

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

IRAKLI ZHUZHIAHVILI,

Petitioner,

v.

CRYSTAL CARTER, et al,

Respondents.

Case No. 5:25-cv-03189-JWL

RESPONSE TO MOTION TO STAY

Petitioner, through counsel, respectfully submits this Response to Respondents' Motion to Stay Deadline to Respond to Habeas Petition Due to Government Funding Lapse (Dkt. 4).

1. Petitioner recognizes the unusual situation here, as well as the fact that the government shutdown is beyond the control of Respondents or their counsel. Petitioner also acknowledges that the Court might find that Respondents' Motion offers good cause for the relief it seeks. However, Petitioner respectfully opposes the motion for the following reasons.

2. As detailed in Mr. Zhuzhiashvili's Verified Petition (Dkt. 1), he has already been detained by ICE for a period of nearly 16 months, since June 2024. Nearly seven of these months have been since the order in his immigration case became final on March 12, 2025. Pet. at ¶¶ 29, 31.

3. Mr. Zhuzhiashvili filed his habeas petition on September 15, 2025, alleging that he "finds himself subject to prolonged and indefinite detention" by Respondents. *Id.* at ¶ 2. He further alleged that Respondents had told his immigration attorney at least twice in emails (filed with the Court as ECF No. 1-2), that they could not remove him to a third country and were making no attempt to do so. *Id.* at ¶¶ 32-34.

4. Respondents' motion to stay this case essentially grafts another indefinite period of detention on top of the one that Mr. Zhuzhiashvili is already enduring; this period is by its very nature "indefinite," since no one knows when the government shutdown may end.

5. On September 15, 2025, this Court ordered Respondents to show cause by October 6, 2025 why Mr. Zhuzhiashvili's petition should not be granted. Counsel emailed a copy of the petition and the Court's order to Mr. Keller at the District of Kansas U.S. Attorney's Office that same day. Respondents have therefore had at least fifteen days to date during which to be working on their response. *Compare* 28 U.S.C. § 2243 (providing a standard three-day period for a response to § 2241 petitions).

6. Respondents' motion recites that "Most Assistant United States Attorneys ... are being furloughed until funding is restored. A limited number of AUSAs are being excepted from the furlough, but these individuals ... cannot reasonably be expected to perform the substantive work of the entire Civil Division." Dkt. 4 at ¶ 3. However, here, where Respondents have already had 15 days in which to work on their response, it seems reasonable that one of the excepted AUSAs could finish whatever minimal work remains in order to file it timely. *See, e.g., Ramirez v. ICE*, No. 18-cv-508 (D.D.C. Dec. 31, 2018), Minute Order Denying Motion to Stay (Dkt. 92) ("If the government can allocate resources during the shutdown to staff the facilities in which Plaintiffs are detained (again, allegedly unnecessarily and illegally), it can allocate resources to staff the defense of Plaintiffs' action.")

7. The Suspension Clause, U.S. Const. Art. I, Sec. 9, § 2, provides that, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." Staying this case and allowing Mr. Zhuzhiashvili's detention to be prolonged for some indefinite period would be the equivalent of suspending the writ of habeas

corpus, which is not justified by the current circumstances, which fall well short of “cases of rebellion or invasion.”

8. In another case counsel is litigating before this Court, *Manago v. Carter*, 5:25-cv-3183, Respondents filed a response today indicating that they had failed to remove that petitioner to any third country and had not identified any other third country to which to send him (Dkt. 12-1 at ¶¶ 18-19). This tracks what happened in another recent case in this Court, *Vargas v. Noem*, 2025 WL 2770679 (D. Kan. Sept. 29, 2025), where a petitioner was detained more than six months after his removal order became final and “officials have still not been able to remove him or even to schedule his removal.” *Id.* at *2. It appears that petitioners who have won their withholding of removal cases are being subject to prolonged and indefinite detention at FCI Leavenworth with little or no real attempt being made to remove them, and that this stay motion will only create further delays and an ongoing deprivation of Mr. Zhuzhiashvili’s liberty interests.

WHEREFORE, Petitioner respectfully requests that this Court deny the motion to stay deadlines in this case and for such other relief as the Court deems just and proper.

Dated: October 1, 2025

Respectfully submitted,

/s/ James D. Jenkins
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Certificate of Service

I hereby certify that the foregoing was filed via the Court’s CM/ECF system this 1st day of October, 2025, which sent notice of filing to all parties receiving electronic notice.

/s/ James D. Jenkins
Attorney for Petitioner

