

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

Sonam TSERING,

Petitioner,

v.

Pamela BONDI, U.S. Attorney General;

Kristi NOEM, Secretary, Department of
Homeland Security;

Todd LYONS, Acting Director,
Immigration and Customs Enforcement;

Ryan SHEA, Sheriff, Freeborn County
Jail,

Respondents.

Civil Action No: 25-cv-02834 (JRT/DTS)

**PETITIONER’S REPLY TO
RESPONDENTS ANSWER TO
PETITION FOR WRIT OF HABEAS
CORPUS**

Petitioner respectfully replies to Respondent’s July 31, 2025 Response to Petition for Writ of Habeas Corpus (hereafter “Response”), Docket No. 8., as follows:

1. Petitioner Cannot be Removed to his Country of Origin

Respondent’s asserts in their response that Petitioner has failed to meet his burden under Zadvydas because he has failed to show that there is no significant likelihood of his removal in the near future. Petitioner in this case has been granted relief under the Convention Against Torture (CAT). To be granted CAT relief, a non-citizen must show that “it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2). When an IJ grants a non-citizen withholding or CAT relief, the IJ issues a removal order and simultaneously withholds or

defers that order with respect to the country or countries for which the non-citizen demonstrated a sufficient risk of persecution or torture. See *Johnson v. Guzman Chavez*, 141 S. Ct. 2271, 2283 (2021). Once withholding or CAT relief is granted, either party has the right to appeal that decision to the BIA within 30 days. See 8 C.F.R. § 1003.38(b). If both parties waive appeal or neither party appeals within the 30-day period, the withholding or CAT relief grant and the accompanying removal order become administratively final. See *id.* § 1241.1. When a non-citizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. See 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2).

As stated above, and in his original Petition, the Petitioner has been granted CAT by the Immigration Court located at Fort Snelling Immigration Court. The government failed to appeal this decision within the 30-day appeal window and the decision became administratively final in 2021. As provided above, once CAT relief is granted, the applicant cannot be removed to the country for which they demonstrated a sufficient likelihood of persecution or torture. See 8 C.F.R. § 1208.17(b)(2). Petitioner in this case has unequivocally shown that he cannot be removed to his country of origin under federal law and therefore there is no significant likelihood of his removal in the near future.

2. Petitioner's Removal to a Third Country is Not Reasonably Foreseeable

Respondent's assert in their response that even if Petitioner has met his burden under *Zadvydas*, they have rebutted this presumption by showing that his removal is

reasonably foreseeable to a third country¹. As stated above, when a non-citizen has a final withholding or CAT relief grant, they cannot be removed to the country or countries for which they demonstrated a sufficient likelihood of persecution or torture. See 8 U.S.C. § 1231(b)(3)(A); 8 C.F.R. § 1208.17(b)(2). While ICE is authorized to remove non-citizens who were granted withholding or CAT relief to alternative countries, see 8 U.S.C. § 1231(b); 8 C.F.R. § 1208.16(f), the removal statute specifies restrictive criteria for identifying appropriate countries. Non-citizens can be removed, for instance, to the country “of which the [non-citizen] is a citizen, subject, or national,” the country “in which the [non-citizen] was born,” or the country “in which the [non-citizen] resided” immediately before entering the United States. 8 U.S.C. § 1231(b)(2)(D)-(E).

If ICE identifies an appropriate alternative country of removal, ICE must undergo further proceedings in immigration court to effectuate removal to that country. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (“If [non-citizens] would face persecution or other mistreatment in the country designated under § 1231(b)(2), they have a number of available remedies: asylum, § 1158(b)(1); withholding of removal, § 1231(b)(3)(A); [and] relief under an international agreement prohibiting torture, see 8 CFR §§ 208.16(c)(4), 208.17(a) (2004) . . .”); *Romero v. Evans*, 280 F. Supp. 3d 835, 848 n.24 (E.D. Va. 2017) (“DHS could not immediately remove petitioners to a third country, as DHS would first need to give petitioners notice and the opportunity to raise any

¹ On page 8 of Respondent’s response, Respondent indicates that they are attempting to remove Petitioner to Pakistan. This is the only place where this reference occurs. In preparing this response, Counsel did reach out to Erin Secord about the validity of this statement. Ms. Secord has confirmed with Counsel that this is a typo and that the government is NOT actively trying to remove Petitioner to Pakistan. Currently, Respondents are still pursuing third party removal, but there is no specific country named at this time.

reasonable fear claims.”), rev’d on other grounds, *Guzman Chavez*, 141 S. Ct. 2271.

The response in this case indicates that Respondents are pursuing third country removal and that the declaration from Thomas Murphy lays out the steps the government has taken in determining a third country for removal. According to the declaration from Thomas Murphy, it appears the only step the government has taken is to request assistance from ICE HQ for assistance in determining a third country for removal. (*See* Murphy Decl. ¶ 18.). This request for assistance did not occur until July 17, 2025 – three days after Petitioner filed his habeas action. (*See Id.*). It does not appear that Respondents took any action in attempting to remove Petitioner to a third country from November of 2024 until July of 2025 and that the only attempts made occurred after Petitioner filed this habeas action. Given the lack of action by Respondent’s in the last eight months, the extremely vague statement of Officer Murphy about the intent to remove Petitioner to a third country, the lack of an actual named third country, and the lack of any travel document for Petitioner to a third country, this Court should find that there is not a significant likelihood of removal to a third country in the foreseeable future.

Dated: August 5, 2025

Respectfully submitted,

s/ Maria Miller

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