

1 This case was assigned to the undersigned district judge and referred to
2 Magistrate Judge Maria Audero for preparation of a report and recommendation on
3 December 24, 2025. (ECF No. 5.) On January 5, 2026, Judge Audero set an
4 expedited briefing schedule on the merits of the Petition and, to preserve the
5 Court’s jurisdiction, enjoined Respondents from transferring, relocating, or
6 removing Petitioner outside of the Central District of California pending final
7 resolution of this case or further order of the Court. (ECF No. 4.) Having received
8 Respondents’ statement that they are unable to present any argument in opposition
9 to the Petition, however, the Court VACATES the reference¹ and, for the reasons
10 set forth below, GRANTS the Petition, which the Court finds appropriate for
11 resolution without oral argument. *See* Fed. R. Civ. P. 78; C.D. Cal. R. 7-15.

12 13 I. STATEMENT OF FACTS

14 Petitioner is a 70-year-old Iranian woman of Armenian ethnicity who is
15 detained at the Adelanto ICE Processing Center in Adelanto, California. (Pet. ¶ 1.²)
16 Petitioner entered the United States in May of 1999 and has resided here ever since.
17 (*Id.* at ¶ 28.) She is a member of the Bahai faith, who escaped with her family from
18 religious persecution in her native country of Iran. (*Id.* at ¶ 31.) She applied for
19 asylum, derivative to her husband’s application for asylum in the United States.
20 (*Id.*) In October of 1999, an Immigration Judge (“IJ”) entered a removal order
21 against Petitioner. (*Id.* at ¶ 2.) However, Petitioner was not removed and was
22 allowed to remain in the United States. (*Id.* at ¶ 3.) In October of 2008, Petitioner
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24 ¹ Pursuant to 28 U.S.C. § 636(b)(1), there is a fourteen-day period after service with
25 a magistrate judge’s report and recommendation during which the parties may file
26 and serve objections to the report. In light of the relief sought and Respondents’
27 failure to oppose the granting of such relief, this additional delay is unnecessary and
28 would be contrary to the interests of justice.

² Pinpoint citations refer to paragraphs and, where none, to the page numbers in the
CM/ECF-generated headers of filed documents.

1 was arrested by ICE, placed under an Order of Supervision and Unsupervised
2 Parole (“OSUP”), and released again. (*Id.* at ¶ 4.) DHS issued Petitioner an
3 employment authorization document. (*Id.* at ¶ 11.) Petitioner has complied with
4 every requirement and check-in requested by ICE. (*Id.* at ¶¶ 4, 38.) Petitioner did
5 not violate any conditions of release. (*Id.* at ¶ 8.)

6 On November 26, 2025, Petitioner attended another ICE OSUP in-person
7 check-in along with her two daughters. (*Id.* at ¶ 39.) ICE officers arrested
8 Petitioner at the scheduled check-in, without any notice, without a warrant, 26 years
9 after she was ordered removed and 17 years after the issuance of the OSUP. (*Id.* at
10 ¶¶ 5, 39.) Petitioner’s assigned deportation officer acknowledged that ICE had not
11 tried to obtain travel documents that would allow Petitioner to be removed to Iran
12 prior to her arrest. (*Id.* at ¶¶ 51, 55.) The United States does not have any
13 diplomatic relations with Iran. (*Id.* at ¶ 52.) There is no likelihood that removal
14 will occur in the reasonably foreseeable future. (*Id.* at ¶¶ 8–9, 53, 55.) In arresting
15 Petitioner, ICE did not comply with its own regulations. (*Id.* at ¶ 10.) Petitioner
16 has a number of medical issues which cannot be addressed in the detention facility
17 where she is located. (*Id.* at ¶ 14.) While transferring Petitioner from a detention
18 facility in downtown Los Angeles to Adelanto, ICE lost her medication. (*Id.* at
19 ¶ 42.) Petitioner was not allowed to attend a prescheduled medical appointment.
20 (*Id.* at ¶ 44.)

21 Petitioner’s husband, Zhilbert Khachikian, who was the principal in their
22 family’s immigration removal proceedings and application for asylum, also was
23 detained by ICE in November 2025. (*Trav.* 2.) Mr. Khachikian, whose
24 circumstances appear similar to his wife’s, was granted habeas relief on January 8,
25 2026. *Khachikian v. Casey*, No. 25CV3737-GPC(JLB), 2026 WL 63633, at *1
26 (S.D. Cal. Jan. 8, 2026).

