38). That Notice states that
23 Petitioner will be afforded an informal interview at which he will be given an
24 opportunity to respond to the reasons for the revocation of his release. (Docket No.
25 9-2 at 3).

26 At the informal interview on April 9, 2026, Petitioner did not give a statement
27 or provide any documents. (Docket No. 9-3).
28

1 Petitioner filed applications for a T Nonimmigrant Visa (T-Visa), with a
2 receipt date of March 10, 2025, and a U Nonimmigrant Visa (U-Visa), with a receipt
3 date of August 29, 2025. (Petition at ¶¶ 7, 37). Both applications apparently are
4 pending.

5 Petitioner has been married to his current wife since May 29, 2021. (Petition
6 at ¶¶ 8, 36). Petitioner is the father of six children (one with his current wife), all
7 under 18 years of age. (*Id.* at ¶¶ 8, 35-36). On or about October 25, 2021, Petitioner
8 was awarded sole custody of his three oldest children because their mother died in
9 Honduras. (*Id.* at ¶¶ 8, 34). He is the stepfather to his current wife's other two
10 children, United States citizens. (*Id.* at ¶¶ 8, 36). Based on his wife's work-related
11 injury in 2022, Petitioner is the sole financial provider. (*Id.*). Petitioner has not
12 suffered any arrests since 2012 and has no other criminal history. (Petition at ¶¶ 9,
13 37).

14 From April 22, 2026 to April 28, 2026, Petitioner was hospitalized at Victor
15 Valley Global Medical Center for a knee issue. Petitioner's scheduled knee surgery
16 was cancelled, and Petitioner was returned to Desert View Detention Facility in a
17 wheelchair with minimal pain medication prescriptions. According to Petitioner, he
18 has not received adequate medical care while in ICE custody. (Docket No. 11 at 2-
19 3 (¶¶ 4-9)). However, Respondents assert that Plaintiff "has been receiving
20 significant medical attention related to his knee while in ICE detention." (Docket
21 No. 12 at 7; *see* Russi Decl. at ¶¶ 6-11).

22 III.

23 LEGAL AUTHORITY

24 A writ of habeas corpus is "available to every individual detained within the
25 United States." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const.,
26 Art I, § 9, cl. 2). "The essence of habeas corpus is an attack by a person in custody
27 upon the legality of that custody, and . . . the traditional function of the writ is to
28

1 secure release from illegal custody.” Preiser v. Rodriguez, 411 U.S. 475, 484
2 (1973). A court may grant a writ of habeas corpus to a petitioner
3 who demonstrates to be in custody in violation of the Constitution or federal law. 28
4 U.S.C. § 2241(c)(3). Traditionally, “the writ of habeas corpus has served as a means
5 of reviewing the legality of Executive detention, and it is in that context that its
6 protections have been strongest.” I.N.S. v. St. Cyr, 533 U.S. 289, 301 (2001). A
7 noncitizen in the custody of immigration authorities may bring a writ of habeas
8 corpus pursuant to 28 U.S.C. § 2241 on the grounds of their detention violates the
9 Constitution or other federal laws. 28 U.S.C. § 2241(c)(3); Zadvydas v. Davis, 533
10 U.S. 678, 687-88 (2001) (federal courts retain jurisdiction to consider habeas relief
11 under Section 2241 for noncitizens subject to detention following an order of
12 removal).

13 IV.

14 DISCUSSION

15 A. Petitioner is Entitled to Habeas Relief.

16 As noted above, the sole claim alleged in the Petition is that Petitioner’s
17 detention violates his right to due process under the Fifth Amendment. (Petition at
18 16). The Court construes Petitioner’s claim as alleging, in part, that ICE revoked his
19 OSUP without him being given notice of the reasons for the revocation and without
20 him being given a meaningful opportunity to contest the revocation, in violation of
21 his right to procedural due process under the Fifth Amendment. (See Docket No. 10
22 at 3-9).

23 1. Relevant Legal Authority.

