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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

TAKHIR RUSTAMOVICH SABIROV, Petitioner, v. CHRISTOPHER J. LAROSE, et al., Respondents.	Case No. 26-cv-03213-RFL-AHG **PETITIONER'S REPLY BRIEF IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

Respondents' Opposition makes two primary points, both of which are unavailing. *First*, Respondents' Opposition contends that there is a reasonable likelihood of Mr. Sabirov's removal in the foreseeable future. There is not. After filing its Opposition, Respondents conceded in a subsequent filing that it was "informed that Petitioner has filed a motion to reopen and a motion for stay with the Board of Immigration Appeals (BIA). As a result of the stay, U.S. Immigration and Customs Enforcement (ICE) has stopped all removal efforts." Dkt. 9. The flight to Uzbekistan that ICE intended to have Mr. Sabirov take is scheduled to leave today—and Mr. Sabirov is not on it. Nor are there any concrete plans (as far as Petitioner knows) to schedule another flight to Uzbekistan; rather, Respondents have conceded that ICE has stopped all removal efforts. Additionally, the purported travel document from Uzbekistan identifies Mr. Sabirov as a stateless individual—it does not confer any rights or citizenship. Respondents' assertion that Mr. Sabirov is a "citizen" of Uzbekistan is not supported by any evidence before the Court.

Second, it argues that Mr. Sabirov was provided with adequate notice and an interview. He was not. Mr. Sabirov—who has lived in the U.S. for nearly 26 years, is married to a United States citizen, and is employed and pays taxes in the U.S.—was entitled to more than the cursory notice and interview he was given, which were merely box-checking exercises. They did not satisfy the due process requirements under the Constitution.

Finally, the Opposition fails to address the remainder of Petitioner's arguments in the habeas petition such as the fact that removal to Uzbekistan constitutes removal to a third country, triggering mandatory protections under the Convention Against Torture framework and related due process protections, Mr. Sabirov's arguments concerning his claim under 5 U.S.C. § 706(2)(A)-(D) that his detention was arbitrary, capricious, and not in accordance with law, and his

substantive due process arguments; each of those independent bases upon which the Court may grant relief are unrebutted.

Petitioner respectfully requests that the Court grant his habeas petition.

II. ARGUMENT

a. Respondents' Concession that ICE "has stopped all removal efforts" Establishes that there is *not* a Significant Likelihood of Removal in the Foreseeable Future.

i. Respondents Concede that Mr. Sabirov is Not Scheduled to Leave the U.S.

Respondents' rebuttal rests on a single fact: it received a purported "Travel Document" from Uzbekistan and tentatively scheduled a charter flight for June 9, 2026. Today is June 9, 2026. Mr. Sabirov is not on that flight, and to Petitioner's knowledge, no future flight is scheduled. Indeed, last week, Respondents filed an *ex parte* motion asking the Court to lift the stay so that Mr. Sabirov could be "processed" by ICE in advance of the June 9 flight. *See* Dkt. 6, Motion to Lift the Prohibition of Transfer at 2 ("Prior to placing him on his removal flight, ERO will need to transfer Petitioner out of the District for staging on June 4, 2026."). But Respondents withdrew that request the same day it was filed, explaining Mr. Sabirov's ongoing case before the Board of Immigration Appeals precluded the *ex parte* relief Respondents had sought. Dkt. 9, Motion to Withdraw the Motion to Lift the Prohibition of Transfer at 1 ("Counsel for Respondents was just informed that Petitioner has filed a motion to reopen and a motion for stay with the Board of Immigration Appeals (BIA). As a result of the stay, U.S. Immigration and Customs Enforcement (ICE) has stopped all removal efforts.").

