

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION

KHALED SALAH ABU-HAMDAH,

Petitioner,

v.

CASE NO. 1:25-cv-00142

MIGUEL VERGARA,
ACTING DIRECTOR OF
SAN ANTONIO FIELD OFFICE,
U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,
SAN ANTONIO, TX,¹ *et al.*,

Respondents.

RESPONDENTS' REPLY IN SUPPORT OF MOTION TO DISMISS

Miguel Vergara, *et al.*, Respondents, file this Reply in support of Respondent's Response to Petition for Writ of Habeas Corpus and Motion for Summary Judgment. (ECF 12).

I. ARGUMENT

A. There is a Significant Likelihood of the Petitioner's Removal in the Reasonably Foreseeable Future

Although the Government has rescheduled the Petitioner's removal date, beyond merely scheduling the Petitioner's removal, the Government took actual steps to remove the Petitioner. As last represented to the Court in its Notice of Supplemental Declaration, (ECF

¹ The only proper respondent in a habeas action is the warden of the detention facility where the petitioner is detained. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004)

14), on August 16, 2025, the Government placed the Petitioner on a removal flight, but due to inclement weather that caused his initial flight to be re-routed, the Petitioner missed his international connecting flight. Government Exhibit 3. Contrary to the Petitioner's suggestion that the Government is acting in bad faith, the Government took actual steps to remove the Petitioner, and his removal was prevented by extenuating circumstances outside of the Government's control. Thus, there is no evidence that the Government is acting in bad faith. Rather, the Petitioner is currently scheduled for removal by the end of August 2025, thus, is detention is not indefinite, and there is a significant likelihood of the Petitioner's removal in the reasonably foreseeable future.

B. Petitioner's Detention is Lawful Under *Zadvydas*

Contrary to Petitioner's assertion, the Supreme Court's recent decision in *Riley v. Bondi* does not negate the lawfulness of the Petitioner's detention under *Zadvydas*. 145 S. Ct. 2190, 2199 (2025). In the section of *Riley* quoted by the Petitioner, the court is considering the issue of whether an order from the Board of Immigration Appeals (BIA) denying deferral of removal is a "final order of removal." *Id.* at 2197. The court concluded that it is not and reasoned that in accordance with its opinion in *Johnson v. Guzman Chavez*, 594 U.S. 523 (2021), an order denying relief under the Convention Against Torture (CAT) is not a final order of removal and does not affect the validity of a previously issued order of removal. *Id.* at 2199. The Supreme Court's decision in *Guzman Chavez* illustrates that when, as here, an alien is detained under 8 U.S.C. § 1231, section 1231 expressly authorizes detention beyond the initial 90-day detention period where removal cannot be effectuated within 90 days, such as when the petitioner is in withholding-only proceedings. *See id.* at 546 (citing §§ 1231(a)(3)(6)). Further,

the removal period may be extended in accordance with *Zadvydas* beyond the presumptively reasonable six-month period for removal, such as where the petitioner has acted to prevent his removal, unless the petitioner provides a good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future. *Id.* at 528-29; §1231(a)(1)(C). Neither the *Riley* opinion nor the *Guzman Chavez* opinion negates the lawful extension of the presumptively reasonable six-month removal period under appropriate circumstances. As established in the preceding section, the Government has shown that there is a significant likelihood of the Petitioner's removal in the reasonably foreseeable future. Therefore, the Petitioner's detention remains lawful under *Zadvydas*.

II. CONCLUSION

For the reasons stated above and in the Respondents' Response to Petition for Writ of Habeas Corpus and Motion for Summary Judgment (ECF 12), the Court should deny Petitioner's claim for habeas relief.

Dated: August 22, 2025

Respectfully submitted,

NICHOLAS J. GANJEI
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Attorney for Respondents

CERTIFICATE OF SERVICE

I certify that, on August 22, 2025, the foregoing notice was filed with the Court through the Court CM/ECF system on all parties and counsel registered with the Court CM/ECF system.

/s/ Catina Haynes Perry
Catina Haynes Perry
Assistant United States Attorney