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II. PETITIONER’S CLAIMS

In her Petition, Petitioner asserts six claims for relief: (1) unlawful revocation of release; (2) violation of procedures for revocation of release; (3) unlawful detention where removal is not reasonably foreseeable; (4) unlawful detention without individualized determination of danger or flight risk; (5) unlawful removal to a third country; and (6) declaratory judgment. (*Id.* at ¶¶ 64–102.) She seeks, *inter alia*, a writ of habeas corpus directing Respondents to release her from custody, declaratory relief that Respondents have violated her rights, and injunctive relief preventing Respondents from: (1) revoking Petitioner’s release unless they have individualized evidence that her removal is reasonably foreseeable; (2) revoking Petitioner’s release without providing her a determination by an impartial adjudicator that her detention is justified based on danger or flight risk, which cannot be sufficiently addressed by alternative conditions of release or supervision, at which hearing Respondents will bear the burden of proof of demonstrating that Petitioner is a flight risk or a danger to the community; (3) removing Petitioner to a third country without sufficient notice and opportunity to demonstrate that she faces a specific risk of torture or persecution in that third country; and (4) taking retaliatory or otherwise unlawful adverse action against Petitioner on account of Petitioner’ filing or maintaining this action, or for the purpose of circumventing or undermining this Court’s orders, including but not limited to the use of unnecessary delay, bad-faith denials or revocations of release, and denying the right to employment authorization documents. (*Id.* at 19–20.) Petitioner also seeks attorney’s fees and asks the Court to retain jurisdiction over this action to enforce its orders. (*Id.* at 20.)

III. LEGAL STANDARD

Writs of habeas corpus may be granted by the federal courts to noncitizens in the custody of immigration authorities. 28 U.S.C. § 2241(c)(3) (“The writ of

1 habeas corpus” extends to individuals “in custody in violation of the Constitution or
2 laws or treaties of the United States.”); *Doe v. Garland*, 109 F.4th 1188, 1194 (9th
3 Cir. 2024) (holding that petition challenging alien’s detention without bond hearing
4 fell within the “core of habeas”). The writ is “available to every individual detained
5 within the United States.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004).

6 The Due Process Clause prohibits deprivations of life, liberty, and property
7 without due process of law. U.S. Const. amend. V. “[T]he Due Process Clause
8 applies to all ‘persons’ within the United States, including aliens, whether their
9 presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
10 533 U.S. 678, 693 (2001). The Supreme Court has held explicitly “that the Due
11 Process Clause protects an alien subject to a final order of deportation, though the
12 nature of that protection may vary depending upon status and circumstance.” *Id.* at
13 693–94 (internal citation omitted). “‘It is well established that the Fifth
14 Amendment entitles aliens to due process of law’ in the context of removal
15 proceedings.” *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*,
16 507 U.S. 292, 306 (1993)). “The fundamental requirement of due process is the
17 opportunity to be heard ‘at a meaningful time and in a meaningful manner.’”
18 *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380
19 U.S. 545, 552 (1965)).

20 “Freedom from imprisonment—from government custody, detention, or
21 other forms of physical restraint—lies at the heart of the liberty [the Due Process]
22 Clause protects.” *Zadvydas*, 533 U.S. at 690. The government therefore may
23 detain individuals outside of the criminal context only “in certain special and
24 ‘narrow’ nonpunitive ‘circumstances.’” *Id.* (citing *Foucha v. Louisiana*, 504 U.S.
25 71, 80 (1992)).

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1 **IV. DISCUSSION**

2 The detention of individuals subject to a final order of removal is governed
3 by 8 U.S.C. § 1231(a) (“Section 1231(a)”). This statute states that, “when an alien
4 is ordered removed, the Attorney General shall remove the alien from the United
5 States within a period of 90 days (in this section referred to as the ‘removal
6 period’).” 8 U.S.C. § 1231(a)(1)(A). Detention is authorized during the removal
7 period. *Id.* at § 1231(a)(2)(A). “If the alien does not leave or is not removed within
8 the removal period, the alien, pending removal, shall be subject to supervision
9 under regulations prescribed by the Attorney General.” *Id.* at § 1231(a)(3).

