IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JUVENTINO AJANEL SICA, Petitioner, v. JERRY GREENE, SHERIFF OF MAHONING COUNTY, et al, Respondents.	)	CASE NO.: 4:26-CV-1803 JUDGE CHARLES E. FLEMING NOTICE OF SIGNIFICANT DEVELOPMENTS IN PETITIONER'S ADMINISTRATIVE PROCEEDINGS, WHICH IMPACT THE PETITION

Respondents hereby submit this Notice to inform the Court about significant developments that have occurred at the administrative level, which impact the arguments made in the Petition.

In his Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241, Petitioner claimed, among other things, that he was in removal proceedings before the Cleveland Immigration Court and was not subject to mandatory detention. ECF No. 1. Since then, the Petitioner had Removal Proceedings before the Immigration Court. On August 20, 2026, the Immigration Judge ("IJ") determined that Petitioner is removable from the United States. (See Order of Immigration Judge, attached as Exhibit A.) Petitioner's request for Cancellation of Removal for Nonpermanent Residents was withdrawn with prejudice. The IJ granted Petitioner post-conclusion voluntary departure under Immigration and Nationality Act § 240(B)(a) with Department of Homeland Security ("DHS") Safeguards. Petitioner is now in the process of voluntarily departing.

The IJ granted Petitioner's voluntary departure request but ruled that voluntary departure would be "under safeguards." According to the regulations, DHS "may attach to the granting of voluntary departure any conditions it deems necessary to ensure the alien's timely departure from the United States, including the posting of a bond, **continued detention pending departure**, and removal under safeguards." 8 C.F.R. § 240.25(b) (emphasis added); *see also Matter of M-A-S-*, 24 I&N Dec. 762, 765-68 (BIA 2009); *Matter of Arguelles*, 22 I&N Dec. 811, 814-15 (BIA 1999). As explained in *Matter of M-A-S-*, the use of the "term 'voluntary departure with safeguards' is commonly used to characterize that an alien remain in custody until he or she departs from the United States." *Id.* at 766 (citations omitted).

In *Al-Siddiqi v. Achim*, 531 F.3d 490, 495 (7th Cir. 2008), the Seventh Circuit upheld the denial of a habeas petition seeking release after being granted voluntary departure. The court ruled that "the regulations governing voluntary departure applications empower the IJ to impose 'such conditions as he or she deems necessary to ensure the alien's timely departure from the United States.'" *Id.* quoting 8 C.F.R. § 1240.26(c)(3). Accordingly, the Court ruled that an IJ had authority to order that an alien "remain in custody as a condition of his voluntary departure." *Id.*

Other courts, including the Northern District of Ohio, have reached the same conclusion. *See Boutinkhar v. Lyons, et al.*, No. 4:25-CV-2802, at ECF Nos. 12 and 17 (dismissing habeas petition because both 8 U.S.C. § 1229c and 8 C.F.R. § 1240.26 give IJ discretion to impose conditions pending departure, which mooted the petition); *El-Badrawi v. United States*, 787 F. Supp. 2d 204, 230-32 (D. Conn. 2011) (finding that 8 C.F.R. §§ 240.25(b) and 1240.26(b)(3)(i) authorized continued detention after granting voluntary departure); *Akinruntan v. Holder*, No. 4:13-cv-0010, 2013 WL 5999982, at * 6 (N.D. Ala. Sept. 30, 2013) (stating that 8 C.F. R §

1240.26(b)(3)(i) authorizes an IJ who grants voluntary departure to impose conditions including continued detention); *Hernandez v. Warden*, No. 6:26-cv-0053, 2026 WL 593532, at * 4 (N.D.TX Mar. 3 2026) (upholding the continued detention of an alien after the granting of voluntary departure "with safeguards").

In this case, Petitioner's custody is lawful as the IJ has ordered that his voluntary departure be "under safeguards" and DHS may detain him in custody until he voluntarily departs. Because § 1229(c) and § 1240.26 now definitively apply, and because these provisions give the IJ broad discretion to impose conditions pending departure—including continued detention during the voluntary departure period—Petitioner's arguments challenging his detention are now moot, and the habeas petition should be denied.

Respectfully submitted,

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