

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

**Zhilbert Khachikian v. Jeremy Casey, Warden, Imperial Regional
Detention Facility; Joseph Freden, Acting Field Office Director, U.S.
Immigration and Customs Enforcement; Todd M. Lyons, Acting
Director, U.S. Immigration and Customs Enforcement; Kristi Noem,
Secretary, U.S. Department of Homeland Security; and Pamela
Bondi, Attorney General of the United States**

Khachikian v. Casey · No. 25cv3737-GPC(JLB) · Decided January 8, 2026

SUMMARY

The United States District Court for the Southern District of California grants Zhilbert Khachikian’s petition for a writ of habeas corpus challenging his immigration detention. The court concludes that ICE failed to comply with the requirements of 8 C.F.R. § 241.13(i) governing revocation of supervised release, including requirements concerning changed circumstances, notice of reasons, and an opportunity to respond. The order addresses detention pending removal to Iran and the jurisdictional effect of 8 U.S.C. § 1252(g).

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 ZHILBERT KHACHIKIAN, Case No.: 25cv3737-GPC(JLB) 12 Petitioner,
ORDER GRANTING PETITION 13 v. FOR WRIT OF HABEAS CORPUS 14 JEREMY
CASEY, Warden, Imperial Regional Detention Facility; JOSEPH 15 FREDEN, Acting Field
Office Director, 16 U.S. Immigration and Customs Enforcement; TODD M. LYONS, 17 Acting
Director, U.S. Immigration and 18 Customs Enforcement; KRISTI NOEM, Secretary, U.S.
Department of 19 Homeland Security; and PAMELA 20 BONDI, Attorney General of the United
States, 21 22 23 Respondents.

24 25 On December 23, 2025, Zhilbert Khachikian (“Petitioner”) filed a petition for writ 26 of
habeas corpus pursuant to 28 U.S.C. § 2241 seeking to be released from his unlawful 27 detention
at the Imperial Regional Detention Facility in Calexico, California. (Dkt. No. 28 1, Pet.)
Respondents file a return on January 2, 2026, and Petitioner filed a traverse on 1 January 6, 2026.

(Dkt. Nos. 8, 9.) Based on the reasoning below, the Court GRANTS 2 the petition for writ of
habeas corpus. 3 Background 4 Petitioner, a 72 year old Iranian man of Armenian ethnicity,
entered the United 5 States at or near San Ysidro, California without being admitted or paroled

after inspection 6 by an Immigration Officer around February 3, 1999 and has been residing in the U.S. 7 continuously since that time.

(Dkt. No. 1, Pet. ¶ 28; Dkt. No. 8-2, Perez Decl. ¶ 6.) On June 24, 1999, Petitioner was issued a notice to appear for removal proceedings under the Immigration and Nationality Act (“INA”) § 240 charging him with being inadmissible 10 and subject to removal pursuant to INA § 212(a)(6)(A)(i), as an alien present in the 11 United States without being admitted or paroled or who has arrived in the United States 12 at any time or place other than as designated by the Attorney General.

(Dkt. No. 8-2, 13 Perez Decl. ¶ 7.) 14 On October 25, 1999, an Immigration Judge (“IJ”) in Los Angeles, California, 15 entered a removal order against Petitioner, in part due to lack of sufficient evidence. 16 (Dkt. No. 1, Pet. ¶ 32; Dkt. No. 8-2, Perez Decl. ¶ 8.)

The IJ stated in open court and in 17 the removal order that if Petitioner could procure additional information about 18 membership in the Bahai faith or receipt of a Bahai ID, he could file a motion to 19 reconsider the decision. (Dkt. No. 1, Pet. ¶ 32.) 20 On November 8, 1999, Petitioner appealed the IJ’s order to the Board of 21 Immigration Appeals (“BIA”) and the appeal was dismissed on April 15, 2002.

(Id. ¶ 33; 22 Dkt. No. 8-2, Perez Decl. ¶¶ 10, 11.) On July 25, 2002, Petitioner filed a motion to 23 reopen with the BIA which was denied on July 22, 2003. (Dkt. No. 8-2, Perez Decl. ¶¶ 24 12, 13.) On August 20, 2003, Petitioner filed a motion to reconsider the denial of the 25 motion to reopen with the BIA which was denied on October 2, 2003. (Id. ¶¶ 14, 15.)

