

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JIGAR PATEL,	:	No. 3:25-cv-01459
Petitioner,	:	
	:	
v.	:	(Latella, M.J.)
	:	
PAMELA BONDI, et al.,	:	
Respondents.¹	:	Filed Electronically

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

This is a habeas action filed on August 6, 2025, by Petitioner, JIGAR PATEL, an immigration detainee in the custody of the United States Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE), at the Clinton County Correctional Facility in McElhattan, Pennsylvania. Doc. 1, Complaint for Declaratory and Injunctive Relief and Petition for Writ of Habeas Corpus, at 4, ¶ 4. Specifically, Patel requests the Court issue a writ of habeas corpus and

¹ Although Petitioner named several other government officials, the only proper respondent in this case is Angela Hoover, the Warden of Clinton County Correctional Facility. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (“In habeas challenges to present physical confinement – ‘core challenges’ – the default rule is that the proper respondent is the warden of the facility where the prisoner is being held.”). Petitioner requests release from confinement. *See* Doc. 1, Complaint for Declaratory and Injunctive Relief and Petition for Writ of Habeas Corpus, at 4, ¶ 3.

“set bond or other conditions for release... from his continuing detention in federal custody.” *Id.* at 1.

On September 17, 2025, this Court entered an order directing Respondent to respond to the Petition within twenty-one days of the Order, or on or before October 8, 2025. Doc. 5, Order to Show Cause. This Response is filed in accordance with that Order.

FACTS

Patel is a native and citizen of India. Exhibit 1, DHS Record of Deportable/Inadmissible, at 1-2; Exhibit 2, Notice to Appear, at 3. On January 5, 2012, Patel was admitted to the United States at Newark Liberty International Airport pursuant to an H-1B Visa until September 30, 2013.² Exhibit 1 at 2; Exhibit 2 at 3. Patel stayed within the United States beyond September 30, 2013. Exhibit 2 at 3.

On January 15, 2015, Patel was sentenced in the United States District Court for the District of Maryland after pleading guilty to committing False Statements Relating to Health Care Matters, in

² A H-1B Visa is a non-immigrant visa that allows employers to hire foreign workers in specialized occupations. See United States Department of Labor, *H-1B Program*, found at <https://www.dol.gov/agencies/whd/immigration/h1b> (last visited October 7, 2025).

violation of 18 U.S.C. § 1035(a), and Aiding and Abetting, in violation of 18 U.S.C. § 2. Exhibit 3, Judgment in a Criminal Case, at 1. The Honorable George L. Russell, III, United States District Judge, sentenced Patel to thirteen (13) months' imprisonment, three (3) years of supervised release, and restitution in the amount of \$102,066.25. *Id.* at 2-5.

On January 21, 2015, ICE Enforcement and Removal Operations officers encountered Patel at Moshannon Valley Correctional Facility while he was still incarcerated, and officers served Patel with a Notice to Appear on December 2, 2015. Exhibit 1 at 2; Exhibit 2 at 2. Specifically, the Notice to Appear charged Patel as removable pursuant to Section 237(a)(2)(A)(i) of the Immigration and Nationality Act (INA), in that he was convicted of a crime involving moral turpitude within five years after admission for which a sentence of one year or longer may be imposed, and Section 237(a)(1)(B) of the INA, in that the Petitioner remained in the United States for a time longer than permitted after admission as a nonimmigrant under Section 101(a)(15). *Id.* at 3.

On January 11, 2017, the Honorable Kuyomars Golparvar, United States Immigration Judge, ordered Patel removed to India. *See* Exhibit 4, Decision and Order of the Immigration Judge, at 15. Previously, Patel

had admitted the factual allegations and conceded the charges of the Notice to Appear. *Id.* at 3. But Patel filed a claim for asylum and requested withholding of removal and protection under the Convention Against Torture. *Id.* At the outset, Judge Golparvar found that Patel's asylum claim was barred because he failed to request within one year and did not provide any extraordinary or changed circumstances to justify the delay. *Id.* at 8-9. Next, Judge Golparvar found that Patel failed to demonstrate that his past – or any potential future persecution – would be based on a protected ground; therefore, Patel was not entitled to withholding of removal. *Id.* at 9-12.³ Lastly, Judge Golparvar found that Patel did not show it was more likely than not that he would be tortured by government officials and denied relief under the Convention Against Torture. *Id.* at 12-14. Patel appealed Judge Golparvar's decision to the Board of Immigration Appeals. *See* Exhibit 5, BIA Decision dated July 18, 2017.

