IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

MURAD LADAK,

Petitioner,

v.

KRISTI NOEM, ET AL.,

Respondents.

Civil Action No. 1:25-cv-00194-H

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS AND MOTION FOR TEMPORARY RESTRAINING ORDER

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I. Introduction

Petitioner seeks a preliminary injunction and habeas relief to require his immediate release from immigration detention. *See* ECF 1. As explained herein, Petitioner shows no entitlement to a temporary restraining order, nor habeas relief, as he is not entitled to immediate release. The Court should deny the request for a temporary restraining order and habeas relief.

II. Background

Petitioner is a native and citizen of Pakistan. App. p. 16. On or about June 1, 1989, he entered the United States without being inspected, admitted, or paroled by an immigration officer. *Id.* On December 12, 2007, he pled guilty to debit card abusé and was sentenced to three years' deferred adjudication probation. App. pp. 9-11. On March 25, 2009, Petitioner was adjudicated guilty of the debit card abuse charge and was sentenced to 120 days in jail. App. p. 13.

On November 18, 2008, Petitioner was placed into removal proceedings with the issuance of a Notice to Appear. App. pp. 16-18. On February 10, 2009, an immigration judge granted Petitioner voluntary departure with safeguards to Pakistan. App. pp. 20-22. Petitioner did not depart from the United States by June 10, 2009, and his voluntary departure order became a final order of removal. App. p. 3, ¶ 6.

ICE's Enforcement and Removal Operations ("ERO") sent a travel document request to the Consulate of Pakistan and tentatively scheduled Petitioner's removal for June 2, 2009. *Id.*, ¶ 7. ERO requested that Petitioner's family provide his passport. *Id.* Petitioner's family informed ERO they did not have a passport, and ERO cancelled the

June 2, 2009 removal. *Id.* On July 10 and 22, 2009 and September 17 and 21, 2009, ERO requested updates on the travel document request from the Consulate of Pakistan. *Id.* at ¶ 8. The Consulate stated the travel document request was pending. *Id.*

On November 2, 2009, ERO released Petitioner on an order of supervision. *Id.* at ¶ 9. ERO told Petitioner he was required to submit proof that he filed a travel document and passport request to Pakistan by his December 2, 2009 check-in. *Id.* On December 2, 2009, Petitioner submitted a receipt indicating he had sent documents to the Pakistan Consulate in Houston. *Id.* at ¶ 9.

On July 8, 2010, ERO told Petitioner to bring a copy of the travel document request that he had submitted to the Pakistan Consulate to his next reporting date on October 7, 2010. *Id.* at ¶ 10. On October 7, 2010, Petitioner provided ERO with a copy of the travel document request. *Id.*

During Petitioner's December 12, 2011, check-in he informed ERO that he still had not received a passport, and he provided a letter from the Pakistan Consulate stating the process would take considerable time and that a travel document could not be issued at that time. *Id.*, at ¶ 11. ERO told Petitioner to bring a more detailed explanation as to how much time it would take to receive the passport and the reasons the passport could not be issued at that time. *Id.* On June 20, 2012, there was no update on the progress of obtaining a passport. *Id.*

On September 8, 2025, Petitioner was arrested and detained while at the Dallas ERO Office based on his final order of removal. App. p. 4, ¶ 12. The Dallas ERO office sent a travel document request to ERO Headquarters for review, and ERO Headquarters

approved the travel document request. *Id.* On October 16, 2025, the travel document request was sent to the Consulate of Pakistan. *Id.* The travel document request included a copy of Ladak's Pakistan birth certificate. *Id.*

On September 29, 2025, Petitioner filed a petition for a habeas corpus. ECF 1. In connection with his habeas corpus claim seeking release, Petitioner alleges that there is no evidence of changed circumstance specific to him that makes his removal reasonably foreseeable and therefore his detention is in violation of the Constitution. ECF 1, ¶ 61. He additionally asserts that ICE did not follow its own regulations when re-detaining him violating procedural due process under the 5th Amendment. ECF 1, ¶69. He further claims his re-detention is unlawful, Administrative Procedure Act violations, ultra vires, third country removal, and punitive third country banishment. ECF 1, pp. 25-30.

In his motion for a temporary restraining order, Petitioner seeks relief in connection with his habeas claims, arguing that he is likely to succeed in establishing that his re-detention is unconstitutional and unlawful. *See* ECF 2 at 5-11. Petitioner also argues he is likely to establish that he is entitled certain procedures prior to third country removal. ECF. 2, pp. 12-14. Petitioner's motion for a preliminary injunction and habeas petition are both improper and should be denied.