26 On August 20, 2003, Petitioner petitioned for review with the Ninth Circuit Court 27 of Appeals, and while the Ninth Circuit issued a stay of removal throughout the duration 28 1 of proceedings, the petition was denied on February 11, 2005 and a mandate issued on 2 April 5, 2005. (Dkt. No. 1, Pet. ¶ 35; Dkt. No. 8-2, Perez Decl. ¶¶ 16, 17.) 3 On or about August 25, 2008, ICE detained Petitioner on the final order of removal 4 and released him under an Order of Supervision and Unsupervised Parole (“OSUP”) 5 program.

(Dkt. No. 1, Pet. ¶ 37; Dkt. No. 1-2, Pet., Ex. A1; Dkt. No. 8-2, Perez Decl. ¶ 6 18.) The OSUP program required periodic check-ins with ICE, but otherwise allowed 7 Petitioner to live freely and move about, engage in gainful employment, and participate 8 as a contributing member to society, as long as he continued to update ICE of any 9 permanent changes in address or phone number.

(Dkt. No. 1, Pet. ¶ 37.) Petitioner 10 continued to live a full life became a contributing member of society, and raised a family 11 which now includes U.S. citizen grandchildren. (Id. ¶ 36.) 12 In 2025, ICE placed Petitioner under an additional Intensive Supervision 13 Appearance Program (“ISAP”), requiring additional check-ins using apps, phone calls 14 and other requirements.

(Id. ¶ 38.) ISAP initially placed a GPS ankle bracelet on 15 Petitioner, but due to medical reasons ISAP agreed to remove the ankle bracelet. (Id.) 16 Petitioner was still allowed to live freely and move about, engage in gainful employment, 17 and participate as a contributing member to society, as long as he continued to update 18 ICE of any permanent changes in address or phone number.

(Id.) For the past 17 years, 19 Petitioner has complied with all OSUP and ISAP requirements without any issue. (Id. ¶ 20 39.) 21 On November 16, 2025, while Petitioner was at the home of his in-laws in Los 22 Angeles, ISAP employees asked him to come out of the home so they could verify some 23 information. (Id. ¶ 42.)

The statement was a mere pretext to detain him because once 24 Petitioner stepped outside the gated community, multiple ISAP employees were waiting 25 26 27 1 The Order of Supervision attached is dated May 21, 2012, no August 25, 2008. (Dkt. No. 1-2, Pet, Ex. 28 1 for Petitioner, and they arrested him without any further explanation and took him to an 2 ICE detention facility.

(Id.) 3 On the following day, November 17, 2025, Petitioner was served with a Notice of 4 Revocation of Release (“Notice”) while in ICE custody at 300 N. Los Angeles Street. 5 (Id. ¶ 43.) The document stated, “ICE has determined that you can be removed from the 6 United States pursuant to the outstanding order of removal against you.

On July 22, 7 2003, you were ordered removed to IRAN by an Immigration Judge and you are subject 8 to an administrative final order of removal. You were released on an order of supervision 9 on or about August 25, 2008. ICE has determined the purpose of your release has been 10 served and it is appropriate to enforce the removal order.” (Dkt. No. 1-3, Pet., Ex. B at 2 11 (emphasis removed).) 2) The Notice advised Petitioner that he would promptly be given an 12 informal interview during which he could respond to the reasons for revocation and 13 provide relevant evidence that removal is unlikely.

(Id.) 14 On November 17, 2025, DHS conducted an informal interview where Petitioner 15 was offered an opportunity to make a statement concerning the revocation of the order of 16 supervision but he did not; instead, he orally stated that he would wait for his attorney. 17 (Dkt. No. 8-2, Perez Decl. ¶ 20; Dkt. No. 8-3, Respts’ Table of Exs., Ex. A at 4.)

In the 18 traverse, Petitioner, through counsel, states that Petitioner was not afforded an interview 19 with a meaningful opportunity to discuss or respond to the Notice and was never 20 provided the factual or legal reasons for the revocation of his release. (Dkt. No. 9-1, 21 Darbinian Decl. ¶¶ 4-6.) According to Petitioner’s counsel, Petitioner did not refuse to 22 response or waive his right to be heard when he stated, “I will wait for my lawyer”; 23 rather, Petitioner invoked his right to counsel.

(Id. ¶ 7.) 24 On information and belief, prior to his detention, Petitioner was given no 25 notice of ICE's or ISAP's intention to detain him, and he was not provided with any 26 27 28 1 reasonable information about why his OSUP was revoked. (Dkt. No. 1, Pet. ¶ 44.)

