

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SAMAN KHAMISI,
Petitioner,

v.

PAM BONDI, in her capacity as
Attorney General of the United States,
et al,

Respondents.

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Case No. 4:25-CV-01937

**RESPONDENT'S REPLY IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

Respondent Raymond Thompson, in his capacity as Warden of the Joe Corley Processing Center¹, replies to Petitioner's Response in Opposition to Respondent's Motion for Summary Judgment (the "Response") (ECF No. 12) and shows that Petitioner fails to meet his initial burden of proof under *Zadvydas* and further fails to raise a genuine dispute of any material fact to overcome summary judgment.

I. INTRODUCTION

The central issue in this habeas case is whether Petitioner Saman Khamisi, an Iranian citizen in ICE detention, has met his initial burden of showing that there is no significant likelihood that he will be removed. He hasn't. The Response simply relies on the fact that the Embassy of Iran has not issued a travel document for his removal because it needs his original passport and birth certificate to prove his citizenship. The Response then simply concludes

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

that because he does not possess them, a travel document will not be issued. This is not enough to satisfy his initial burden as established by *Zadydas v. Davis*, 121 S.Ct. 2491, 533 U.S. 678 (U.S. 2001). Since Khamisi's order of removal became final on October 28, 2024, the evidence shows that ICE has been working to remove Khamisi to Iran by scheduling multiple interviews with the Embassy of Iran and attempting to obtain documents for Khamisi. In fact, Khamisi is currently awaiting a second interview with the Embassy of Iran to prove his citizenship. Thus, the Court should deny his petition because his removal is reasonably foreseeable and his detention is lawful.

II. ARGUMENT

1. **Khamisi has not satisfied his initial burden of providing good reason to believe that there is no significant likelihood of removal.**

As an initial matter, the Response incorrectly applies *Zadydas*, arguing that Khamisi must only show that "there is a probability that his removal is not foreseeable." ECF No. 11, p. 5. The U.S. Supreme Court stated in the seminal case, *Zadydas v. Davis*, that that there must be "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." 121 S.Ct. at 2494, 533 U.S. at 680. Recently, courts in this district have stated that to carry this initial burden, the petitioner must "demonstrate that the circumstances of his status or the existence of particular individual barriers to his repatriation to his country of origin are such that there is no significant likelihood of removal in the reasonably foreseeable future." *Tawfik v. Garland*, 2024 WL 4534747, at *3 (S.D. Tex. 2024) (cleaned up); *Duong v. Tate*, 2025 WL 933947, at *3 (S.D. Tex. 2025) (cleaned up). "Speculation and conjecture are not sufficient to carry this burden, nor is a lack of visible progress in his removal sufficient, in and of itself, to show that no significant likelihood of removal exists in the

reasonably foreseeable future. *Id.* (cleaned up). These cases do not support Khamisi's contention that the *Zadyvdas* initial burden standard is akin to "probable cause". Response, p. 4. In fact, the Response's cited cases do not even support this contention. See *Jimenez v. Aristeguieta*, 311 F.2d 547, 562 (5th Cir. 1962) (predating *Zadyvdas*); *Illinois v. Gates*, 462 U.S. 213, 243 n.13 (1983) (discussing the probable cause standard in the criminal context); *Spinelli v. United States*, 393 U.S. 410, 419 (1969) (same); *Beck v. Ohio*, 379 U.S. 89, 96 (1964) (same).

Next, in support of his argument that there is no significant likelihood of removal, Khamisi analogizes the facts here with *Sharifi v. Gillis*, 2020 WL 7379211 (S.D. Miss. 2020), a case that is distinguishable for several reasons. Notably, in *Sharifi*, ICE had submitted an original passport to the Iranian Consulate and seven months had passed without the Embassy issuing a travel document. 2020 WL 7379211, at *2. And unlike here, the *Sharifi* petitioner had been in ICE custody for almost two years. *Id.* Moreover, in that case, there was evidence that ICE waited nearly five months to speak to the petitioner about his documentation. *Id.* The evidence attached to the Motion for Summary Judgment shows that Khamisi's order of removal became final in October 2024, and soon after, ICE requested a travel document from the Embassy of Iran, continued to check the status, and facilitated his interview with the Embassy of Iran this April. ECF No. 11-1. Only four months have passed since the Embassy of Iran first requested his original passport and birth certificate. ECF No. 11-1, ¶ 24. This four-month period is not the same as the *Sharifi* case where over a year had passed from the time that the Embassy of Iran requested documents and when the Court granted the petition.

