

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

RÜMEYSA ÖZTÜRK,
Petitioner

v.

No. 2:25-cv-00374

DONALD J. TRUMP, et al.,
Respondents

PETITIONER'S SUBMISSION REGARDING FURTHER PROCEEDINGS

At the hearing on April 14, 2025, the Court directed the parties to file supplemental submissions regarding potential timelines for further hearings on Petitioner Rümeyisa Öztürk's request for bail and/or the merits of her underlying petition. As explained more fully below, Ms. Öztürk respectfully requests that any further hearing on her request for release *pendente lite*—to the extent this Court determines that such a hearing is necessary—occur by April 23, 2025, or the earliest date available thereafter, and that, at a minimum, the Court order that she be returned to the District of Vermont by April 18.

The importance of the remedies Ms. Öztürk seeks from this Court is only underscored by developments in immigration court, where Ms. Öztürk's request for bond was summarily denied this afternoon. The Department of Homeland Security ("DHS") presented only a single document in support of their opposition to Ms. Öztürk's request for bond: the one-paragraph Department of State ("DOS") "memorandum" revoking Ms. Öztürk's visa. *See* ECF 91 (submitting DOS document to the Court) & ECF 91-1 at 6 (memorandum). At the immigration hearing, DHS made the unsupported contention that Ms. Öztürk poses a flight risk, but did not contend that she poses a danger to the community. Despite the numerous letters submitted on Ms. Öztürk's behalf—which included the letters submitted to this Court, ECF 90—the

immigration judge denied bond based on her untenable conclusion that Ms. Öztürk was both a flight risk and a danger to the community. The immigration judge's decision was based *solely* on the DOS memorandum, which points to no conduct of Ms. Öztürk's except her co-authorship of an op-ed that the DOS memo asserts had "found common cause with an organization that was later temporarily banned from campus." ECF 91-1 at 6. That document cannot support any serious, good-faith finding of flight risk or dangerousness, rendering it all the more clear that Ms. Öztürk relies entirely on this Court to obtain relief from her unlawful arrest and detention.¹

With regard to that relief, Ms. Öztürk respectfully submits that a ruling in favor of bail can be made on the current record. Ms. Öztürk's request for release *pendente lite* is governed by *Mapp v. Reno*, which provides for release where (1) a habeas petition raises "substantial claims," and (2) "extraordinary circumstances" exist "that make the grant of bail necessary to make the habeas remedy effective." 241 F.3d 221, 230 (2d Cir. 2001) (cleaned up). As sibling courts in this circuit have held, this standard can be satisfied on the papers. *See, e.g., Kiadii v. Decker*, 423 F. Supp. 3d 18 (S.D.N.Y. 2018), 1:18-cv-01584, ECF 4-9 (ordering government to file responsive papers to petitioner's request for bail and ordering release pending resolution of habeas petition based on parties' submissions). Here, through two rounds of briefing, Ms. Öztürk has amply demonstrated that her case raises "substantial claims," including that Ms. Öztürk has been unconstitutionally arrested and detained in retaliation for the viewpoints expressed in an op-ed that she co-authored. ECF 26 at 7-9; ECF 82-1 at 11-14; ECF 91; ECF 95. Ms. Öztürk has also

¹ *See also Khalil v. Trump, et al.*, No. 2:25-cv-1963, ECF No. 189 (April 11, 2025) (outlining how immigration courts are unable to review constitutional claims and related claims for relief); Isabela Dias, "The Entire System Will Collapse": Inside the Purge of US Immigration Courts, Mother Jones (March 6, 2025), <https://www.motherjones.com/politics/2025/03/trump-immigration-courts-firing-doge-nonsensical-system-collapse-coir/> (noting purge of Board of Immigration Appeals judges who were appointed by President Biden).

demonstrated “extraordinary circumstances,” including the scope of the constitutional deprivation in this case, the lack of any evidence that she is dangerous or a flight risk, and Ms. Öztürk’s health concerns, which now include a sixth asthma attack in the three weeks that she has been detained. ECF 26 at 30-32; ECF 82-1 at 15-21; ECF 82-10 ¶¶ 25-42.² The evidence Ms. Öztürk has adduced includes 32 sworn declarations from immigration practitioners throughout New England; from Ms. Öztürk’s professors, colleagues, friends and counsel; from the President of Tufts University; and by Ms. Öztürk herself. *See* ECF 82-3 through 82-10; ECF 90.

In response, the government has presented arguments about the Court’s jurisdiction, but—despite this Court’s express invitation and despite Ms. Öztürk’s submissions—it has offered neither argument nor evidence suggesting that Ms. Öztürk presents any danger to the community, that she is a flight risk, that detention is safe notwithstanding her medical condition, or that she was detained for any reason other than her co-authorship of an op-ed in a college newspaper. *See generally* ECF 19, 84. Because Ms. Öztürk has demonstrated that she merits release from her unlawful and retaliatory detention, bail may be granted on the basis of the written submissions and the April 14 oral arguments. That the government chose to focus primarily on jurisdiction should not redound to her detriment, unnecessarily extending her time in detention.