On 2 information and belief, Petitioner was arrested and detained without any warrant, and any 3 documentation and the Notice was only prepared after his detention. (Id. ¶ 45.) On 4 information and belief, ICE had no particularized evidence that Petitioner can be 5 repatriated or deported to Iran at the time he was detained and continue to have no 6 particularized evidence that Petitioner can be removed at this time.

(Id. ¶ 46.) On 7 information and belief, Petitioner has not received an individualized hearing before a 8 neutral decisionmaker to assess whether his recent detention is warranted due to danger 9 or flight risk. (Id. ¶ 47.) 10 On November 17, 2025, Petitioner's counsel reached out to ICE and requested to 11 speak with anyone who could speak on the matter, in particular the ICE deportation 12 officer or supervisor assigned to Petitioner's case.

(Id. ¶ 48.) Nobody from ICE 13 responded. (Id.) On November 18, 2025, Petitioner's counsel visited the detention 14 center at 300 N. Los Angeles Street, Los Angeles, CA 90012 where Petitioner was being 15 detained at the time, and managed to speak with Supervisory Deportation Officer 16 Casillas. (Id. ¶ 49.) 17 Supervisor Casillas advised Petitioner's counsel that they were unaware why 18 Petitioner was detained, that the ISAP team was the one who brought Petitioner to their 19 facility, that the Los Angeles facility was a temporary holding facility, that Petitioner 20 would soon be transferred to a larger detention center, and that counsel would need to 21 follow up with the deportation officer assigned to his case.

(Id.) Around November 20, 22 2025, Petitioner was transferred by ICE to the Imperial Regional Detention Facility, 23 where he remains to date. (Id. ¶ 50; Dkt. No. 1-4, Pet., Ex. C.) Petitioner's counsel 24 repeatedly contacted ICE for an update, and ICE continued to remain nonresponsive until 25 November 24, 2025 when counsel learned that the ICE ERO employee assigned to 26 Petitioner's case was Deportation Officer Salvador Perez ("DO Perez").

(Dkt. No. 1, Pet. 27 ¶ 51.) Petitioner's counsel spoke with DO Perez on November 24, 2025 who told her by 28 1 phone that there was an outstanding order of deportation to remove Petitioner to Iran, and 2 he will be contacting the country of Iran for necessary paperwork. (Id. ¶ 52.) 3 Petitioner's counsel advised DO Perez that the U.S. does not have diplomatic 4 relations with Iran, and requested a reconsideration of release as he cannot be removed to 5 Iran.

(Id. ¶¶ 53, 54.) Petitioner's counsel provided additional information about 6 Petitioner's mature age and medical issues, his fear of removal to Iran, and further 7 explained why ICE lacked authority to detain Petitioner as the removal period had ended 8 long ago and no event had made his removal reasonably foreseeable. (Id. ¶ 54.)

In 9 addition, Petitioner's counsel explained that Petitioner planned to file a new motion to 10 reopen his removal proceedings with new evidence of changed circumstances and 11 persecution on account of his Bahai faith, including but not limited to his acquisition of a 12 Bahai ID as referenced on the IJ's removal order in 1999. (Id.) 13 Petitioner's counsel also requested that ICE reconsider Petitioner's detention, 14 especially in light of his medical issues.

(Id. ¶ 55.) Further, ICE could continue to 15 process any request for travel authorization without Petitioner in detention because ICE 16 was already constantly aware of Petitioner's whereabouts under the concurrent OSUP 17 and ISAP programs and GPS monitoring through Petitioner's phone. (Id.) DO Perez 18 said he would raise this request with his supervisor, but for now his job was to continue 19 procuring documents from Iran, and Petitioner would remain in custody.

(Id. ¶ 56.) DO 20 Perez advised counsel that that he does not know how long the process will take, but 21 Petitioner's removal was not immediate nor imminent because he still needed to obtain 22 paperwork and travel documentation for Petitioner. (Id.) 23 On December 8, 2025, the Enforcement and Removal Operations ("ERO") 24 requested that Petitioner complete Form I-217, Information for Travel Document or 25 Passport, related with a travel document request to the Iran Interests Section of the 26 27 28 1 Embassy of Pakistan but he refused to comply.

(Dkt. No. 8-2, Perez Decl. ¶ 21.) 2 Despite his refusal, ERO completed the form using information available to it in DHS 3 records and databases. (Id. ¶ 22.) On December 22, 2025, ERO forwarded a finalized 4 travel document request to the Iran Interests Section in Washington D.C. which is 5 currently pending. (Id. ¶ 23.) DHS has been successful in effectuating final orders of 6 removal to Iran via charter flight; in Fiscal Year 2025, DHS removed 135 Iranian 7 nationals to Iran.⁴ (Id. ¶ 26.)