Respondents have not taken any new steps to remove Mr. Sabirov, the flight has presumably left (or will leave shortly), and therefore there is no definitive end in sight for Mr. Sabirov's improper detention.

ii. Respondents' Own Documents and Evidence Show that Mr. Sabirov is Stateless and Not a Citizen of Uzbekistan

Respondents repeatedly assert that Mr. Sabirov is a "citizen" of Uzbekistan. But the travel document it relies upon, by its own terms, applies to a "***Stateless Person***." It neither confers nor recognizes citizenship. And it is expressly temporary, expiring August 11, 2026. It does not establish that Uzbekistan will accept Mr. Sabirov as a lawful entrant, permit him to remain upon arrival, or afford him the basic rights of citizenship.

Uzbekistan's Law No. 3PY-692 "On Legal Status of Foreign Citizens and Stateless Persons in the Republic of Uzbekistan," enacted June 4, 2021, expressly defines a stateless person as "a person who is not a citizen of the Republic of Uzbekistan and does not have proof of his/her belonging to the citizenship of a foreign state." Uzbekistan Law No. 3PY-692, Article 3. Accordingly, the Respondents' assertion that Mr. Sabirov is a citizen of Uzbekistan is not supported and cannot be accepted for purposes of ruling on this writ.

The Ninth Circuit has squarely addressed this issue. In *Himri v. Ashcroft*, 378 F.3d 932, 938-39 (9th Cir. 2004), the Court found that petitioner detainees could not be removed to Jordan because the government failed to demonstrate that Jordan would actually accept the petitioners, notwithstanding the existence of valid travel documents, given that the travel documents did not confer residency rights. Here, the situation is even more stark: ***the travel document affirmatively declares Mr. Sabirov is stateless,*** a designation that, by definition, means he has no right to enter, reside in, or remain in Uzbekistan as a citizen.

Further, since Mr. Sabirov's detention on May 14, 2026, he, his wife, and his counsel at United Stateless have made multiple attempts to contact the Embassy of Uzbekistan. The Embassy of Uzbekistan has not responded to any of these outreach efforts. Respondents offer no evidence, diplomatic assurance, or written

confirmation that Uzbekistan will actually admit Mr. Sabirov upon arrival. It does not provide the travel document application or any of its communications with the Uzbek authorities. Without establishing that Mr. Sabirov is a citizen of Uzbekistan, there is simply no reasonable likelihood of removal in the foreseeable future.

iii. Vague and Tentative Plans to Remove Do Not Increase the Likelihood of Removal in the Foreseeable Future

Under *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), once a petitioner 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 rebut that showing." The Supreme Court "rejected the proposition that continued detention is permissible 'as long as good faith efforts to effectuate . . . deportation continue.'" *Ahrach v. Baltazar*, No. 25-cv-03195-PAB, 2025 WL 3227529, at *4 (D. Colo. Nov. 19, 2025) (quoting *Zadvydas*, 533 U.S. at 702). "Instead, the government must actually make legitimate progress towards removal." *Id.* "[T]he reasonableness of Petitioner's detention turns on whether and to what extent the government's efforts are likely to bear fruit. Diligent efforts alone will not support continued detention." *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019).

Here, Respondents have already conceded that ICE "has stopped all removal efforts." Dtk. 9. Hence, there is no significant likelihood of removal in the foreseeable future and Mr. Sabirov's petition should be granted. *See Ahrach*, 2025 WL 3227529, at *5 n.11 (holding that "unsubstantiated assertions that the government will pursue removal are insufficient to satisfy its burden").

Relying on *Kim v. Ashcroft*, Case No. 02CV1524-J (LAB), 2003 U.S. Dist. LEXIS 30818 (S.D. Cal. June 2, 2003), *Sereke v. DHS*, No. 19-cv-1250-WQH-AGS (S.D. Cal. Aug. 15, 2019), Dkt. No. 5, and *Marquez v. Wolf*, Case No. 20-cv-1769-WQH-BLM, 2020 WL 6044080 (S.D. Cal. Oct. 13, 2020), Respondents assert that

"evidence of progress, even slow progress" may satisfy *Zadvydas*. But these cases are distinguishable and they do not relieve Respondents of their burden to show that removal is likely and reasonably foreseeable, both legally and factually.

