

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

SAMAN KHAMISI,	§	
Petitioner,	§	
	§	
v.	§	Case No. 4:25-CV-01937
	§	
PAM BONDI, in her capacity as	§	
Attorney General of the United States,	§	
et al,	§	
	§	
Respondents.	§	

**RESPONDENT’S MOTION FOR SUMMARY JUDGMENT**

Respondent Raymond Thompson, in his capacity as Warden of the Joe Corley Processing Center<sup>1</sup>, files this Motion for Summary Judgment on the Petition for Writ of Habeas Corpus (ECF No. 1) because Petitioner Saman Khamisi fails to show that his detention is unlawful under the relevant statute and case law.

**I. SUMMARY OF THE ARGUMENT**

Petitioner Saman Khamisi is an Iranian citizen and detainee in Immigration and Customs Enforcement (ICE) custody of at the Joe Corley Processing Center in Conroe, Texas. Following several criminal convictions ranging from attempted sexual assault to criminal trespass, Khamisi was placed in removal proceedings and ordered to be removed on September 26, 2024. He did not appeal his removal order, and it became a final on October

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<sup>1</sup> Although Petitioner also names several other federal officials, the Warden of the Joe Corley Processing Center is his immediate custodian and is therefore the only proper respondent. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004).

28, 2024. Since then, ICE has been working to obtain the necessary travel document from Iran to effectuate his removal.

Despite his criminal history and the reasonable foreseeability of his removal, Khamisi claims a Due Process and statutory violation and requests the Court to issue a writ of habeas corpus ordering his release. ECF No. 1, p. 11. His petition argues that he will not be released in the reasonably foreseeable future based on an assumption that Iran will not issue the necessary travel document. But ICE is and has been working with the Embassy of Iran to obtain such document, and recently, the Embassy of Iran has agreed to interview Khamisi again. Further, ICE has also accomplished other removals to Iran in the last few years, including 11 this year, which further rebuts Khamisi's claim that Iran will not issue a travel document. Given these facts, Khamisi fails to show how his continued detention amounts to a constitutional violation. Thus, the Petition must be denied.

## **II. THE NATURE AND STAGE OF THE PROCEEDING**

On April 29, 2025, Samin Khamisi filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (the "Petition"), contesting his detention pending the execution of his removal order. He claims that his detention past six months violates the Due Process Clause of the U.S. Constitution and the Immigration and Nationality Act. ECF No. 1, pp. 8-11.

## **III. AUTHORITY BY WHICH PETITIONER IS HELD**

Khamisi is being detained pursuant to a final removal order. On September 26, 2024, an immigration judge ordered Khamisi's removal. Exhibit 1, ¶ 12 (Affidavit of Tierra D. Dixon). The removal order became final on October 28, 2024. Ex. 1, ¶ 12.

#### IV. RELEVANT BACKGROUND

**A. Following his conviction for attempted sexual assault, Khamisi is detained by ICE.**

As stated in the Petition, Khamisi is an Iranian citizen, who entered the United States of America as a refugee on February 22, 2007. ECF No. 1, ¶ 17. Since arriving to the United States, Khamisi has been convicted of the following crimes:

1. On October 3, 2014, Khamisi was convicted in the County Court at Law 2, Amarillo, Texas, for the offense of Fugitive Intent to Give False Information, for which he received a sentence of 180 days confinement;
2. On February 16, 2017, Khamisi was convicted in the Bexar County Court at Law 11, San Antonio, Texas, for the offense of Obstructing Highway Passageway, for which he received a sentence of 60 days confinement;
3. On January 22, 2019, Mr. Khamisi was convicted in the County Court at Law 2, Amarillo, Texas, for the offense of Criminal Trespass, for which he received a sentence of three days confinement; and
4. On May 26, 2022, Khamisi was convicted in the 181st District Court, Potter County, Texas, for the offense of Attempted Sexual Assault, for which he received a sentence of four years confinement.

Ex. 1, ¶¶ 7-10; *see* ECF No. 1, ¶ 18.