On July 18, 2017, the BIA dismissed Patel's appeal. *See id.* First, the BIA agreed with the immigration judge's decision finding that Patel

³ The immigration judge's analysis of withholding of removal is intertwined with his analysis of the asylum claims. Exhibit 4 at 9-12.

was “statutorily ineligible for asylum because he did not meet his burden of demonstrating by clear and convincing evidence that he filed his asylum application within 1 year of his arrival,” *id.* at 1, and Patel did not establish extraordinary circumstances to justify an untimely filing. *Id.* Second, the BIA affirmed the immigration judge’s denial of withholding of removal, finding that Patel did not establish that prior (or any future) persecution in India was as the result of a protected ground. *Id.* Finally, the BIA found no error in the immigration judge’s determination that Patel was unable to demonstrate it was more likely than not that he would be tortured. *Id.* at 4. Patel filed a Petition for Review with the United States Court of Appeals for the Third Circuit. *See* Exhibit 6, Third Circuit Order dated May 3, 2018.⁴

Prior to the Third Circuit’s decision on Patel’s Petition for Review, he filed a habeas petition with the District Court for the Middle District of Pennsylvania. *See* Exhibit 7, Order dated January 12, 2017. The Honorable Richard P. Conaboy, United States District Judge, granted

⁴ The Third Circuit’s decision has three separate dates on the two-page form: April 13, 2018; May 3, 2018; and July 10, 2018. Exhibit 6 at 1-2. Respondent uses the May 3, 2018 date because it appears at the signature and on the top of both pages of the electronic filing notice. *Id.*

Patel's habeas petition and ordered an individualized bond hearing. *Id.* at 3. On January 25, 2017, Judge Golparvar released Patel on a bond of \$12,000. Exhibit 8, Bond Order dated January 25, 2017. ICE released Patel the next day, January 26, 2017. Exhibit 9, Notice to EOIR, at 1.

While Patel remained released on bond, the Third Circuit issued a decision denying his Petition for Review on May 3, 2018. Exhibit 6 at 2. The decision does not comment substantively on Patel's petition. *See id.*

On July 20, 2018, Patel filed a motion to reconsider and terminate his immigration proceedings with the BIA. *See* Exhibit 10, BIA Decision dated April 16, 2019. The BIA found that Patel's motion was untimely, as it was not filed within thirty (30) days of the mailing of the BIA's prior decision. *Id.* at 2. *See also* 8 C.F.R. § 1003.2(b)(2). Moreover, the BIA found that Patel had not demonstrated an exceptional situation that required sua sponte reopening. Exhibit 10 at 2.

Patel remained on bond until July 14, 2025. *See* Exhibit 11, Bond Cancellation Notice, at 1. On that date, ICE ERO took Patel back into custody. *Id.* *See also* Exhibit 12, Declaration of Deportation Officer Kyle Camerer, at 3, ¶ 17. He has been housed at Clinton County Correctional Facility for the duration of his confinement. *See* Doc. 1 at 5, ¶ 3; *see also*

Exhibit 12 at 3, ¶ 17-18; U.S. Immigration and Customs Enforcement, Online Detainee Locator System, available at: <https://locator.ice.gov/odls/#/search> (enter Petitioner’s A-Number and India as Country of Origin) (last visited October 7, 2025, at 2:00 p.m.).

ARGUMENT

The Court should deny Patel’s Petition because he is lawfully detained under 8 U.S.C. § 1231(a), and he is not entitled to a bond hearing. Patel cannot show that his removal to India is not reasonably foreseeable flight based on the communication between the two countries and the history of removals to that country.

I. Patel will be removed in the reasonably foreseeable future.

Pursuant to 8 U.S.C. § 1231, ICE has authority to detain a noncitizen⁵ subject to a final removal order. 8 U.S.C. § 1231(a). See *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022) (“8 U.S.C. § 1231, governs the detention, release, and removal of individuals ‘ordered removed.’”); accord *Appiah v. Lowe*, No. 3:24-cv-2222, 2025 WL 510974 (M.D. Pa. Feb. 14, 2025) (Mariani, J.) (quoting same).

⁵ The INA employs the term “alien,” defined as “any person not a citizen or national of the United States.” 8 U.S.C. § 1101(a)(3). Herein, “noncitizen” means any person as defined in 8 U.S.C. § 1101(a)(3).