In *Kim*, the petitioner was a Cambodian national and a refugee from Thailand criminally convicted for violating California law, who was detained while the U.S. and Cambodia government negotiated the petitioner's repatriation. *Kim,* 2003 U.S. Dist. LEXIS 30818, at *2-4. The court found that the government's efforts were sufficient because both governments had signed a memorandum providing procedures for the repatriation of each other's nationals to their home state; they were making progress in arranging for the repatriation of Cambodian nationals; petitioner had been interviewed by Cambodian government officials; and the Memorandum had already resulted in the removal of a number of Cambodian nationals. *Id.* at *2-3, 7-8.

In *Sereke*, petitioner was a recognized citizen of Eritrea, and the government showed through a sworn declaration of an ICE officer that "ERO San Diego field office submitted a travel document (TD) packet to the Embassy of Eritrea," "confirmed that [the petitioner's] travel document (TD) [wa]s in process for renewal," and had "prepare[d] an itinerary for [the petitioner's] removal from the United States via commercial airline." Dkt. No. 5 at *4. Importantly, the barriers to deportation in *Sereke* were not based on Eritrea's lack of recognition of the petitioner's citizenship, but instead they were based on "difficulties in executing removal orders to Eritrea due to the inability to secure a travel itinerary that met with the approval of all governments involved in getting Eritrean nationals ordered removed from the United States back to Asmara, Eritrea." *Id.*

Similarly, in *Marquez,* the petitioner was a native and acknowledged citizen of Peru, with criminal convictions for assault with a deadly weapon and domestic violence, who had already been removed once but reentered the United States, and

whose citizenship was not questioned by the Peruvian government. *Marquez,* 2020 WL 6044080, at *1-2. Further, the barriers to removal in *Marquez* were caused by the COVID-19 pandemic. *Id.* at *2.

None of these cases involved a ***stateless individual*** being deported to a country that has affirmatively stripped him of citizenship, refused to recognize him for over two decades, and issued only a temporary document expressly acknowledging his status (from their perspective) as stateless.

Last, Respondents' own declaration reveals the fragility of their position. Officer La Pierre states only that "ERO continues to diligently work to effectuate removal" and that ICE "***believes*** there is a significant likelihood of removal in the reasonably foreseeable future." *See* Dkt. 5-1, La Pierre Decl. at 3 (emphasis added). Conclusory assertions, unsupported by concrete evidence, are precisely what *Zadvydas* and its progeny hold are insufficient. *See Ahrach,* 2025 WL 3227529, at *5 n.11; *Hassoun,* 2019 WL 78984, at *5.

iv. *Petitioner's Case Before the BIA Materially Decreases Any Likelihood of Removal in the Foreseeable Future*

Respondents' response does not address the fact that Mr. Sabirov has a pending Emergency Motion to Reopen before the BIA, filed May 22, 2026, citing his proven statelessness as a new fact and extraordinary circumstance. Respondents did, however, subsequently concede this point when they withdrew their *ex parte* application to lift the Court's stay the same day it was filed. Dkt. 9, Motion to Withdraw the Motion to Lift the Prohibition of Transfer at 1 ("Counsel for Respondents was just informed that Petitioner has filed a motion to reopen and a motion for stay with the Board of Immigration Appeals (BIA). As a result of the stay, U.S. Immigration and Customs Enforcement (ICE) has stopped all removal efforts.").

As Respondents eventually conceded, this fact is material. The balance of equities overwhelmingly favors Mr. Sabirov's release pending resolution of these proceedings. Petitioner has resided in the United States for 29 years. He is married to a naturalized United States citizen. He has been employed as a financial analyst at the same company for seven years. He complied with his OSUP without incident for over 14 years. He has a pending, viable pathway to lawful status. His wife is experiencing serious psychological distress due to his detention. He has an upcoming colon cancer screening that he cannot attend while detained.

b. The Purported Notice of Revocation of Release and Informal Interview Did Not Satisfy Constitutional Due Process Requirements

i. The Law Requires More than Cursory, Pro Forma Due Process

The Constitution requires "some kind of a hearing ***before*** the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) (emphasis added). This fundamental principle applies with full force to individuals like Mr. Sabirov who have been freely living in the community under supervised release for ***decades***. *See Morrissey v. Brewer,* 408 U.S. 471, 479 (1972). Consistent with that requirement, due process demands both meaningful notice and a genuine opportunity to be heard before a neutral decisionmaker. Courts emphasize that the risk of erroneous deprivation is particularly acute where the government provides no "notice or any opportunity to be heard" prior to detention. *Sanchez Bermudez v. Noem*, 819 F. Supp. 3d 186, 192 (E.D.N.Y. 2026).