On March 28, 2024, the Texas Department of Criminal Justice released Khamisi into the custody of ICE, and he was served a Form I-862 Notice to Appear, charging him as being removable section 237(a)(2)(A)(ii) of the Immigration and Nationality Act, as amended, because he had been convicted of two crimes involving moral turpitude. Ex. 1, ¶ 11.

On September 26, 2024, an Immigration Judge issued a written decision denying his requests for immigration relief and ordering his removal to Iran. Ex. 1, ¶ 12. Khamisi did not file an appeal, and the written decision became an administratively final order of removal on October 28, 2024. Ex. 1, ¶ 12.

**B. Since the final order of removal, ICE has worked to effectuate his removal.**

About a week after his final order of removal, ICE began the process of effectuating Khamisi's removal to Iran. On November 4, 2024, ERO submitted a request for a travel document for Khamisi to the Embassy of Iran. Ex. 1, ¶ 15. Two months later, on January 14, 2025, ICE Enforcement and Removal Operations ("ERO") checked the status of the travel document request and continued to do so in February, March, and April. Ex. 1, ¶¶ 18-19, 21-22. On April 16, 2025, ICE facilitated Khamisi's remote interview with the Embassy of Iran. Ex. 1, ¶ 23. That same day, the Embassy of Iran told ERO that it would start the process of verifying Khamisi's Iranian citizenship once it had an original passport or birth certificate. Ex. 1, ¶ 24. On April 22, 2025, ERO informed Khamisi's attorney of this document request. Ex. 1, ¶ 25. ERO has not received any of these documents from Khamisi. Ex. 1, ¶¶ 24, 31. Yet, ERO has continued to effectuate his removal. On July 10, 2025, ERO met with the Embassy of Iran regarding Khamisi's travel document. Ex. 1, ¶ 28. The Embassy of Iran has again requested an interview with Khamisi, and ERO will make him available for it as soon as it is scheduled by the embassy. Ex. 1, ¶ 28. Thus, ERO is still waiting on a decision by the Embassy of Iran to issue the travel document. Ex. 1, ¶ 32. Upon the issuance of the travel document by the Embassy of Iran, ICE is prepared to remove him immediately. Ex. 1, ¶ 32.

In the past few years, ICE has effectuated the removal of individuals to Iran. This year, ICE has made 11 removals to Iran so far. Ex. 1, ¶ 13. And in 2023 and 2024, ICE made 15 and 27 removals, respectfully. Ex. 1, ¶ 13.

**C. Meanwhile, ICE continues to provide Khamisi with notice of his continued detention and an opportunity to request his release.**

While ERO has attempted to obtain the travel document necessary to remove Khamisi to Iran, ICE has also continued to review Khamisi's continued detention. Beginning on November 4, 2024, Khamisi was served with a Notice to Alien of File Custody Review, advising that on or about January 26, 2025, his custody status would be reviewed and that he could submit documentation he wished to be reviewed. Ex. 1, ¶ 17; Exhibit 2. On February 27, 2025, a Decision to Continue Detention by the Field Office Director of Houston was issued to Mr. Khamisi. Ex. 1, ¶ 20. This document was issued after ERO conducted a 90-day Post Order Custody Review and determined that Mr. Khamisi should remain in custody because there existed a significant likelihood of removal in the reasonably foreseeable future. Ex. 1, ¶ 20.

On May 20, 2025, Mr. Khamisi was served with another Decision to Continue Detention by the ERO Headquarters Removal and Internal Operations Chief. Ex. 2, p. 3. This was issued after ERO conducted a 180-day Post Order Custody Review and determined that Mr. Khamisi should remain in custody because there existed a significant likelihood of removal in the reasonably foreseeable future. Ex. 1, ¶ 26; Ex. 2.

On July 18, 2025, a panel interview was conducted and completed by two ERO officers. The purpose of this interview was to allow Khamisi to submit to the review panel any information that he believed presented a basis for his release. Ex. 1, ¶ 30; Ex. 2, p. 1.. The panel recommended that he did not qualify for a release and recommended that he continued to be detained. Ex. 2, p. 1-2.

