

United States District Court
Western District of Texas
El Paso Division

Adriana Maria Quiroz-Zapata,
Petitioner,

v.

No. 3:25-CV-00148-LS

Mary Anda-Ybarra, in her official capacity as Field Office Director, El Paso Field Office, U.S. Immigration and Customs Enforcement; Martin Sarellano Jr., in his official capacity as Assistant Field Office Director, El Paso Field Office, U.S. Immigration and Customs Enforcement; Todd M. Lyons, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; Kristi Noem, in her official capacity as Secretary, U.S. Department of Homeland Security; and Pamela Jo Bondi, in her official capacity as Attorney General of the United States,
Respondents.

Response to Show Cause Order

Respondents submit this response per this Court's Order to Show Cause dated May 5, 2025. See ECF No. 5. Petitioner Adriana Quiroz-Zapata is detained in the custody of U.S. Immigration and Customs Enforcement ("ICE") under 8 U.S.C. § 1231(a)(6), because she has a reinstated final order of removal and poses a flight risk. See 8 U.S.C. § 1231(a)(5); ECF No. 1 ¶ 16; *Johnson v. Guzman Chavez*, 594 U.S. 523, 526, 534–535 (2021). Despite being granted relief from removal under the Convention Against Torture, such relief extends only to the country where Petitioner was found to have a reasonable fear of being tortured. See 8 C.F.R. §§ 208.16–208.17, 1208.16; 1208.17; 208.31(a); 1208.31(a); 8 U.S.C. § 1231(b)(3)(A). In other words, nothing prevents DHS from removing Petitioner to a third country. See e.g., *Guzman Chavez*, 594 U.S. at 531–32, 535–36; 8 U.S.C. § 1231(b)(1)(c)(iv); 8 C.F.R. §§ 208.16(f); 1208.16(f); 208.17(b)(2); 1208.17(b)(2);

ECF No. 1 ¶ 7. There are numerous removal options for ICE to consider under this statute, including any country willing to accept the alien. *Guzman Chavez*, 594 at 536–37; 8 U.S.C. § 1231(b)(2).

Upon her apprehension following an August 28, 2024, unlawful reentry, Petitioner has been mandatorily detained in ICE custody under 8 U.S.C. § 1231(a)(1)(A) with a final order of removal while she pursued withholding of removal before the Immigration Court. *See Guzman-Chavez*, 594 U.S. at 528. Such detention is mandatory. *Id.* The 90-day removal period may be extended where ICE determines the alien is unlikely to comply with the removal order. *Id.* at 528–29, 544; *see also* 8 C.F.R. § 1231(a)(6); 8 C.F.R. § 241.4. Continued detention under this provision is the “post-removal-period.” *Guzman-Chavez*, 594 U.S. at 529. The statute does not specify a time limit on this post-removal period, but the Supreme Court has read an implicit limitation into the statute and held that the alien may be detained only for a period reasonably necessary to remove the alien from the United States. *Id.*; 8 C.F.R. § 241.13.

Once the 90-day removal period concluded in this case, ICE fulfilled its regulatory duty under 8 C.F.R. § 241.4 to perform a post-order custody review (“POCR”) to determine whether Petitioner should remain detained or whether she should be released in the exercise of discretion under an Order of Supervision. *See* Ex. A (Decision to Continue Detention). Following this 90-day POCR, ICE served a copy of the Decision to Continue Detention on Petitioner, and she acknowledged receipt of the same via her signature on December 10, 2024. *Id.* The decision specifies that ICE determined she should remain detained, per 8 C.F.R. § 241.4(e), because she posed a flight risk if released due to her prior order of removal. *Id.* Additionally, ICE further determined that removal in this case was “practicable, likely to occur in the reasonably foreseeable future, and in the public interest.” *Id.*

In the same document, ICE notified Petitioner that her custody would be reviewed again in 90 days if she had not yet been removed from the United States. *Id.* The notice indicated that Petitioner and her attorney of record would be notified of the date and time of a personal interview. *Id.* The notice further indicated that Petitioner could submit additional documentation in English to support her release, either herself or through an attorney. *Id.* The notice, however, indicates that Petitioner placed a checkmark to show that she did not want a personal interview. *Id.* Petitioner also signed the notice, and the notice indicates that a copy was provided to her attorney. *Id.*

At the 180-day mark, Petitioner is entitled by regulation to another POCR. 8 C.F.R. § 241.13. Courts have found that these regulatory deadlines are not firm, so long as the review itself has occurred. *See Mohammad v. Lynch*, No. EP-16-CV-28-PRM, 2016 WL 8674354 at *6 n. 6 (W.D. Tex. May 24, 2016). The habeas petition does not allege that ICE has failed to comply with the 180-day POCR regulation. Even if Petitioner had alleged such a violation, the remedy is not immediate release from custody, but an opportunity for the government to provide substitute process. *Virani v. Huron*, No. SA-19-CV-00499-ESC, 2020 WL 1333172 at *12 (W.D. Tex. Mar. 23, 2020). In any event, ICE provided Petitioner's counsel with a Decision to Continue Detention on May 22, 2025, following the 180-day POCR, advising her that "ICE is actively seeking... removal to a third country..." and that "ICE is confident that ... removal from the United States will occur in the foreseeable future." *See* ECF No. 7-1 at 1.

Petitioner is lawfully detained, and this Court should deny the habeas petition.

Respectfully submitted,

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