The opportunity to be heard must be real—not just pro forma—and cannot be satisfied where the noncitizen is given no meaningful chance to respond, such as where the record reflects that he "did not provide any oral response or written statement" (Return, Ex. 3, at p. 4) because the process itself was a "sham." *Hashemi v. Noem*, 809 F. Supp. 3d 1027, 1030, 1033 (C.D. Cal. 2025) ("While the government

points to a paper trail suggesting it complied with the requirements governing the revocation of release under 8 C.F.R. §§ 241.4(l) and 241.13(i), the Court finds that this appearance of process was a sham. Petitioner was never given meaningful notice of the reasons for the revocation of his release, nor was he provided a meaningful opportunity to respond to those reasons."). Nor is it sufficient to offer only a rushed, cursory exchange. For example, courts reject procedures where the individual has seconds to review notice and a fleeting interview, producing only a handful of recorded words and amounting to a "perfunctory and incomplete encounter." *Alfonso v. Bondi*, 2026 WL 395326, at *5 (W.D. Wash. Feb. 12, 2026).

As described below, Mr. Sabirov received neither proper nor timely notice, nor a meaningful opportunity to be heard, before the revocation of his Order of Supervision ("OSUP") or his subsequent arrest.

ii. The Undisputed Timeline Demonstrates that Petitioner's Due Process Rights were Violated.

The timeline is clear—and demonstrates that Mr. Sabirov had no real opportunity to respond.

On April 29, 2026, the Government requested a Travel Document (TD) from the embassy of Uzbekistan in New York for Mr. Sabirov, even though the U.S. and Uzbekistan government had told Mr. Sabirov for years that he could not be deported because he was not recognized as a citizen of any country. (La Pierre Decl., ¶ 14; Petition ¶ 44). Respondents' request was not communicated to Mr. Sabirov at that time.

On May 11, 2026, ERO San Diego received a "stateless person" Travel Document (TD) for Mr. Sabirov to travel to Uzbekistan, (La Pierre Decl., ¶ 15), meaning that the document itself referred to Mr. Sabirov as "stateless."

On May 12, 2026, ICE contacted Mr. Sabirov and directed him to appear at the ICE office in San Diego on May 14, 2026. (Verified Petition, ¶ 42.) ICE did not

inform him about the stateless person's TD issued by Uzbekistan or otherwise indicate that ICE intended to revoke his OSUP or arrest and detain him.

On May 12, 2026, ERO "processed" the OSUP revocation. (La Pierre Decl., ¶ 16). Respondents have not explained what "processing" means or entails, but Mr. Sabirov was not informed that his OSUP's revocation was ongoing.

On May 14, 2026,[1] Mr. Sabirov voluntarily reported to the Immigration and Customs Enforcement office in San Diego for a check-in pursuant to ICE's request. (Verified Petition, ¶ 43.) He arrived promptly at 8:00 a.m. and remained waiting with his attorney for approximately four hours. Mr. Sabirov was then escorted into a room with an ICE officer who told him for the first time that Uzbekistan had issued him a travel document and that he would be taken into custody immediately. (Verified Petition, ¶ 45.) Subsequently, ICE took Mr. Sabirov into custody, where he has since remained. (*Id.*, ¶ 46.)