DHS believes there is a significant likelihood of 8 Petitioner's removal to Iran in the reasonably foreseeable future. (Id. ¶ 27.) 9 The petition challenges the legality of Petitioner's immigration detention on the 10 following grounds: (1) that his revocation of release was unlawful because Respondents 11 did not provide evidence that he can be immediately removed to Iran in the reasonably 12 foreseeable future; (2) that his revocation of release violated 8 C.F.R. § 241.13(i)(3) for 13 failing to provide notice and reasons for his detention and to conduct an initial interview; 14 (3) that his detention is unlawful because his removal is not reasonably foreseeable as 15 contemplated by *Zadvydas v. Davis*, 533 U.S. 678 (2001); (4) that his detention violates 16 his due process rights because he was not provided with an individualized determination 17 of danger or flight risk; (5) that his removal is unlawful to a third country;⁵ and (6) 18 declaratory judgment.

(Dkt. No. 1, Pet. ¶¶ 65-105.) Respondents argue Petitioner's 19 20 21 3 Due to the lack of formal diplomatic relations between the United State and Iran since 1980, the Iran Interests Section of the Pakistan Embassy manages the diplomatic and consular affairs of Iran in the 22 United States.

(Dkt. No. 8-2, Perez Decl. ¶ 21 n. 1.)⁴ See ICE Annual Report Fiscal Year 2024, at p. 99, 23 <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> (last visited Jan.

5, 2026) (reporting that removals to Iran ranged from 10 to 27 per fiscal year during fiscal years 2019–2024).²⁴ Respondents argue Petitioner’s fifth claim that his removal to a third country is unlawful does not raise²⁵ a case or controversy and should be denied as moot because they are not seeking to remove him to a third country and are instead working to remove him to Iran, his home country.

(Dkt. No. 8 at 4-5.) In²⁶ response, Petitioner maintains that Respondents have not affirmatively denied any intent to remove Petitioner to a third country; however, if they do not intend to remove petitioner to a third country,²⁷ Petitioner agrees the claim is moot. (Dkt. No. 9 at 2-3.)

Because Respondents have submitted travel documents to the Iran Interests Section of the Pakistan Embassy to have him removed to Iran rather than²⁸ 1 detention is lawful because he has not established there is no significant likelihood of 2 removal in the reasonably foreseeable future under the ruling in *Zadvydas*. (Dkt. No. 8 at 3 6-10.6) They also contend that ICE complied with 8 U.S.C. § 241.13(i) by serving 4 Petitioner with a Notice of Revocation of Release on November 16, 2025, and conducting 5 an informal interview which Petitioner declined to participate in.

(Id. at 12-16.) They 6 also maintain that Petitioner’s refusal to cooperate with ICE’s efforts to obtain a travel 7 document authorizes his continued detention. (Id. at 10-11.) 8 Discussion 9 A. Legal Standard 10 Under 28 U.S.C. § 2241, a writ of habeas corpus may be granted to any petitioner 11 who demonstrates that she is “in custody in violation of the Constitution or laws or 12 treaties of the United States.” 28 U.S.C. § 2241(c)(3); see *Rasul v. Bush*, 542 U.S. 466, 13 473 (2004).

The writ of habeas corpus is “available to every individual detained within 14 the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). 15 As explained by the Supreme Court, “the essence of habeas corpus is an attack by 16 a person in custody upon the legality of that custody, and... the traditional function of 17 the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*, 411 U.S. 475, 18 484 (1973); *Pinson v. Carvajal*, 69 F.4th 1059, 1067 (9th Cir.

2023) (habeas actions 19 limited to challenges of the legality or duration of confinement). A prisoner bears the 20 burden of demonstrating that “[h]e is in custody in violation of the Constitution or laws 21 or treaties of the United States.” See *Espinoza v. Sabol*, 558 F.3d 83, 89 (1st Cir. 2009). 22 B. Subject Matter Jurisdiction 23 Respondents maintain that this Court lacks jurisdiction over Petitioner’s claims 24 under 8 U.S.C. § 1252(g) because Petitioner’s claims necessarily arise “from the decision 25 or action by the Attorney General to... execute removal orders.” (Dkt.