Under 8 U.S.C. § 1231, ICE is permitted to detain a noncitizen for ninety (90) days (the removal period) following the latest of three dates: (1) “the date the order of removal becomes administratively final”; (2) if removal is stayed pending judicial review of the removal order, “the date of the [reviewing] court’s final order”; or (3) “the date the alien is released from [criminal] detention or confinement.” 8 U.S.C. § 1231(a)(1)(A), (B). Constitutionally, ICE is afforded more time to effectuate removal. In *Zadvydas v. Davis*, the United States Supreme Court recognized six (6) months as a “presumptively reasonable period” of post-final order detention. 533 U.S. 678, 700-01 (2001). A noncitizen detained beyond the six (6) month presumptive period may show that there is no reasonable likelihood that he will be removed in the “reasonably foreseeable future.” *Id.* at 701. If the noncitizen meets this burden and makes such a showing, the burden then shifts to the government to show that there is a likelihood of deportation in the “reasonably foreseeable future.” *Id.*

In this case, the removal period commenced once the Third Circuit dismissed Patel’s Petition for Review on May 3, 2018. Exhibit 6. *See* INA § 1241.1(a). Thus, Patel’s detention began after the six months discussed

in *Zadvydas*. Following the revocation of Petitioner's bond,⁶ he is unable to demonstrate that he will not be removed within the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701 ("This 6-month presumption, of course, does not mean that every [noncitizen] not removed must be released after six months. To the contrary, [a noncitizen] may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.").

Here, Patel's Petition is devoid of any reason to suggest that his removal will not take place within the reasonably foreseeable future, and Petitioner makes no attempt to offer evidence to suggest otherwise. Without good reason, the burden cannot shift to the Government to justify his continued detainment. *See also Pierre v. Dep't of Homeland*

⁶ Pursuant to relevant regulations, ICE "shall have authority, in the exercise of discretion, to revoke release and return to Service custody [a noncitizen] previously approved for release under the procedures in this section." 8 C.F.R. § 241.4(l)(2). The regulation permits ICE to exercise its discretion to revoke release when, in the opinion of the revoking official: ". . . (iii) [i]t is appropriate to enforce a removal order or to commence removal proceedings against [a noncitizen]; or (iv) ... any other circumstance[] indicates that release would no longer be appropriate." *Id.* The regulation does not require advance notice prior to revoking a noncitizen's release. *Id.*

Sec., No. 1:12-CV-1869, 2013 WL 4083777, at *5 (M.D. Pa. Aug. 13, 2013) (Caldwell, J.) (denying petition where petitioner offered no evidence to carry his burden that he would not be removed in the reasonably foreseeable future). Notwithstanding the lack of evidence, Patel will be removed within the reasonably foreseeable future.

ICE ERO is working with the Indian Government to obtain travel documents for Patel, having requested issuance on August 1, 2025. *See* Exhibit 12 at 3, ¶ 19. Once a travel document is issued, ICE ERO anticipates a quick removal of Patel. *Id.* at 3, ¶¶ 19-20. ICE ERO's coordination with the Indian Government mirrors longstanding cooperation in removals to that country. *See U.S. Immigration and Customs Enforcement Fiscal Year 2024 Annual Report* available at <https://www.ice.gov/doclib/eoy/iceAnnualReportFY2024.pdf> (last accessed October 7, 2025) (demonstrating ICE successfully removed 292 people to India in 2021, 276 in 2022, 370 in 2023, and 1,529 in 2024). Thus, removal to India is not only reasonably foreseeable, but scheduled to occur within the next forty-five (45) days.

II. Patel will receive all required due process protections.

In *Artega-Martinez*, the United States Supreme Court abrogated the United States Court of Appeals for the Third Circuit's decision in *Guerrero-Sanchez v. Warden York County Prison*, 905 F.3d 208 (3d Cir. 2018). Relying on the principals of *Zadvydas*, where the Supreme Court adopted a presumption that noncitizens could be reasonably detained without a hearing for six months, the Third Circuit adopted a six-month rule for aliens detained under § 1231(a)(6). *Guerrero-Sanchez*, 905 F.3d at 220. In *Artega-Martinez*, the Supreme Court found that there was “no plausible construction of the text of § 1231(a)(6) that requires the Government to provide bond hearings before immigration judges after six months of detention.” 596 U.S. at 581.

In order to address due process concerns for prolonged detainment, however, ICE officials conduct administrative custody reviews for individuals in detention. Here, Patel will receive an administrative custody review after being detained for ninety (90) days. *See* Exhibit 12 at 3, ¶ 21. Moreover, to the extent that Patel remains confined for a further duration, which is unlikely based on his scheduled removal, he will receive additional reviews. *Artega-Martinez*, 596 U.S. at 583.

CONCLUSION

The Court should deny Patel's petition because he is lawfully detained under 8 U.S.C. § 1231(a)(6), as a noncitizen subject to a final order of removal, whose removal is significantly likely in the reasonably foreseeable future and who will receive all due process protections required.

Respectfully submitted,

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Dated: October 8, 2025

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion as to be competent to serve papers. That on January 15, 2025, she served a copy of the attached

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