On May 14, 2026, only after Mr. Sabirov was brought into the interview room and told he would be detained, did ICE present him with a Notice of Revocation of Release, dated May 14, 2026, informing him that his OSUP had been revoked and purporting to provide "notice" of an Informal Interview scheduled for that same day. (La Pierre Decl., Ex. 3). Mr. Sabirov had not received any advance notice, either before arriving for his check-in or at any earlier time. The form given to Mr. Sabirov was marked "refused to sign," indicating that Mr. Sabirov declined to sign. (La

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[1] It is unclear why Respondents' Return and supporting declaration state that Mr. Sabirov was placed under arrest on May 13, 2026. (Return, p. 5; La Pierre Decl., ¶ 17). Mr. Sabirov was arrested on May 14, 2026, consistent with Respondents' exhibits and the Verified Petition. *See* Verified Petition, Ex. M [Warrant for Arrest of Alien dated May 14, 2026]; Return, Ex. 3 [Notice of Revocation Release dated May 14, 2026].

Pierre Decl., Ex. 3). Respondents do not dispute that they did not provide any advance notice that Mr. Sabirov's OSUP would be revoked.

Also on May 14, 2026, after the ICE officer explained that Mr. Sabirov would be taken into custody, Mr. Sabirov expressed fear of return to Uzbekistan. The "informal interview" form given to Mr. Sabirov was marked as though Mr. Sabirov declined to provide an oral statement. (La Pierre Decl., Ex. 3). Mr. Sabirov was subsequently handcuffed and taken away.

iii. Petitioner was Deprived of his Due Process Rights.

This was not a meaningful and constitutionally compliant opportunity to be heard, to present evidence, or to challenge the basis for revocation before a neutral decisionmaker prior to detention. The "informal interview" occurred only after Petitioner was escorted into a room and told that a travel document had been procured for him and therefore he was being taken into custody. In fact, the Respondents' own exhibit demonstrates the inadequacy of the process provided. The Notice of Revocation was served on May 14, 2026, the same day Mr. Sabirov was arrested, and notes that Mr. Sabirov purportedly "REFUSED TO SIGN" the document. The "informal interview" form reflects only that Mr. Sabirov was purportedly afforded an opportunity to respond, but does not indicate any substantive engagement, any evidence considered, or any individualized determination of flight risk or dangerousness. The form does not reflect the oral statement that Mr. Sabirov provided—indeed, it is practically blank.

This Court, along with numerous others in this District and Circuit, has recognized that such *post-hoc* procedures are constitutionally insufficient where, as here, the individual has an established liberty interest built over years of compliance. *See Constantinovici v. Bondi*, 806 F. Supp. 3d 1155, 1164-65 (S.D. Cal. 2025) (granting habeas where ICE failed to provide notice of OSUP revocation, conduct meaningful interview, or demonstrate changed circumstances); *Esquivel Pacheco v.*

LaRose, 818 F. Supp. 3d 1168, 1179 (S.D. Cal. 2026) (granting immediate release where petitioner complied with release conditions and the record contained no indication DHS reassessed flight risk or danger).

Respondents' position is that because it purported to follow its own regulations by issuing a Notice of Revocation of Release and an informal interview for the ***same day***, and ***after*** Mr. Sabirov was detained, they did not violate the Constitution. They cite *Rodriguez v. Hayes*, 591 F.3d 1105, 1117 (9th Cir. 2010) to argue that the regulations confer "broad discretion" and impose "no meaningful substantive limit" on ICE's authority to revoke release. *See* Return, p. 3.

Respondents are incorrect. The Ninth Circuit's observation about the regulatory framework's lack of procedural constraints does not eliminate the independent constitutional floor imposed by the Due Process Clause. The Constitution naturally trumps any regulations and thus applies regardless of whether a regulation provides additional or separate protections. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("[T]he government's discretion to incarcerate non-citizens is always constrained by the requirements of due process."). Taking Respondents' argument to its natural end, the Government would possess the unchecked power to deprive any person of liberty without notice, hearing, or justification based on its interpretation of these regulations and without regard to the Constitution—a result that is incompatible with our Constitution and countless cases interpreting the Constitution.