No. 8 at 5-6.) 26 27 28 1 Petitioner replies he is not challenging either the validity of his removal order of 1999 or 2 whether Respondents can execute on the removal order; instead, he is challenging the 3 legality of his unlawful detention. (Dkt. No. 9 at 3.) 4 8 U.S.C. § 1252(g) states that, with limited exceptions, “no court shall have 5 jurisdiction to hear any cause or claim by or on behalf of any alien arising from the 6 decision or action by the Attorney General to commence proceedings, adjudicate cases, 7 or execute removal orders against any alien[.]” 8 U.S.C. § 1252(g) (emphasis added); 8 *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999).

In that light, § 9 1252(g) is a narrow statutory provision that concentrates on those three discrete actions. 10 *Reno*, 525 U.S. at 482. Section 1252(g) “does not prohibit challenges to unlawful 11 practices merely because they are in some fashion connected to removal orders.” *Ibarra- 12 Perez v. United States*, 154 F.4th 989, 997 (9th Cir. 2025). This section does not apply to 13 “general collateral challenges to unconstitutional practices and policies used by the 14 agency.” *Id.* (internal quotation mark and citation omitted).

15 Here, Petitioner contests his detention resulting from violations of the 16 government’s mandatory duties under certain statutes, regulations, and the Constitution; 17 therefore, the Court has jurisdiction to determine the lawfulness of Petitioner’s detention. 18 See *Dearinger ex re. Volkova v. Reno*, 232 F.3d 1042, 1044 (9th Cir. 2000) (§ 1252(g) 19 restricts judicial review of deportation orders but “28 U.S.C. § 2241 remains an available 20 remedy to those challenging executive detention.”) Thus, § 1252(g) does not present a 21 jurisdictional bar to the instant petition.

22 C. Failure to Comply with 8 C.F.R. § 241.13(i) 23 In Counts 1 and 2, Petitioner argues that ICE unlawfully revoked his release in 24 violation of 8 C.F.R. § 241.13(i)(2). Respondents contend they complied with § 241.13 25 by providing Petitioner with a Notice of Revocation of Release one day after he was 26 detained, and provided him with an informal interview.

(Dkt. No. 8 at 13-14.) They also 27 argue there are changed circumstances with ICE’s recent ability to schedule removal 28 flights to Iran. (*Id.* at 14.) 1 It is recognized that government agencies are required to follow their own 2 regulations. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); 3 *United States v. Ramos*, 623 F.3d 672, 683 (9th Cir.

2010) (“It is a well-known maxim 4 that agencies must comply with their own regulations.”) (quoting *Ramon-Sepulveda v. 5 INS*, 743 F.2d 1307, 1310 (9th Cir. 1984)). Where an immigration “regulation is 6 promulgated to protect a fundamental right derived from the Constitution or a federal 7 statute,” like the opportunity to be heard, “and [ICE] fails to adhere to it, the challenged 8 [action] is invalid....” *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D.

Mass. 2017) 9 (quoting *Waldron v. I.N.S.*, 17 F.3d 511, 518 (2d Cir. 1993) (quotation marks omitted)). 10 Courts “have found that when ICE fails to follow its own regulations in revoking release, 11 the detention is unlawful, and the petitioner's release must be ordered.” *Truong v. Noem*, 12 No. 25-cv-2597-JES-MMP, 2025 WL 2988357, at *6 (S.D. Cal. Oct. 22, 2025) 13 (collecting cases).

14 8 U.S.C. § 1231(a) governs the detention of individuals with a final order of 15 removal and provides that a noncitizen must be removed within 90 days. 8 U.S.C. § 16 1231(a)(1)(A). Once the removal period passes and the “alien does not leave or is not 17 removed... the alien, pending removal, shall be subject to supervision under regulations 18 prescribed by the Attorney General.” *Id.* § 1231(a)(3).

19 In *Zadvydas*, the Supreme Court determined that it is “presumptively reasonable” 20 for DHS to detain a noncitizen for six months following entry of a final removal order 21 while it works to remove the individual from the United States. *Zadvydas*, 533 U.S. at 22 701. Section 1231(a)(6), however, implicitly limits a noncitizen’s detention to a period 23 reasonably necessary to bring about that individual’s removal from the United States, and 24 does not permit “indefinite” detention.

Id. at 688. Detention is indefinite if there is “no 25 significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. When 26 detention becomes indefinite, the noncitizen must be released on supervision. *Id.* at 699- 27 700. 28 1 Both parties discuss the application of *Zadvydas v. Davis*, 533 U.S. 678 (2001) in 2 this case. Petitioner argues that he has made the initial showing that his removal is not 3 significantly likely, (Dkt.