III. Legal Standard

A preliminary injunction is an "extraordinary and drastic remedy." *Canal Auth. v. Callaway*, 489 F.2d 567, 573 (5th Cir. 1974). As such, it is "not to be granted routinely, but only when the movant, by a clear showing, carries [the] burden of persuasion." *Black Fire Fighters Ass'n v. City of Dallas*, 905 F.2d 63, 65 (5th Cir. 1990) (quoting *Holland*

Am. Ins. Co. v. Succession of Roy, 777 F.2d 992, 997 (5th Cir. 1985)). "The four prerequisites are as follows: (1) a substantial likelihood that plaintiff will prevail on the merits, (2) a substantial threat that plaintiff will suffer irreparable injury if the injunction is not granted, (3) that the threatened injury to plaintiff outweighs the threatened harm the injunction may do to defendant, and (4) that granting the preliminary injunction will not disserve the public interest." *Canal Auth.*, 489 F.2d at 572. A preliminary injunction should be granted only if the movant has "clearly" carried the burden of persuasion on all four of these prerequisites. *Id.* at 573.

IV. Argument and Authorities

A. Petitioner's Detention Comports with the Fifth Amendment's Due Process Clause and is Lawful (Counts I, II, and III)

1. The *Zadvydas* standard is due process.

Petitioner faces a fundamental flaw in his request for the Court to order that he be given more process than what he has received in this case: The Supreme Court has already decided what constitutional due process is required under these circumstances to avoid violating the rights of an alien in his position. The *Zadvydas* standard *is* due process: a § 1231 detainee who fails the *Zadvydas* test fails to prove a due process violation." *Castaneda v. Perry*, 95 F.4th 750, 760 (4th Cir. 2024)(emphasis in the original).

In *Zadvydas*, the Supreme Court determined what "limits" the "Constitution's demands" imposed on "post-removal-period detention" pursuant to § 1231. *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). After determining that the Constitution "does not

permit indefinite detention," the Court held that a habeas court "should hold continued detention unreasonable" only "if removal is not reasonably foreseeable." *Id.* at 689, 699. But the Supreme Court did not stop there—it went on to detail the process by which that determination would be made. After the end of the presumptively reasonable six-month detention period, an alien must "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. If that showing is made, "the Government must respond with evidence sufficient to rebut that showing." *Id.* This process was sufficient, the Court reasoned, to avoid the "serious constitutional concerns" that "indefinite detention" would raise. *Id.* at 682.

The upshot of this decision is straightforward. "[T]he Supreme Court . . . had occasion to consider the constitutional implications of indefinite detention under § 1231(a) ," and it "offered [courts] a standard through which to judge indefinite-detention cases—the *Zadvydas* standard." *Martinez v. Larose*, 968 F.3d 555, 566 (6th Cir. 2020); *see Wang v. Ashcroft*, 320 F.3d 130, 146 (2d Cir. 2003) (*Zadvydas* "articulates the outer bounds of the Government's ability to detain aliens . . . without jeopardizing their due process rights"). Yet Petitioner now urges the Court to conclude that *Zadvydas*, in essence, was wrong. No doubt he will dispute this characterization, but there is no other way to understand his argument that something more than the process set out in *Zadvydas* is required to vindicate his constitutional rights—namely, as he states either travel papers in hand or a legitimate objective in revoking Petitioner's order of supervision ("OSUP").

The Court should certainly decline this invitation. When, as here, the Supreme Court has spoken on the issue at hand, "[t]his Court is bound like all lower courts to

apply [that] precedent." *United States v. Williams*, No. 1-09-cr-414, 2010 WL 3909480, at *4 (E.D. Va. Sept. 23, 2010); *see Payne v. Taslimi*, 998 F.3d 648, 654 (4th Cir. 2021) ("It is beyond our power to disregard a Supreme Court decision . . . ."). There is accordingly no basis for the Court to hold that due process demands more than what the Supreme Court already held it requires in this circumstance. *See Hernandez-Esquivel v. Castro*, No. 5-17-cv-0564-RBF, 2018 WL 3097029, at *8 (W.D. Tex. June 22, 2018)(stating that to the extent petitioner sought periodic bond hearings in federal court, "*Zadvydas* addressed the extent to which due process demands relief in the § 1231(a) setting"); *M.P. v. Joyce, No.1:22-cv-06123*, 2023 WL 5521155, at *5-6 (W.D. La. Aug. 10, 2023)(finding petitioner was not in custody in violation of his procedural due-process rights where petitioner received requisite custody review panels, where petitioner's detention was not "indefinite" or "potentially permanent," and, "to the extent the *Mathews* factors" applied, the government's interests outweighed petitioner's); *cf. Roman v. Garcia*, No. 6:24-cv-01006, 2025 WL 1441101, at *3 (W.D. La. Jan. 29, 2025) (finding that petitioner's detention did not violate due process because the government could detain her beyond the 90-day removal period pursuant to § 1231(a)(6), and § 1231(a)(6) does not require a bond hearing). Petitioner has received all the process to which he is entitled.