Accordingly, because Respondents' purported regulatory compliance was a post-deprivation formality—not adequate pre-deprivation process—due process mandates Mr. Sabirov's release.

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c. Respondents Fail to Address Multiple Independent Grounds for Relief Raised in the Habeas Petition.

Respondents' Return is silent on several independent claims raised in the Petition. This silence constitutes a waiver.

First, Uzbekistan is a third country vis-à-vis a stateless individual, and removal to a third country without notice and a meaningful opportunity to raise fear-based claims violates both statutory and constitutional protections. Uzbekistan stripped Mr. Sabirov of his citizenship approximately 22 years ago. The travel document itself designates him as a "stateless person" whose passport was previously "withdrawn by competent authorities." As such, removal to Uzbekistan constitutes removal to a third country, triggering mandatory protections under the Convention Against Torture framework and the due process requirements articulated in *D.V.D. v. U.S. Dep't of Homeland Sec.*, 778 F. Supp. 3d 355, 392-93 (D. Mass. 2025), and its progeny.

Second, the Petition raised a detailed claim under 5 U.S.C. § 706(2)(A)-(D), arguing that Mr. Sabirov's detention without an individualized assessment, advance notice, or consideration of his reliance interests was arbitrary, capricious, and not in accordance with law. Respondents' Return does not mention the APA, does not address the arbitrary and capricious standard, and offers no explanation for why it departed from its longstanding policy of requiring changed circumstances before re-detention. By failing to respond, Respondents have effectively conceded this claim. *See Navarro Sanchez v. LaRose*, No. 25-cv-2396-JES-MMP, 2025 WL 2770629, at *5 (S.D. Cal. Sep. 26, 2025) (granting habeas on APA grounds).

Third, Respondents fail to address Petitioner's substantive due process claim. The only two permissible non-punitive purposes for civil immigration detention are ensuring appearance at proceedings and preventing danger to the community. *Zadvydas,* 533 U.S. at 690; *Victor Hugo Oregel Amezcua V. Kristi Noem, et al.*, No.

5:26CV01070-SRM-AGR, 2026 WL 1048212, at *7 (C.D. Cal. Mar. 25, 2026). Respondents do not dispute that Mr. Sabirov is neither a flight risk nor a danger. He ***voluntarily appeared*** at his May 14, 2026 check-in, the very appointment at which he was detained. He complied with all conditions of supervision for 14 years. He is gainfully employed, married to a U.S. citizen, and has community ties. Because his detention serves no legitimate non-punitive purpose, it is punitive and violates substantive due process. *See id.* The "deprivation of constitutional rights unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). And "neither equity nor the public's interest are furthered by allowing violations of federal law to continue." *Medrano-Rocha v. Santacruz,* No. CV 26-00404-KK-AGRx, 2026 WL 411355, at *6 (C.D. Cal. Jan. 23, 2026).

Each of these unrebutted points constitute independent grounds upon which the Court may grant the requested relief.

III. CONCLUSION

For all of the foregoing reasons, Petitioner respectfully requests that this Court: (1) grant the Petition for Writ of Habeas Corpus; (2) order Petitioner's immediate release from custody; and (3) enjoin Respondents from re-detaining Petitioner unless they first demonstrate, before a neutral decisionmaker and by clear and convincing evidence, that he poses a flight risk or danger to the community.

Date: June 9, 2026

Respectfully submitted,

/s/ *Alvaro Montenegro*

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CERTIFICATE OF SERVICE

I, Alvaro Montenegro, certify and declare as follow:

I am over the age of 18 and not a party to this action.

My business address is 55 Second Street, Suite 2100, San Francisco, CA 94105.

On June 9, 2026, I caused a copy of **PETITIONER'S REPLY BRIEF IN SUPPORT OF VERIFIED PETITION FOR WRIT OF HABEAS CORPUS** to be served via the Court's CM/ECF system.

I declare under penalty of perjury under the laws of the United States that the forgoing is true and correct. Executed on June 9, 2026 at Los Angeles, California.

/s/ Alvaro Montenegro

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