**United States District Court**
**Western District of Texas**
**El Paso Division**

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| Ahmad Zayed Ribhi<br>Petitioner,<br><br>v.<br><br>Mary De Anda-Ybarra, Field Office Director for Enforcement and Removal Operations, *et al*,<br>Respondents. | No. 3:25-CV-00388-LS |

**Respondents' Response to Show Cause Order**

Respondents submit this response per this Court's Order to Show Cause dated September 17, 2025. ECF No. 4. Petitioner Ahmad Zayed Ribhi is detained in the custody of U.S. Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) under 8 U.S.C. § 1231, because he has a reinstated final order of removal. *See* 8 U.S.C. § 1231(a)(5); Ex. A (ICE Declaration) ¶ 5; *Johnson v. Guzman Chavez*, 594 U.S. 523, 526, 534–535 (2021). ICE is pursuing efforts to repatriate him to a third country. *See* Ex. A (ICE Declaration) ¶¶ 11–12.

Despite being granted withholding of removal (WHO) under the Immigration and Nationality Act, such relief extends only to the country where Petitioner was found to have a reasonable fear of being tortured: Jordan. *See* 8 C.F.R. §§ 208.16, 208.17, 1208.16, 1208.17; 208.31(a); 1208.31(a); 8 U.S.C. § 1231(b)(3)(A). In other words, nothing prevents DHS from removing Petitioner to a third country. *See e.g.*, *Guzman Chavez*, 594 U.S. at 531–32, 535–36; 8 U.S.C. § 1231(b)(1)(c)(iv); 8 C.F.R. §§ 208.16(f); 1208.16(f); 208.17(b)(2); 1208.17(b)(2). ICE can pursue removal options under this statute to any country willing to accept the alien. *Guzman Chavez*, 594 at 536–37; 8 U.S.C. § 1231(b)(2).

**a. Relevant Background**

Petitioner is a native and citizen of Jordan. ECF No. 2 at ¶ 10. On February 22, 2015, Petitioner was removed from the United States to Jordan. *Id.* at ¶ 6. On June 8, 2024, Petitioner was encountered by immigration officers after he unlawfully re-entered the United States. *Id.* at ¶ 7. DHS issued him a reinstatement of his removal order. Exh. 1 at ¶ 7. On July 27, 2024, Petitioner was referred to an immigration for WHO proceedings. *See id.* at ¶ 7; 8 C.F.R. §§ 208.16; 1208.16, 1208.31(e). On December 17, 2024, ICE headquarters (HQ) recommended continued detention because there was a significant likelihood of removal and ICE possessed Petitioner's Jordanian passport. *Id.* at ¶ 8.

On February 10, 2025, Petitioner was granted WHO, restricting ICE from executing his final order of removal order to Jordan. ECF No. 2 at 9; Exh. 1 at ¶ 9; *see, e.g.,* 8 U.S.C. § 1231(b)(3). As a result, ICE began to explore alternative countries for removal. *See* Ex. A ¶¶ 11–12. On February 12, 2025, ICE sent requests to Mexico, El Salvador, and Ecuador to accept Petitioner. Exh. 1 at ¶ 11a. On February 12, 2025, Ecuador declined to accept Petitioner. *Id.* On February 24, 2025, Mexico and El Salvador declined to accept Petitioner. *Id.* at ¶ 11c.

On May 7, 2025, ICE headquarters (HQ) recommended continued detention based on a significant likelihood Petitioner's removal would occur in the reasonably foreseeable future. *Id.* at ¶ 11d. On June 28, 2025, ICE sent a request to Peru to accept Petitioner, which was denied on July 10, 2025. Exh. 1 at ¶¶ 11e–11f. On July 23, 2025, ICE El Paso contacted ICE HQ and HQ Asia and Europe to assist with facilitating removal of Petitioner. *Id.* at ¶ 11g. Those responses are pending. *Id.* On September 19, 2025, and October 4, 2025, ICE El Paso sent additional requests to HQ for assistance in facilitating Petitioner's removal to a third country. Exh. 1 at ¶¶ 11h, 12.

**b. Detention Is Lawful Under 8 U.S.C. §1231(a)(6).**

The authority to detain aliens after the entry of a final order of removal is set forth in 8 U.S.C. § 1231(a). That statute affords ICE a 90-day mandatory detention period within which to remove the alien from the United States following the entry of the final order. 8 U.S.C. § 1231(a)(2). The 90-day removal period begins on the latest of three dates: the date (1) the order becomes "administratively final," (2) a court issues a final order in a stay of removal, or (3) the alien is released from non-immigration custody. 8 U.S.C. § 1231(a)(1)(B).