## V. STANDARD OF REVIEW

“As a general principle, Rule 56 of the Federal Rules of Civil Procedure, relating to summary judgment, applies with equal force in the context of habeas corpus cases.” *Clark v. Johnson*, 202 F.3d 760, 764 (5th Cir. 2000). Summary judgment is appropriate only if the pleadings, along with evidence, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *see also* Fed. R. Civ. P. 56(c). If the moving party meets its burden, the non-moving party must show a genuine issue of material fact exists. *Id.* at 322. The non-moving party may not rest upon mere allegations or denials in the pleadings but must present affirmative evidence, setting forth specific facts, to show the existence of a genuine issue for trial. *Id.* at 322-23.

## VI. ARGUMENT

### A. Khamisi's Custody is Lawful

Khamisi's detention is lawful because (1) ICE has the discretion to continue his detention due to his flight risk and overall risk to the public; and (2) he fails to show that his detention is unreasonable under the *Zadvydas* framework established by the U.S. Supreme Court given his criminal history and his foreseeable removal.

#### 1. Due to his lengthy criminal history, Khamisi's continued detention while he awaits removal is lawful.

First, under the relevant immigration statute, the Petition fails to show an unlawful detention. To be entitled to a federal writ of habeas corpus, the petitioner must show that he is “in custody in violation of the Constitution or laws or treaties of the United States[.]” 28 U.S.C. § 2241(c)(3). Under the governing statute, 8 U.S.C. § 1231, the Department of

Homeland Security must physically remove Khamisi from the United States within 90 days. But, even after the 90-day removal period expires, ICE has discretion to continue his detention. 8 U.S.C. § 1231(a)(6). Specifically, Section 1231(a)(6) provides that an alien may be detained beyond the removal period or released under supervision if he is (1) inadmissible, (2) removable because of violations of crimes involving moral turpitude, or (3) a risk to the community or unlikely to comply with the removal order. 8 U.S.C. § 1231(a)(6).

Further, the Attorney General has promulgated regulations to establish and implement a formal administrative process to review the custody of aliens, like Khamisi, who are being detained subject to a final order of removal. 8 C.F.R. § 241, *et seq.* Under the regulations, a post-order alien who remains detained beyond the removal period may present to ICE his claims that he should be released from detention because there is no significant likelihood that they will be removed in the reasonably foreseeable future. 8 C.F.R. § 241.13(d). Before making any recommendation or decision to release a detainee, a majority of the Review Panel members, or the Director of the Headquarters Post-order Detention Unit in the case of a record review, must conclude, in part, that “[t]he detainee is not likely to pose a threat to the community following release” and “[t]he detainee does not pose a significant flight risk if released.” 8 C.F.R. § 241.4(e)(4), (6). Unless and until ICE determines that there is no significant likelihood of removal in the foreseeable future, the alien will continue to be detained, and his detention will continue to be governed by the post-order detention standards. 8 C.F.R. § 241.13(g)(2).

ICE has properly extended Khamisi’s detention under § 1231 and 8 C.F.R. § 241.4 due to his prior convictions, and as a result, his risk to the community, and the unlikelihood of his

compliance with a removal order. As provided in its Decisions to Continue Detention, ICE made its decision based on his lengthy criminal history from 2014 to 2022. Exhibit 2. Such history is sufficient basis to detain him while plans are being made to remove him.

**2. Khamisi's detention is also lawful under *Zadvydas*.**

The Petition further fails to show why his detention is unlawful under *Zadvydas*. A petitioner may challenge continued detention under the framework established by the U.S. Supreme Court in *Zadvydas v. Davis*, which held that detention may not be indefinite and is presumptively reasonable for only six months beyond the removal period. *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). The Supreme Court has emphasized that the six-month presumption does not mean that every alien not removed after six months must be released. *Id.* “To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* In a challenge to detention under *Zadvydas*, the petitioner must “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* The Government must then respond with evidence sufficient to rebut that showing. *Id.*