2. Even if this Court were to find that Petitioner warrants additional process, the *Mathews* factors weigh in favor of continued detention.

Even if *Zadvydas* did not squarely govern Petitioner's claim, as it does, he would not be entitled to immediate release that he seeks. Courts across the country have applied

different approaches to determine the constitutionality of continued detention under various immigration statutes. *See, e.g., Rimtobaye v. Castro*, No. SA-23-CV-1529-FB (HJB), 2024 WL 5375786, at *2–3 (W.D. Tex. Oct. 29, 2024), *report and recommendation adopted*, No. SA-23-CV-1529-FB, 2025 WL 377722 (W.D. Tex. Jan. 31, 2025) (collecting cases and comparing approaches). Some courts, but not all, utilize the three-factor balancing test Petitioner urges here, which is set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), a case involving the termination of a citizen's social security benefits. *Id.* The Supreme Court, however, "when confronted with constitutional challenges to immigration detention has not resolved them through express application of *Mathews*," *Rodriguez Diaz*, 53 F.4th at 1206–07, and the Respondents do not concede that *Mathews* applies here.

Other circuits have applied the *Matthews* test to due-process challenges brought under section 1231(a)(6), the Fifth Circuit, however, has not applied *Matthews* to due-process challenges to section 1231. Petitioner makes no argument as to why this Court should apply the *Matthews* test and offers no reason his procedural due-process claim should not be subject to the same standard as other due process challenges to section 1231 in this Circuit. *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006). Petitioner has been adjudicated removable and had the benefit of the attendant processes. But even if the Court were to find that *Matthews* applies, the conclusion would nevertheless be the same—Petitioner's detention is not unconstitutional even under *Matthews*.

Mathews outlines a three-part "flexible" test to determine whether due process complies with the Constitution. *Mathews*, 424 U.S. at 321. Under *Mathews*, courts

consider: (1) the individual's interest; (2) the risk of erroneous deprivation of the right absent further procedures; and (3) the government's interest. *Id.* at 334. Any analysis of these factors in the immigration context must "weigh heavily" the fact that "control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). A correct application of the *Mathews* test weighs against ordering the immediate release Petitioner requests.

Clearly Petitioner has a liberty interest in freedom from lengthy imprisonment. However, Petitioner's liberty interest is diminished because he is subject to an order of removal. *See, e.g., Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1208 (9th Cir. 2022). The Supreme Court has emphasized that "detention during deportation proceedings [remains] a *constitutionally valid* aspect of the deportation process." *Demore v. Kim*, 538 U.S. at 523 (emphasis added). Any assessment of the private interest at stake therefore must account for the fact that the Supreme Court has never held that aliens have a constitutional right to be released from custody during the pendency of removal proceedings, and in fact has held precisely the opposite. *See id.* at 530; *see also Carlson v. Landon*, 342 U.S. 524, 538 (1952) ("Detention is necessarily a part of this deportation procedure.").

Regarding the second *Mathews* factor, applicable statutes and regulations already provide extensive protections to all aliens detained pursuant to § 1231, including those in withholding-only proceedings. There is no basis in law for imposing yet more procedures that neither Congress nor the relevant agencies have adopted.

As a threshold matter, § 1231(a)(6) provides that DHS "may" detain an alien beyond the 90-day removal period—in other words, the decision is discretionary. And federal regulations set forth a framework for the exercise of that discretion. *See* 8 C.F.R. § 241.4. Under that framework, ICE may release the alien if he demonstrates to the satisfaction of the responsible official that he will not pose a danger to the community or a significant flight risk pending his removal from the United States. *Id.* § 241.4(d)(1) .

Federal regulations also set out a separate set of "special review procedures" derived from *Zadvydas*. 8 C.F.R. § 241.13(a). Under those procedures, the regulation provides that a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2). At that point: "[T]he alien will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly *after* his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification." *Id.* § 241.13(i)(3) . The regulations expressly provide that those special review procedures supplement rather than supplant the discretionary framework discussed in the preceding paragraph. *Id.* § 241.13(b).