Not all removals can be accomplished in 90 days, and certain aliens may be detained beyond the 90-day removal period. *See Zadvydas*, 533 U.S. at 701. Under § 1231, the removal period can be extended in a least three circumstances. *See Glushchenko v. U.S. Dep't of Homeland Sec.*, 566 F.Supp.3d 693, 703 (W.D. Tex. 2021). Extension is warranted, for example, if the alien presents a flight risk or other risk to the community. *Id.*; *see also* 8 U.S.C. § 1231(a)(1)(C); (a)(6). An alien may be held in confinement until there is "no significant likelihood of removal in a reasonably foreseeable future." *Zadvydas*, at 533 U.S. at 680.

**c. There is No Good Reason to Believe that Removal is Unlikely in the Reasonably Foreseeable Future.**

Petitioner cannot show "good reason" to believe that removal to a third country is unlikely in the reasonably foreseeable future. In *Zadvydas*, the U.S. Supreme Court held that § 1231(a)(6) "read in light of the Constitution's demands, limits an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal from the United States" but "does not permit indefinite detention." 533 U.S. at 689. "[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by the statute." *Id.* at 699. The Court designated six months as a presumptively reasonable period of post-order detention but made clear that the presumption "does not mean that every alien not removed must be released after six months." *Id.* at 701.

Once the alien establishes that he has been in post-order custody for more than six months at the time the habeas petition is filed, the alien must provide a "good reason" to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *See Andrade v. Gonzales*, 459 F.3d 538, 543–44 (5th Cir. 2006); *Gonzalez v. Gills,* No. 20–60547, 2022 WL 1056099 at *1 (5th Cir. Apr. 8, 2022). Unless the alien establishes the requisite "good reason," the burden will not shift to the government to prove otherwise. *Id.*

The "reasonably foreseeable future" is not a static concept; it is fluid and country-specific, depending in large part on country conditions and diplomatic relations. *Ali v. Johnson*, No. 3:21–CV–00050-M, 2021 WL 4897659 at *3 (N.D. Tex. Sept. 24, 2021). Additionally, a lack of visible progress in the removal process does not satisfy the petitioner's burden of showing that there is no significant likelihood of removal. *Id.* at *2 (collecting cases); *see also Idowu v. Ridge*, No. 3:03-CV-1293-R, 2003 WL 21805198, at *4 (N.D. Tex. Aug. 4, 2003). Conclusory allegations are also insufficient to meet the alien's burden of proof. *Nagib v. Gonzales*, No. 3:06-CV-0294-G, 2006 WL 1499682, at *3 (N.D. Tex. May 31, 2006) (citing *Gonzalez v. Bureau of Immigration and Customs Enforcement*, No. 1:03-CV-178-C, 2004 WL 839654 (N.D. Tex. Apr. 20, 2004)). One court explained:

> To carry his burden, [the] petitioner must present something beyond speculation and conjecture. To shift the burden to the government, [the] petitioner must demonstrate that "the circumstances of his status" or the existence of "particular individual barriers to his repatriation" to his country of origin are such that there is no significant likelihood of removal in the reasonably foreseeable future.

*Idowu*, 2003 WL 21805198, at *4 (citation omitted).

Petitioner is subject to a reinstated final order of removal, but he, nonetheless, urges this Court to order that his continued detention pending removal is contrary to his substantive and procedural rights under the Fifth Amendment based on his allegation that "numerous third

countries have refused to allow Respondents to remove him to their country." ECF No. 2 at 6. Petitioner fails to allege any reason, much less a "good reason," to believe that there is no significant likelihood of removal in the foreseeable future. These claims are insufficient under *Zadvydas. Andrade*, 459 F.3d at 543–44; *Boroky v. Holder*, No. 3:14-CV-2040-L-BK, 2014 WL 6809180, at *3 (N.D. Tex. Dec. 3, 2014).

Petitioner cannot meet his burden to establish no significant likelihood of removal in the reasonably foreseeable future. *See Thanh v. Johnson*, No. EP-15-CV-403-PRM, 2016 WL 5171779, at *4 (W.D. Tex. Mar. 11, 2016) (denying habeas relief where government was taking affirmative steps to obtain Vietnamese travel documents). The burden of proof, therefore, does not shift to Respondents to prove that removal is likely.