As an initial matter, where the petitioner fails to come forward with an initial offer of proof, the petition is ripe for dismissal. *Andrade v. Gonzalez*, 459 F.3d 538 (5th Cir. 2006) (acknowledging the petitioner's initial burden of proof where claim under *Zadvydas* was without merit because it offered nothing beyond the petitioner's conclusory statements suggesting that removal was not foreseeable). Khamisi does not cite to any evidence, other than conclusory statements and assumptions, that there is no significant likelihood of removal in the reasonably foreseeable future. Moreover, courts have denied petitions based on such



bare conclusions or facts. *See e.g., Tawfik v. Garland*, 2024 WL 4534747, at \*3 (S.D.Tex. 2024) (denying a petition that argued a “lack of visible progress” toward removal); *Gonzalez v. Bureau of Immigr. & Customs Enf’t*, No. 1:03-cv-178-C, 2004 WL 839654 (N.D. Tex. Apr. 20, 2004) (holding that conclusory allegations that the government was not doing enough to effect the petitioner's removal were insufficient to meet petitioner’s burden of proof); and *Apau v. Ashcroft*, No. 3:02-cv-2652-D, 2003 WL 21801154 (N.D. Tex. June 17, 2003) (the “bare fact” that Ghana had not yet issued travel documents was not sufficient to carry the petitioner's burden under *Zadvydas*); compare with *Rajigah v. Conway*, 268 F. Supp. 2d 159, 166 (E.D.N.Y. 2003) (holding that a letter from the Guyanese Ambassador stating that travel documents would not be issued pending judicial proceedings and petitioner’s inability to receive adequate medical treatment were sufficient to satisfy the petitioner's burden to show no significant likelihood of his removal in the reasonably foreseeable future). The Petition assumes that Iran will not issue a travel document to assist ICE in effectuating his removal but for the submission of his birth certificate or passport. ECF No. 1, ¶ 38. Khamisi further assumes that these documents will not be provided or found. ECF No. 1, ¶ 38. These conclusions alone do not lead to a reasonable inference that he has no significant likelihood of removal. And the record further shows that ICE has taken action to respond to the Embassy of Iran’s request for documents by informing Khamisi’s attorney and by meeting with the Embassy of Iran this month.

Further, the Embassy of Iran has agreed to interview Khamisi again, another fact that disputes his contention that Iran will not be issuing a travel document and that further shows that such decision to issue the travel document is still pending. *See Duong v. Tate*, 2025 WL

933947, at \*4 (S.D.Tex. 2025) (finding sufficient rebuttal evidence by the government that the travel documents were promptly requested and that such request remained pending). Khamisi has not satisfied his burden of proof by showing that there is no significant likelihood of removal in the reasonably foreseeable future. Rather, the attached evidence shows that ICE continues to request that Iran issue a travel document, and that Iran has recently agreed to interview Khamisi again. Thus, his detention pending removal is consistent with the letter of the law and is outside the scope of *Zadvydas*.

**B. Khamisi's Custody Does Not Constitute a Due Process Violation**

Failing to show an unlawful detention under the statutory and *Zadvydas* frameworks, the Petition further fails to otherwise show any Due Process violation. Procedural due process protects an individual's right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridge*, 424 U.S. 319, 332-333 (1976). In the instant case, detention beyond the removal period may be maintained upon compliance with applicable process. *See* 8 C.F.R. § 241. ICE has complied with the procedures set forth in the regulations by conducting a custody review and obtaining the necessary travel document. There is no showing that his procedural due process rights have been violated.

Further, the threshold question in assessing substantive due process is "whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience." *County of Sacramento v. Lewis*, 523 U.S. 833, 847 n. 8 (1998). The Petition does not suggest that any immigration officer involved in his case has acted in a manner that could be characterized as egregious or that would shock the conscience. Thus, the Due Process claim fails to show a material fact issue.

## VII. CONCLUSION

For the foregoing reasons, the Petition for Writ of Habeas Corpus (ECF No. 1) should be denied.

Dated: July 21, 2025

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I certify that on July 21, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

/s/ Lisa Luz Parker  
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