10 Under Section 1231(a)(6), certain aliens who have been ordered removed
11 may be detained longer than 90 days, including those who are:

- 12 • inadmissible under 8 U.S.C. § 1182;
- 13 • removable under 8 U.S.C. § 1227(a)(1)(C);
- 14 • removable under 8 U.S.C. § 1227(a)(2);
- 15 • removable under 8 U.S.C. § 1227(a)(4); or
- 16 • been determined by the Attorney General to be a risk to the community or
17 unlikely to comply with the order of removal.

18 8 U.S.C. § 1231(a)(6). Even for these aliens, however, when “removal is no longer
19 reasonably foreseeable, continued detention is no longer authorized by statute.”
20 *Zadvydas*, 533 U.S. at 699. At that point, a detained alien must be released, subject
21 to “any of the various forms of supervised release that are appropriate in the
22 circumstances.” *Id.* at 699–700. Otherwise, a “statute permitting indefinite
23 detention of an alien would raise a serious constitutional problem.” *Id.* at 690.

24 The revocation of release of an alien subject to a final order of removal who
25 has been released from custody is governed by 8 C.F.R. §§ 241.13(i) and 241.4(l),
26 “which require that ‘upon revocation’ the alien ‘be notified of the reasons for
27 revocation of his or her release’ and given ‘an initial informal interview promptly
28 after his or her return to Service custody to afford the alien an opportunity to

1 respond to the reasons for revocation stated in the notification.” *Trifonov v. Noem*,
2 No. 5:25-CV-03460-DOC-JDE, 2025 WL 3763371, at *2 (C.D. Cal. Dec. 22, 2025)
3 (quoting 8 C.F.R. §§ 241.13(i)(3) and 241.4(1)). “Both 8 C.F.R. § 241.13 and 8
4 C.F.R. § 241.4 were intended to provide due process protections to noncitizens
5 following the removal period as they are considered for continued detention,
6 release, and then possible revocation of release.” *Id.* (quoting *Constantinovici v.*
7 *Bondi*, No. 3:25-cv-02405-RBM-AHG, 2025 WL 2898985, at *5 (S.D. Cal. Oct.
8 10, 2025) (internal quotations omitted)); *see also Castillo-Hernandez v. Bondi*, No.
9 EDCV 25-2662 JGB (MAAx), 2025 WL 3190887, at *4 (C.D. Cal. Oct. 28, 2025)
10 (“Following the Supreme Court’s decision in *Zadvydas v. Davis*, ICE issued 8
11 C.F.R. § 241.13 to govern custody determinations for noncitizens subject to a final
12 order of removal whose removal period has expired and where there is not a
13 significant likelihood of removal.” (citing *Continued Detention of Aliens Subject to*
14 *Final Orders of Removal*, 66 Fed. Reg. 56967 (Nov. 14, 2001))).

15 Specifically, 8 C.F.R. § 241.13(i) permits release to be revoked for only two
16 reasons: (1) violation of the conditions of release or (2) because, “on account of
17 changed circumstances, the Service determines that there is a significant likelihood
18 that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R.
19 § 241.13(i)(2). Revocation procedures are as follows:

20 Upon revocation, the alien will be notified of the reasons for
21 revocation of his or her release. The Service will conduct an initial
22 informal interview promptly after his or her return to Service custody
23 to afford the alien an opportunity to respond to the reasons for
24 revocation stated in the notification. The alien may submit any
25 evidence or information that he or she believes shows there is no
26 significant likelihood he or she be removed in the reasonably
27 foreseeable future, or that he or she has not violated the order of
28 supervision. The revocation custody review will include an evaluation
of any contested facts relevant to the revocation and a determination
whether the facts as determined warrant revocation and further denial
of release.

1 8 C.F.R. § 241.13(i)(3).

2 Petitioner asserts that ICE was required to comply with 8 C.F.R. § 241.13(i)
3 in seeking to revoke her release, but did not do so. She argues that ICE unlawfully
4 revoked her release in violation of 8 C.F.R. § 241.13(i)(2), because she had not
5 violated the conditions of her release and there was no evidence that Petitioner
6 could be removed to Iran in the reasonably foreseeable future. (Pet. ¶¶ 64–67.) She
7 also argues that her release was revoked without complying with the procedures set
8 forth in 8 C.F.R. § 241.13(i)(3), as she was detained without notice, was not given
9 any explanation or reason for her detention, and was not provided with an
10 interview. (Pet. ¶¶ 68–72.)