Even if the burden did shift to ICE in this analysis, ICE could show that removal is likely in the foreseeable future. ICE has contacted multiple countries seeking acceptance of Petitioner. While some requests have been refused, ICE continues to seek assistance from ICE HQ for assistance in facilitating removal. As such, removal is likely in the reasonably foreseeable future, and his continued detention is lawful. ICE also continues to review his custody status in compliance with the post-order custody review (POCR) regulations, and these POCR reviews will continue until removal or release. Petitioner's substantive due process claim fails and should be denied.

**d. ICE Has Afforded Petitioner Procedural Due Process.**

Petitioner cannot show a procedural due process violation here. To establish a procedural due process violation, Petitioner must show that he was deprived of liberty without adequate safeguards. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976); *Daniels v. Williams*, 474 U.S. 327, 331 (1986). The Fifth Circuit has not provided guidance to lower courts, post-*Arteaga-*

*Martinez*, on the appropriate standard for reviewing a procedural due process claim alleged by an alien detained under § 1231, but the Fourth Circuit, post-*Arteaga-Martinez*, used the *Zadvydas* framework to analyze a post-order-custody alien's due process claims. *See Linares v. Collins*, 1:25-CV-00584-RP-DH, 2025 WL 2726549 at *3–6 (W.D. Tex. Aug. 12, 2025), *adopted by Linares v. Collins*, 2025 WL 2726067 (W.D. Tex. Sept. 24, 2025) (discussing *Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022) and *Castaneda v. Perry*, 95 F.4th 750, 760 (4th Cir. 2024)).

Additionally, the Fifth Circuit finds no procedural due process violation where the constitutional minima of due process is otherwise met. *Murphy v. Collins*, 26 F.3d 541, 543 (5th Cir. 1994). Even if the Court were to find a procedural due process violation here, the remedy is substitute process. *Mohammad v. Lynch*, No. EP-16-CV-28-PRM, 2016 WL 8674354, at *6 n.6 (W.D. Tex. May 24, 2016) (finding no merit to petitioner's procedural due process claim where the evidence demonstrated that the review had already occurred, thereby redressing any delay in the provision of the 90-day and 180-day custody reviews). Even in the criminal context, failure to comply with statutory or regulatory time limits does not mandate release of a person who should otherwise be detained. *U.S. v. Montalvo-Murillo*, 495 U.S. 711, 722 (1990).

In addition, ICE HQ has twice conducted POCRs to review Petitioner's continued detention and will continue POCRs until his removal order is executed. *See* 8 C.F.R. § 241.13. Courts have found that these regulatory deadlines are not firm, so long as the review itself has occurred. *See Mohammad v. Lynch*, No. EP-16-CV-28-PRM, 2016 WL 8674354 at *6 n. 6 (W.D. Tex. May 24, 2016). Even if Petitioner had alleged such a violation, the remedy is not immediate release from custody, but an opportunity for the government to provide substitute process. *Virani v. Huron*, No. SA–19–CV–00499-ESC, 2020 WL 1333172 at *12 (W.D. Tex. Mar. 23, 2020).

This process addresses constitutional concerns that were identified in *Zadvydas*, providing safeguards and allowing the alien notice and opportunity to be heard regarding continued detention pending removal. *See, e.g.*, 8 C.F.R. § 241.13. Petitioner's procedural due process claim, like his substantive one, should be denied.

**e. Conclusion**

Petitioner is lawfully detained by statute, and his detention comports with the limited due process he is owed as an alien with a reinstated final order of removal. This Court should deny the petition.

Respectfully submitted,

Justin R. Simmons
United States Attorney

By: */s/ Anne Marie Cordova*
Anne Marie Cordova
Special Assistant United States Attorney
Texas Bar No. 24073789
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216
(210) 384-7100 (phone)
(210) 384-7118 (fax)
Anne.Marie.Cordova@usdoj.gov

Attorneys for Federal Respondents

**Certificate of Service**

On October 7, 2025, I caused a copy of this filing to be served by mail on Petitioner, *pro se*, at the following address:

Zayad Ahmad Ribhi
AXXX XXX 500
8915 Montana Ave.
El Paso, TX 79925

*/s/ Anne Marie Cordova*
Anne Marie Cordova
Special Assistant United States Attorney