24 ICE may revoke release when a noncitizen violates a condition of his or her
25 OSUP. 8 C.F.R. §§ 241.4(l)(1), 241.13(i)(1).³ When ICE revokes an OSUP, ICE is
26

27 ³ Specifically, the Executive Associate Commissioner has the authority to revoke release
28 upon determining that: “(i) The purposes of release have been served; (ii) The alien violates any

1 required to provide (1) notice of the reasons for revocation, and (2) an “informal
2 interview promptly after his or return to [ICE] custody to afford the [noncitizen] an
3 opportunity to respond to the reasons for revocation stated in the notification.” 8
4 C.F.R. § 241.13(i)(3). ICE also may revoke release when, “on account of changed
5 circumstances, [ICE] determines that there is a significant likelihood that the
6 [noncitizen] may be removed in the reasonably foreseeable future.” 8 C.F.R. §
7 241.13(i)(2). “Both 8 C.F.R. § 241.13 and 8 C.F.R. § 241.4 were intended to provide
8 due process protections to noncitizens following the removal period as they are
9 considered for continued detention, release, and then possible revocation of release.”
10 Van Savoeun v. Noem, Case No. 5:26-cv-00230-AH-E, 2026 WL 777197, at *2
11 (C.D. Cal. Jan. 23, 2026) (citation omitted).

12 “It is a well-known maxim that agencies must comply with their own
13 regulations.” United States v. Ramos, 623 F.3d 672, 683 (9th Cir. 2010); see also
14 Delkash v. Noem, Case No. 5:25-cv-01675-HDV-AGR, 2025 WL 2683988, at *5
15 (C.D. Cal. Aug. 28, 2025) (“It is well-established that government agencies are
16 required to follow their own regulations.”) (citing United States ex rel Accardi, 347
17 U.S. at 268). “Numerous district courts, including courts in the Ninth Circuit, ‘have
18 determined that where ICE fails to follow its own regulations in revoking release,
19 the detention is unlawful and the petitioner’s release must be ordered.’” Gutierrez
20 v. Noem, Case No. 5:25-cv-02668-DOC-RAO, 2025 WL 3247769, at *4 (C.D. Cal.
21 Oct. 31) (citation omitted); see also Delkash v. Noem, 2025 WL 2683988, at *5 (“A
22
23

24 condition of release; (iii) It is appropriate to enforce a removal order or to commence removal
25 proceedings against an alien; or (iv) The conduct of the alien, or any other circumstance, indicates
26 that release would no longer be appropriate.” 8 C.F.R. § 241.4(l)(2). The regulations also
27 authorize a district director to revoke release for the aforementioned reasons when “revocation is
28 in the public interest and circumstances do not reasonably permit referral of the case to the
Executive Associate Commissioner.” Id.

1 growing number of courts have unequivocally found that the government's failure
2 to follow its release revocation procedures—in particular the failure to give a
3 detainee the required notice and interview—renders the redetention unlawful. . . .
4 These procedures are not optional or discretionary; they must be followed, and
5 failure to do so renders the detention unlawful.”) (internal citations omitted).

6 2 Analysis.

7 Contrary to Respondents' implied assertion (see Answer at 5-6), the Notice of
8 Revocation of Revocation of Release did not provide Petitioner with notice of the
9 reasons for the revocation. As noted above, that Notice merely states: “Your release
10 has been revoked pursuant to 8 C.F.R. § 241.4(i)” because “[t]he purposes of release
11 have been served.” (Docket No. 9-2 at 2).

12 It does not appear that such generic and conclusory language meaningfully
13 notified Petitioner of the reasons for the revocation of his release. See Cruz v. Rios,
14 Case No. 5:26-cv-01374-MWF-DSR, 2026 WL 97367, at *2 (C.D. Cal. Apr. 8,
15 2026) (“Both § 241.4 and § 241.13 ‘require, at a minimum, that ICE articulate a
16 meaningful, individualized basis for revocation sufficient to give the noncitizen
17 notice of the grounds for re-detention and an opportunity to respond.’”) (quoting Vo
18 v. Lyons, Case No. 1:25-cv-00533-JL-TSM, 2026 WL 323133, at *4 (D.N.H. Jan.
19 27, 2026); see also Gutnik v. Bondi, Case No. 5:26-cv-00908-WLH-ACCV, 2026
20 WL 700546, at *2 (C.D. Cal. Mar. 5, 2026) (“This Notice of Revocation contains no
21 factual allegations specific to Petitioner or concrete reasons for revocation. The
22 government's failure to provide Petitioner a meaningful notice of revocation is a
23 violation of 241.4(l)(1).”). Indeed, Respondents have failed to argue or cite any
24 authority holding that such language provided sufficient notice.

25 Since the Notice of Revocation of Release does not state any reasons for
26 revocation, Petitioner was not afforded the opportunity to “respond to the reasons
27 for revocation stated in the notification” at the prompt initial informal interview upon
28

1 the revocation of his release, as required by 8 C.F.R. § 241.13(i)(3). See Roble v.
2 Bondi, 803 F. Supp. 3d 766, 772 (D. Minn. Aug. 25, 2025) (“But [the petitioner]
3 cannot be expected to ‘respond to the reasons for revocation in the notification’ if
4 the notification does not actually *state* any reasons for revocation. Not only does
5 this scenario border on the Kafkaesque; it is also contrary to law.”).