Thus, because the Response fails to show how Khamisi met his initial burden that there is no significant likelihood of removal, the Court should deny his Petition.

2. Even if he satisfies his initial burden, Khamisi fails to rebut the Government's evidence of the likelihood of his removal.

Next, even assuming that Khamisi has met his initial burden, the Response fails to rebut the evidence attached to the Motion for Summary Judgment. First, the Response challenges the credibility of the declaration attached to the Motion, arguing that the declaration incorrectly states that Khamisi is a native of Afghanistan. To clarify, the Declaration of Deportation Officer Tierra D. Dixon, attached as Exhibit 1 to the Motion, mentions that Khamisi "is a native of Afghanistan and citizen of Iran." ECF No. 11-1. While ICE's database contains information stating this, this reference to Afghanistan appears to be an error. Even so, this is not a fact relied upon in the Motion or relevant to the *Zadyvas* analysis. There is no dispute that Khamisi is an Iranian citizen, and ICE is attempting to remove him to Iran. Thus, the Court should reject Khamisi's attempt to overcome summary judgment by focusing on this one statement in the Declaration.

The Response also appears to dispute Deportation Officer Dixon's contention that ICE contacted Khamisi's counsel about the need for the original passport and birth certificate. Response, p. 8. However, the second exhibit attached to the Response just shows an April 22, 2025 email from Dixon stating that Dixon had a phone call with Khamisi's attorney related to the document request. *See* ECF No. 12-2 (stating that "Per our phone conversation, will you provide an email in writing stating that The Consulate of Iran Washington, DC will not provide any documents.")). Khamisi's exhibit confirms, not disputes, Dixon's Declaration.

In what appears to be an attempt to show that there is no significant likelihood of removal, the Response also attaches a letter from the Embassy of Pakistan stating that no travel document will be issued without the original passport and birth certificate. *See* ECF No.

12-3. This does not affect the arguments asserted in the Motion for Summary Judgment. It just reiterates that the Iranian government has requested documents. This letter dated April 16, 2025, also predates all of ICE's efforts to comply with the request and coordinate a second interview between Khamisi and the Embassy.

Finally, Khamisi argues that ICE's efforts to work with the Embassy of Iran "do not overcome the specific, documented barriers" (p. 10). This is speculative and premature. Only four months have passed since the Embassy of Iran first requested the original passport and birth certificate. There is no evidence of delay on the part of ICE to obtain these documents. The fact that the Embassy of Iran has agreed to interview Khamisi again undermines Khamisi's contention that no travel document will be issued.

In support of his argument that the Court cannot determine that his removal is likely to occur in the reasonably foreseeable future, Khamisi relies on cases where the travel document remained pending months longer than here. In *Singh v. Whitaker*, the court granted the habeas petition 14 months after ICE initially requested the travel document from the petitioner's country of origin. *Singh v. Whitaker*, 362 F.Supp.3d 93, 99 (W.D.N.Y. 2019). Similarly, in *Gonzalez-Rondon v. Gillis*, the court granted the habeas petition 14 months after the initial travel document request. 2020 WL 3428983, at *1 (S.D. Miss. 2020). Only nine months have passed since ICE initially requested the travel document from Iran. Even under Khamisi's cited cases, his petition is premature.

VII. CONCLUSION

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

Dated: August 11, 2025

Respectfully submitted,

NICHOLAS J. GANJEI
United States Attorney

By: /s/ Lisa Luz Parker
Lisa Luz Parker, Attorney-in-Charge
Assistant United States Attorney
Attorney in Charge
Texas Bar No. 24099248
Southern District No. 3495931
1000 Louisiana, Suite 2300
Houston, Texas 77002
Tel: (713) 567-9489
Fax: (713) 718-3303
E-mail: lisa.luz.parker@usdoj.gov

CERTIFICATE OF SERVICE

I certify that on August 11, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

/s/ Lisa Luz Parker
Lisa Luz Parker