11 Respondents do not contest either of these claims—or, indeed, any of
12 Petitioner’s other claims. Respondents’ Answer to the Petition consists of three
13 sentences, two of which recite the procedural history of this case. (Ans. 2.) The
14 remaining sentence reads, in full, “[a]t this time, Respondents do not have an
15 opposition argument to present.” (*Id.*) They have not denied or contested any of
16 the factual allegations in the Petition. They have not offered any additional facts or
17 defenses. They have not argued that different statutes or regulations should govern
18 this case. They have not lodged any relevant documents, despite being ordered to
19 do so. (ECF No. 4.)

20 Thus, it appears that Respondents arrested a chronically ill, 70-year-old
21 woman, who came to this country to avoid religious persecution and applied for
22 asylum, who has lived here peacefully for 26 years and complied with all check-in
23 requirements and other conditions of release, who has no known criminal record
24 and poses no threat to anyone, without notice or the process required by their own
25 regulations and without any plan for removing her from this country, then kept her
26 in detention for months without sufficient medical care—and they do not have *any*
27 argument to offer to even try to justify these actions. Further, having acknowledged
28 that they have no opposition to present to Petitioner’s habeas petition, have they

1 voluntarily released her? No. Thus, Petitioner remains in custody, and her counsel,
2 and the Court, are required to expend resources and effort to address a matter that
3 Respondents either cannot be bothered to defend or realize is indefensible.

4 Since the undisputed allegations and the only evidence presented reflect that
5 Respondents violated their own regulations and detained Petitioner without any
6 evidence of changed circumstances and without following the required procedures,
7 habeas relief is warranted. *See Khachikian*, 2026 WL 63633, at *8 (granting habeas
8 petition after finding that ICE violated 8 C.F.R. §§ 241.13(i)(2) and (3)). Further,
9 since Respondents have expressly presented no opposition to any of the relief
10 sought by Petitioner in the Petition, the Court deems this as consent to the granting
11 of all such relief.

12 13 **V. CONCLUSION**

14 For the reasons discussed above, the Court GRANTS the Petition. IT IS
15 HEREBY ORDERED THAT:

- 16 1. Respondents must release Petitioner from custody immediately and must file
17 a notice of compliance with this order, notifying the Court that Petitioner has
18 been released, no later than three calendar days from the date of this order.
- 19 2. Respondents are ENJOINED from:
 - 20 a. re-detaining Petitioner unless they have individualized evidence that her
21 removal is reasonably foreseeable;
 - 22 b. re-detaining Petitioner without providing her a determination by an
23 impartial adjudicator that her detention is justified based on danger or
24 flight risk, which cannot be sufficiently addressed by alternative
25 conditions of release or supervision, at which hearing Respondents will
26 bear the burden of proof of demonstrating that Petitioner is a flight risk or
27 a danger to the community;

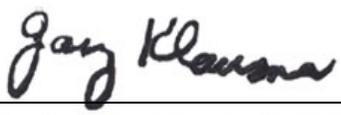
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- c. removing Petitioner to a third country without sufficient notice and opportunity to demonstrate that she faces a specific risk of torture or persecution in that third country; and
- d. taking retaliatory or otherwise unlawful adverse action against Petitioner on account of Petitioner’ filing or maintaining this action, or for the purpose of circumventing or undermining this Court’s orders, including but not limited to the use of unnecessary delay, bad-faith denials or revocations of release, and denying the right to employment authorization documents.

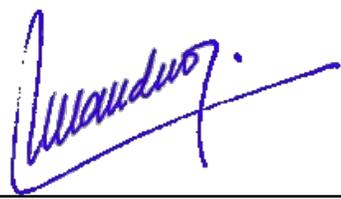
- 3. Petitioner is the prevailing party in this action and may seek an award of reasonable attorneys’ fees and costs as provided in the Local Rules of this Court; and
- 4. The Court retains jurisdiction over this matter for the limited purpose of (a) enforcing this Court’s orders herein, ensuring Respondents’ timely and good-faith compliance with such orders, and (b) adjudicating any issues arising from Respondents’ actions in implementing this Court’s orders, including any alleged retaliatory or otherwise unlawful adverse actions taken against Petitioner.

DATED: January 23, 2026



R. GARY KLAUSNER
UNITED STATES DISTRICT JUDGE

Presented by:



MARIA A. AUDERO
UNITED STATES MAGISTRATE JUDGE