IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

GERARDO REYNA-SALGADO,

Petitioner,

-against-

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; PETE R. FLORES, in his official capacity as Commissioner of the U.S. Customs and Border Protection; and RICARDO WONG, in his official capacity as Field Office Director of the ICE ERO Chicago; and Crystal Carter in her official capacity as WARDEN of FCI Leavenworth,

Respondent.

Case No. 25-3172-JWL

PETITIONER'S TRAVERSE TO RESPONDENTS' RESPONSE

Petitioner has now been held in post-order detention for over seven months following the Immigration Judge's February 21, 2025 order granting withholding of removal to Mexico. Neither party appealed, and the order is final. Since then, DHS has attempted removal to three unnamed third countries without success and admits it has not secured travel documents or identified a willing country. Respondents offer only conclusory assurances that "efforts continue." That falls short of the government's burden under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Compounding the problem, the only "custody review" cited is an April 2025 notice of review, with no decision rendered as of the date of Respondents' filing. As of September 26, 2025, DHS acknowledged that no decision had been issued on Petitioner's custody status. Petitioner filed his first habeas petition in July 2025, but the Court denied relief as premature because fewer than six months had passed since his removal order became final. The Court noted, however, that if

continued detention became unreasonable, Petitioner could refile. He has now done so, with over seven months of post-order detention and no foreseeable prospect of removal.

ARGUMENTS

Respondents contend that Petitioner's detention remains lawful under *Zadvydas v. Davis*, 533 U.S. 678 (2001), and that custody reviews "alleviate" any due process concerns. That argument fails for both legal and factual reasons. *Zadvydas* provides the framework for analyzing detention under 8 U.S.C. § 1231(a)(6), but it does so precisely because the statute must be read in light of the Fifth Amendment's Due Process Clause. Petitioner's constitutional claim is not redundant but essential: it is the constitutional command that prevents indefinite detention. The government cannot collapse statutory and constitutional protections into one and then dismiss both wholesale.

The cases cited by Respondents are inapposite. In *Al-Shewaily v. Mukasey*, No. CIV-07-0946-HE, 2007 WL 4480773 (W.D. Okla. Dec. 18, 2007), the habeas petition was dismissed as premature because it was filed within six months of the removal order. Petitioner here has already been detained for more than seven months since the IJ's February 21, 2025 order became final, so the statutory presumption has expired. In *Nasr v. Larocca*, No. CV 16-1673-VBF(E), 2016 WL 3710200 (C.D. Cal. July 11, 2016), DHS demonstrated concrete progress toward repatriation to Lebanon: travel documents had been issued once, a renewed passport application was pending, and Lebanon regularly accepted deportees from the United States. By contrast, DHS admits that removal to Mexico is legally barred and that attempts to remove Petitioner to three other countries have failed. No travel documents are pending, no embassy is engaged, and no country has agreed to accept him. *Soudom v. Warden, FCI–Leavenworth*, No. 25-3063-JWL, 2025 WL 1594822 (D. Kan. Mar. 31, 2025), is also distinguishable because there the South African Embassy identified a

clear process for eventual repatriation, whereas here no process exists and no destination is even theoretically available. Finally, *Ogole v. Garland*, No. 24-3198-JWL, 2025 WL 548452 (D. Kan. Feb. 19, 2025), turned on the fact that the DRC had already issued travel documents and scheduled the petitioner for an imminent removal flight; the opposite is true here, where no documents, no applications, and no flights exist.

Removal to Mexico is legally barred by the Immigration Judge's February 21, 2025 grant of withholding, and DHS admits that attempts to remove Petitioner to three third countries have failed. Respondents' reliance on "custody reviews" does not cure the constitutional defect. The deficiencies extend beyond delay. There is no evidence that DHS meaningfully considered less restrictive alternatives to detention. The record is devoid of any analysis of supervised release, bond, or reporting conditions. Instead, Petitioner remains confined on the basis of boilerplate forms and conclusory statements.

Unlike the petitioners in *Al-Shewaily*, *Nasr*, *Soudom*, or *Ogole*, Petitioner has no country of removal available, no pending applications, and no path to removal in the foreseeable future. Respondents' reliance on delayed or meaningless custody reviews does not change that reality. Because DHS cannot demonstrate a significant likelihood of removal in the reasonably foreseeable future, Petitioner's continued detention violates *Zadvydas* and the Due Process Clause.

CONCLUSION

In sum, Petitioner has demonstrated that removal is not significantly likely in the reasonably foreseeable future. DHS has failed to rebut that showing with evidence, and it has failed to provide the process required by its own regulations and the Constitution. Continued detention is unlawful. For the foregoing reasons, Petitioner respectfully requests that this Court grant the writ of habeas corpus and order his immediate release.

Respectfully submitted,

/s/ Maya Y. King

Maya King, Esq.
King Law Group
1401 Iron Street, Suite 200
North Kansas City, MO 64116
KS Bar # 27499
Tel: (913) 717-7112
Email: maya@kinglawgroup.com
Counsel for Petitioner

Dated: September 28, 2025

CERTIFICATE OF SERVICE

I hereby certify that on September 28, 2025, I electronically filed the foregoing Petitioner's Traverse to Respondents' Response to § 2241 Petition and Order to Show Cause with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record for Respondents:

Ryan A. Kriegshauser
United States Attorney, District of Kansas

Russell J. Keller
Assistant United States Attorney
500 State Avenue, Suite 360
Kansas City, Kansas 66101
Telephone: (913) 551-6665
Facsimile: (913) 551-6541
Email: russell.keller@usdoj.gov

/s/ Maya Y. King
Maya Y. King, Esq.
King Law Group
1401 Iron Street, Suite 200
North Kansas City, MO 64116
Attorney for Petitioner