No. 1, Pet. 83), while Respondents contend that Petitioner has 4 failed to establish “that there is no significant likelihood of removal in the reasonably 5 foreseeable future.” (Dkt. No. 8 at 8.) However, the burden-shifting framework and 6 presumptive reasonableness under *Zadvydas* do not apply to Petitioner’s situation of re- 7 detainment after he was issued a final order of removal, detained and subsequently 8 released on conditions.

See *Phouvieng K. v. Andrews*, No. 1:25-cv-01512-KES-SAB 9 (HC), 2025 WL 3265504, at *4 (E.D. Cal. Nov. 24, 2025) (“*Zadvydas* does not apply 10 when a noncitizen has been ordered removed, is subsequently released on an order of 11 supervision because the removal order could not be executed, and is then re-detained 12 later.”) (citing *Nguyen v. Hyde*, 788 F. Supp. 3d 144, 150 (D.

Mass. 2025) and *Escalante* 13 *v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025)); 14 *Tadros v. Noem*, No. 25-cv-4108, 2025 WL 1678501, at *3 (D.N.J. June 13, 2025) 15 (same); *Kazemi v. Casey*, Case No.: 25cv1926 DMS (DEB), 2025 WL 3179746, at *2 16 (S.D. Cal. Oct. 7, 2025) (*Zadvydas* presumption of reasonable detention does not apply to

17 re-detention; instead, the government bears the burden that the petitioner “may be 18 removed in the reasonably foreseeable future.”) 19 Zadvydas involved the initial detainment of a noncitizen awaiting removal and was 20 never released following a final order of removal.

Zadvydas, 533 U.S. at 701. In that 21 context, the Supreme Court held that once an alien has been detained for six months and 22 “provides good reason to believe that there is no significant likelihood of removal in the 23 reasonably foreseeable future, the Government must respond with evidence sufficient to 24 rebut that showing.” Id. 25 Here, Petitioner’s 90-day removal period expired years ago in 2002 when the order 26 of removal became final, (Dkt.

No. 1, Pet 79), and in 2008, he was released with 27 conditions under OSUP and later ISAP. See 8 C.F.R. 241.13(h). Therefore, the 28 applicable provision for the revocation of Petitioner’s release is 8 C.F.R. § 241.13(i). 1 8 C.F.R. § 241.13 governs the release and revocation of release for noncitizens 2 subject to a final removal order who are indefinitely detained.

As to revocation of 3 release, 8 C.F.R. § 241.13(i)(2) provides that a noncitizen’s supervised release may be 4 revoked and may be returned to custody “if, on account of changed circumstances, the 5 Service determines that there is a significant likelihood that the alien may be removed in 6 the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2); Sun v. Noem, No. 3:25-cv- 7 02433-CAB-MMP, 2025 WL 2800037, at *2 (S.D.

Cal. Sept. 30, 2025) (“ICE’s own 8 regulations thus place the burden on ICE to show changed circumstances that make 9 removal significantly likely in the reasonably foreseeable future.”). The procedures 10 mandated by the regulations provide: 11 (3) Revocation procedures. Upon revocation, [1] the alien will be notified of the reasons for revocation of his or her release.

[2] The Service will conduct 12 an initial informal interview promptly after his or her return to Service 13 custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification.

[3] The alien may submit any evidence 14 or information that he or she believes shows there is no significant 15 likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision.

[4] The revocation 16 custody review will include an evaluation of any contested facts relevant to 17 the revocation and a determination whether the facts as determined warrant revocation and further denial of release. 18 19 8 C.F.R. § 241.13(i)(3). 20 According to § 241.13(i)(2), ICE must first determine that “on account of changed 21 circumstances,” the noncitizen is likely to be removed in the foreseeable future.

See 8 22 C.F.R. § 241.13(i)(2). Here, the Notice of Revocation of Release served on Petitioner 23 states his release was revoked pursuant to 8 C.F.R. § 241.13 because “ICE has 24 determined that

you can be removed from the United States pursuant to the outstanding 25 order of removal against you.

On July 22, 2003, you were ordered removed to IRAN by 26 27 7 8 C.F.R. § 241.13 codified how Zadvydas should apply. See Continued Detention of Aliens Subject to 28 1 an Immigration Judge and you are subject to an administrative final order of removal. 2 You were released on an order of supervision on or about August 25, 2008. ICE has 3 determined the purpose of your release has been served and it is appropriate to enforce 4 the removal order.” (Dkt.