6 Moreover, as Petitioner contends (see Docket No. 10 at 5-6), it does not appear
7 that the “Supervisory Detention & Department Officer,” E. Vega, who signed the
8 Notice of Revocation of Release (see Docket No. 9-2 at 3), had the regulatory
9 authority to revoke Petitioner’s release. See 8 C.F.R. § 241.4(l)(2) (giving such
10 authority to the Executive Associate Commissioner and the district director); Cesay
11 v. Kurzdorfer, 781 F. Supp. 3d 137, 159-61 (W.D. N.Y. May 2, 2025) (finding that
12 “there is no delegation order clearly giving [the assistant] field officer] the authority
13 to revoke release, and even if there were, there is no caselaw supporting the validity
14 of such a delegation order”); Cruz, 2026 WL 973367, at *3 (“[T]o the extent that §
15 241.4 provides the grounds for the revocation of [the petitioner’s] OSUP . . . , there
16 is no evidence that the revocation decision was made by an official vested with the
17 requisite authority.”; and “Here, however, the Notice states that the revocation was
18 ordered by a “Supervisory Detention & Deportation Officer,” who is not one of the
19 officials identified in the regulation.”). Respondents do not attempt to argue that E.
20 Vega had the authority to revoke Petitioner’s release. (See Docket Nos. 9, 12).

21 Therefore, the Court finds that the Petition should be granted with respect to
22 Petitioner’s procedural due process claim.
23

24 V.

25 RECOMMENDATION

26 IT THEREFORE IS RECOMMENDED that the District Court issue an
27 Order: (1) Accepting and adopting this Report and Recommendation; and (2)
28 ordering that Judgment be entered: (a) Declaring that ICE’s revocation of

1 Petitioner's Order of Supervision and subsequent redetention violated the Due
2 Process Clause of the Fifth Amendment and federal law; (b) ordering Petitioner's
3 immediate release from custody and reinstating his previous conditions of
4 supervision, and the return of all property confiscated from him during his arrest and
5 processing into detention; and (b) enjoining Respondents and their officers, agents,
6 employees, attorneys and persons acting on their behalf in concert or in participation
7 with them, from: (i) Redetaining Petitioner without notice and an individualized
8 pre-detention hearing before a neutral arbiter at which it is determined that detention
9 is lawful and warranted under the applicable statutes and regulations either because
10 Petitioner has violated a term of his Order of Supervision or because his removal
11 from the United States is significantly likely in the reasonably foreseeable future,
12 including that Respondents have procured travel documents for Petitioner and that
13 such documents are in the possession of ICE; and (ii) removing Petitioner to any
14 country without appropriate notice and an opportunity to be heard in accordance
15 with any applicable ICE regulations, including the opportunity to assert a torture-
16 based or fear-based objection.

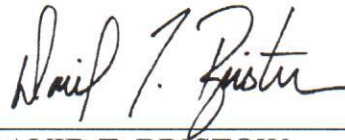
17 VI.

18 OBJECTION PERIOD

19
20 Either party may file objections to this Court's findings and recommendations
21 under 28 U.S.C. § 636(b)(1)(C). By Central District Local Rule ("L.R."), the
22 objections period in a case involving a person in custody is presumptively 20 days.
23 See L.R. 72-3.4. However, the Court finds that a shortened objection period is
24 warranted here given the nature of the relief at issue and that the parties have had the
25 opportunity to develop and present their respective positions in written briefs and at
26 oral argument. See United States v. Barney, 568 F.2d 134, 136 (9th Cir. 1978) (per
27 curiam) (holding that a district court has the discretion to shorten the objection
28 period).

1 Accordingly, the parties must submit any objections to this Report and
2 Recommendation on or before **May 26, 2026**. The deadline to respond to any
3 objections is **May 27, 2026**.

4
5 DATED: May 20, 2026



6 DAVID T. BRISTOW
7 UNITED STATES MAGISTRATE JUDGE

8
9 **NOTICE**

10 Reports and Recommendations are not appealable to the Court of Appeals but
11 may be subject to the right of any party to file Objections as provided in the Local
12 Rules and review by the District Judge whose initials appear in the docket number.
13 No Notice of Appeal pursuant to the Federal Rules of Appellate Procedure should be
14 filed until entry of the Judgment of the District Court.