To the extent this Court does not now grant release *pendente lite* on the papers, Ms. Öztürk respectfully requests that the Court exercise its authority under the All Writs Act to order her immediate return to the District of Vermont so that she may prepare for hearings on her request for release and on her habeas petition. In addition to other considerations discussed in Ms. Öztürk’s briefing, an order compelling her return will facilitate communication between Ms.

² Ms. Öztürk reported in her April 10, 2025, declaration that she had about 13 asthma attacks in her life, including four since being detained. She has since had two additional asthma attacks.

Öztürk and her attorneys and permit her to work with entities in New England that will assist in supporting her and providing any necessary supervision following her release. Ms. Öztürk's return to the District of Vermont could also facilitate her evaluation by a doctor who could further inform the Court about the grave risks continued detention would pose to her health, *see* ECF 82-10 at ¶¶ 25-27, 33, 36-42, an important aspect of her request for release *pendente lite*.³ A medical evaluation by a doctor who is independent of immigration or federal authorities is particularly important given the government's apparent view that Ms. Öztürk's asthma is simply a matter of "convenience" and "does not . . . rise[] to the level of extraordinary, tantamount to the worst of the COVID-19 crises." ECF 84 at 6-7; *compare with D'Alessandro v. Mukasey*, No. 08-cv-914, 2009 WL 799957, at * 4 (W.D.N.Y. Mar. 25, 2009) (holding non-"emergent" health conditions that were "chronic and debilitating" constituted extraordinary circumstances warranting bail); *Kiadii*, 423 F. Supp. 3d at 21 (holding that painful lump in petitioner's breast constituted extraordinary circumstances warranting bail).

As to scheduling, Ms. Öztürk respectfully requests that this Court order her return to the District of Vermont by April 18. She further proposes that the government offer any final submission in opposition to release by April 21, with any reply for Ms. Öztürk by April 22, and

³ The inadequate response to Ms. Öztürk's asthma by the medical center at the Louisiana ICE facility is further reason for her release or, at the very least, her return to the District of Vermont. Ms. Öztürk has already suffered five asthma attacks during the three weeks that she has been imprisoned at this facility (she earlier experienced another attack on her way to the facility—for a total of six attacks since she was taken by ICE). During her first attack at the facility, "it took them a very long time" to take her to the medical facility, during which time she had "a lot of difficulty breathing." ECF 82-10, ¶ 36. During her second attack at the facility, an officer told Ms. Öztürk "it was all in [her] mind." *Id.* ¶ 39. Once she was finally taken to the medical center, the nurse neither answered her questions nor provided any treatment. *Id.* By the time of her third attack at the facility, although she was "in pain and very scared," Ms. Öztürk naturally no longer wished to ask to go to the medical center as they had failed to address her medical needs and because she did not feel safe there owing to her prior experiences with medical staff. *Id.* at ¶¶ 41-42.

that a bail hearing—if necessary—occur on April 23, or at the soonest possible date thereafter that is convenient to the Court and the parties in light of final submissions. Ms. Öztürk currently anticipates that any hearing could be completed in a single day, but reserves the right to update this assessment once the government has filed its final submission.

Counsel for Ms. Öztürk has also requested that the government produce the DHS and DOS records referenced in the April 13, 2025, *Washington Post* article that was submitted as a supplemental exhibit, ECF 95, and was discussed with this Court at the April 14 hearing. The government denied this request, citing the deliberative process privilege, and has indicated that it opposes Ms. Öztürk’s request that this Court order the production of the documents. But because these documents go to the government’s asserted motives for Ms. Öztürk’s arrest and detention, the deliberative process privilege does not apply and Ms. Öztürk therefore requests that the Court order their production. *See, e.g., Children First Found., Inc. v. Martinez*, No. 04-cv-0927, 2007 WL 4344915, at *7 (N.D.N.Y. Dec. 10, 2007) (“[I]f the party’s cause of action is directed at the government’s intent in rendering its policy decision and closely tied to the underlying litigation then the deliberative process privilege ‘evaporates.’” (quoting *In re Subpoena Duces Tecum Served on the Office of the Comptroller*, 145 F.3d 1422, 1424 (D.C. Cir. 1998))); *Lawrence v. Suffolk Cnty.*, No. 19-cv-2887, 2022 WL 855380, at *11 (E.D.N.Y. Mar. 23, 2022). To the extent the Court wants further information before ruling on this request, Ms. Öztürk respectfully asks that the Court review the documents *in camera* and/or ask the government to submit briefing on this issue by April 18, with Ms. Öztürk’s reply by April 21, to enable a decision in advance of the proposed April 23 hearing.⁴

⁴ Following any hearing regarding release *pendente lite*, Petitioner proposes that the parties be permitted to propose a schedule for consideration of the merits of the amended petition and complaint, including the possibility of a hearing on all or part of the case in May.

Finally, Ms. Ozturk requests that the Court direct the Clerk of Court to change the nature of suit code to No. 530, "Habeas Corpus," to remove the limitations on remote electronic access to the docket.

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**Pro hac vice application forthcoming*

***Admitted to appear pro hac vice*