No. 1-3, Pet., Ex. B at 2.) This Notice does not assert or 5 explain that Petitioner is likely to be removed in the foreseeable future in violation of § 6 241.13(i)(2).8 7 Further, § 241.13(i)(2) requires that the re-detention determination that there is a 8 significant likelihood that Petitioner may be removed in the reasonably foreseeable future 9 must be made before his release is revoked.

See *Tran v. Noem*, No. 3:25-cv-02391-BTM- 10 BLM, 2025 WL 3005347, at *2 (S.D. Cal. Oct. 27, 2025) (explaining that ICE's 11 determination regarding the foreseeability of removability must be “made before the 12 removable alien has had his release revoked”).

Here, the re-detention was not “on 13 account of” changed circumstances, given that Respondents concede that no travel 14 document for Petitioner has been obtained at the time of detention and ERO sent final 15 travel documents to the Iran Interests Section on December 22, 2025, five weeks after 16 being detained on November 16, 2025. See *Duong v. Charles*, No. 1:25-cv-01375-SKO, 17 2025 WL 3187313, at *3 (E.D.

Cal. Nov. 14, 2025) (finding no evidence of changed 18 circumstances where the government “did not even submit a request to Vietnam for travel 19 20 21 8 To the extent that Respondents may argue, in the event Petitioner is released under this order and re- detained, that there is a significant likelihood that Petitioner may be removed in the reasonably 22 foreseeable future because they have submitted final travel documents to the Iran Interests Section at the Pakistan Embassy on December 22, 2025 and that they have been successfully able to remove Iranian 23 citizens for several years, Respondents have not provided data as to how long the deportation process takes, how many pending Iranian citizens are currently waiting to be removed, and what type of 24 deportations are given priority.

In reply, Petitioner relies on a number of news articles concerning the 25 number and method of repatriation of Iranian nationals to Iran, the fragility of the relationship between the U.S. and Iran, and a statement by Mr. Abolfazl Mehrabadi, Director of Iran’s Interest Section in 26 Washington D.C., arguing that his case is not a priority for imminent removal and there is not a significant likelihood that he will be removed in the reasonably foreseeable future.

(Dkt. No. 9 at 4-7.) 27 Therefore, in the event of re-detention upon release, Respondents must establish “there is a significant likelihood that the alien may be removed in the reasonably foreseeable future” as such a showing has not 28 1 documents” until a month after re-detaining petitioner); *Sphabmixay v. Noem*, No. 25-cv- 2 2648-LL-VET, 2025 WL 3034071, at *2 (S.D.

Cal. Oct. 30, 2025) (finding no evidence 3 of changed circumstances where the government “did not even submit a request to Laos 4 for travel documents” until a week after re-detaining petitioner). 5 Next, in violation of § 241.13(i)(3), the Notice did not inform Petitioner of the 6 reasons for the revocation of his release. Merely stating that the “purpose of your release 7 has been served” does not inform Petitioner of the “changed circumstances” that created 8 a “significant likelihood of removal in the reasonably foreseeable future.” See 8 C.F.R. § 9 241.13(i) (2), (3); *Phakeokoth v. Noem*, Case No.: 3:25-cv-02817-RBM-SBC, 2025 WL 10 3124341, at *4 (S.D.

Cal. Nov. 7, 2025) (quoting *Sarail A. v. Bondi*, 25-cv-2144 11 (ECT/JFD), 2025 WL 2533673, at *10 (D. Minn. 2025) (“[s]imply [stating] that 12 circumstances had changed or there was a significant likelihood of removal in the 13 foreseeable future is not enough.”)) Petitioner must be told “what circumstances had 14 changed or why there was now a significant likelihood of removal in order to 15 meaningfully respond to the reasons and submit evidence in opposition.” *Phakeokoth*, 16 2025 WL 3124341, at *4 (quoting *Sarail A.*, 2025 WL 2533673, at *10).

17 In addition, ICE's conclusory explanation for revoking Petitioner's release “did not 18 offer him adequate notice of the basis for the revocation decision such that he could 19 meaningfully respond at [any] post-detention informal interview,” as required under § 20 241.13. See *Diaz v. Wofford*, Case No. 1:25-CV-01079 JLT-EPG, 2025 WL 2581575, at 21 *8 (E.D.

Cal. Sept. 5, 2025) (citation and quotation marks omitted); see also *McSweeney 22 v. Warden of Otay Mesa Det. Facility*, Case No.: 3:25-cv-02488-RBM-DEB, 2025 WL 23 2998376, at *6 (S.D. Cal. Oct. 24, 2025) (granting habeas petition because “Petitioner 24 could not have meaningfully responded to the proffered reasons for revocation when he 25 had not yet even been informed of those reasons”).

Therefore, while the parties dispute 26 whether an informal interview took place, if one had occurred, Petitioner would not have 27 been able to respond meaningfully to the reasons for his revocation of his release without 28 being provided reasons for the revocation. Further, because Petitioner was not provided 1 with the reasons for his release, he did not an opportunity to submit evidence and 2 subsequently was not afforded an evaluation and determination of contested facts.

See 8 3 C.F.R. § 241.13(i)(3).9 4 Petitioner has therefore shown that ICE violated its own rule under § 241.13(i)(2) 5 and (3) given the lack of any evidence of a changed circumstance prior to

Petitioner's re- 6 detainment.¹⁰ As such, the Court GRANTS the petition for writ of habeas corpus and that 7 Petitioner be released subject to the conditions in his previous order of supervision.

See 8 *Constantinovici v. Bondi*, -- F. Supp. 3d --, 2025 WL 2898985, at *6 (S.D. Cal. Oct. 10, 9 2025) (citing *Rokhfirooz v. Larose*, Case No.: 25-cv-2053-RSH-VET, 2025 WL 2646165, 10 at *4 (S.D. Cal. Sept. 15, 2025) (granting a habeas petition and ordering the petitioner's 11 release where the Government failed to comply with § 241.13); *Hoac v. Becerra*, No. 12 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D.

Cal. July 16, 2025) (finding 13 petitioner was likely to succeed on his unlawful re-detention claim because “there is no 14 indication that an informal interview was provided”); *Cesay*, 781 F. Supp. 3d at 164 15 16 17 9 The government also argues that Petitioner’s refusal to cooperate with ICE’s efforts to obtain travel documents authorizes his continued detention under 8 U.S.C. § 1231(a)(1) (C).

(Dkt. No. 8 at 10-12.) 18 Petitioner replies that he has not refused cooperation but has informed ICE officers that he has an attorney and for ICE officers to communicate to his counsel. (Dkt. No. 9 at 7.) In fact, on November 19 24, 2025, Petitioner’s counsel informed DO Perez that she represented Petitioner and to forward any communication to her as Petitioner’s counsel.

(Dkt. No. 9-2, *Darbinian Decl.* ¶¶ 2-3.) However, no 20 documents, including the Form I-217 that ICE provided to Petitioner to fill out on December 8, 2025 21 was provided to his counsel. (*Id.* ¶ 4.) Nonetheless, Petitioner argues that the alleged refusal to cooperate is now moot because Respondents were able to complete and submit final travel documents 22 using its own resources.

(Dkt. No. 9 at 7.) 8 U.S.C. § 1231(a)(1)(C) provides, that “[t]he removal period shall be extended beyond a period of 90 23 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or 24 conspires or acts to prevent the alien's removal subject to an order of removal.” Here, because 25 Respondents were able to submit final travel documents on December 22, 2025, their argument is moot.

10 In the *Traverse*, for the first time, Petitioner argues that the Notice of Revocation of Release is not 26 valid because it was signed by Deportation Officer R. Romero and Supervisory Detention Deportation Officer T. Gaeta in violation of 8 C.F.R. § 241.4(l)(2) which requires that a decision to revoke a 27 noncitizen’s release must be made either by an “Executive Associate Commissioner” or by a “district director.

(Dkt. No. 9 at 9; Dkt. No. 1-3, *Pet., Ex. B.*) However, because the government has not had an 28 1 || (“[B]ecause ICE did not follow its own regulations in deciding to redetain [the 2 || petitioner], his due process rights were violated, and he is entitled to release.”))."! 3 Conclusion 4 Based on the above, the Court GRANTS the petition for writ of habeas corpus.

5 || The Government shall immediately release Petitioner from custody on the November 16, 6
revocation of release and arrest. Petitioner shall comply with all conditions that 7 || were in effect
before his November 16, 2025 re-detainment.

The parties must also file a 8 || joint status report to confirm that Petitioner has been released on or
before January 12, 9 2026. The Clerk of Court shall close the case. 10 IT IS SO ORDERED. 11
||Dated: January 8, 2026 12 Hon. at the Cae 13 United States District Judge 14 15 16 17 18 19 20
21 22 23 24 25 26 27 || _____ 28 In light of the Court's ruling, the Court need not
address the fourth and sixth claims.