Though Petitioner tries to impugn the quality of these procedures, the Supreme Court concluded in *Zadvydas* that the process established in that case overcomes any constitutional concerns the applicable procedures might raise. *See* 533 U.S. at 692, 699-701; *see also Wang*, 320 F.3d at 146 (rejecting claim for bond hearing to justify continuing detention). Petitioner's chief complaint is that Respondents did not give notice

and an opportunity to respond prior to revoking his OSUP. ECF 1, ¶ 67. Petitioner did not cite any authority for the apparent premise of this allegation that a pre-detention interview was somehow required. It was not, because as discussed above, the regulation instead provides for an interview of the alien "after his or her return to [the agency's] custody." 8 C.F.R. § 241.13(i)(3).

Finally, the government's interests in maintaining the existing procedures are legitimate and significant. As a general matter, the Supreme Court has stressed that the government "need[s] . . . flexibility in policy choices rather than the rigidity often characteristic of constitutional adjudication" when it comes to immigration regulation. *Mathews v. Diaz*, 426 U.S. 67, 81 (1976). Accepting Petitioner's position would flout this directive by injecting that very rigidity into the discretionary detention regime Congress adopted.

In determining what process is due in immigration proceedings, "it must weigh heavily in the balance that control over matters of immigration is a sovereign prerogative, largely within the control of the executive and the legislature." *Landon v. Plasencia*, 459 U.S. 21, 34 (1982). "[A]ny policy toward aliens is vitally and intricately interwoven with contemporaneous policies in regard to the conduct of foreign relations, the war power, and the maintenance of a republican form of government." *Mathews*, 426 U.S. at 81 n.17 (quoting *Harisiades v. Shaughnessy*, 342 U.S. 580, 588-89 (1952). "Congress has repeatedly shown that it considers immigration enforcement—even against otherwise non-criminal [noncitizen]s—to be a vital public interest." *Miranda v. Garland*, 34 F.4th 338, 364 (4th Cir. 2022). It is thus clear that, in the removal process, "the government

interest includes detention." *Id.* And the Supreme Court has stated removal proceedings "would be vain if those accused could not be held in custody pending the inquiry into their true character." *Wong Wing v. United States*, 163 U.S. 228, 235 (1896). Further, "[t]here is always a public interest in prompt execution of removal orders: The continued presence of an alien lawfully deemed removable undermines the streamlined removal proceedings [Congress] established, and permit[s] and prolong[s] a continuing violation of United States law." *Nken v. Holder*, 556 U.S. 418, 436 (2009); *see Landon*, 459 U.S. at 34 ("The government's interest in efficient administration of the immigration laws . . . is weighty.").

Therefore, all three *Mathews* factors favor the Respondent, and this Court should accordingly dismiss the Petition.

3. Petitioner's Re-Detention is Lawful.

The authority to detain Petitioner derives from 8 U.S.C. § 1231, which directs the Attorney General to detain and effect the removal of any alien from this country within 90 days of any order of removal, while also authorizing an additional period of detention for certain aliens who have been ordered removed due to a criminal offense or who otherwise present a risk to the community. 8 U.S.C. § 1231(a)(1), (6)). Construing the post-90-day-removal-period detention provision of this statute, the Supreme Court held in *Zadvydas* that the statute does not authorize permanent, indefinite detention, and that instead, "once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699.

Upon release, an alien subject to a final order of removal must comply with certain

conditions of release. 8 U.S.C. § 1231(a)(3), (6). And the release can be revoked for various reasons, including, under 8 C.F.R. § 241.13(i), for purposes of executing the alien's removal order. Specifically, a noncitizen's release may be revoked "if, on account of changed circumstances," it is determined that "there is a significant likelihood that the [noncitizen] may be removed in the reasonably foreseeable future." 8 C.F.R. § 241.13(i)(2).

Here, the revocation of Petitioner's release and his current detention are both legally permissible because of the change in circumstances relating to the ability to remove Pakistan Nationals from the United States. The United States has during the past year been successfully removing Pakistan Nationals from the United States to Pakistan. App. p. 4, at ¶ 13. These efforts have been successful: ERO has removed 270 Pakistan Nationals to Pakistan from October 1, 2024, to September 9, 2025. App. p. 6, at ¶ 3. ERO requested a travel document from Pakistan on October 16, 2025, the request included a copy of Petitioner's Pakistan birth certificate. App. p. 4, at ¶ 12.

In light of these changed circumstances, the Respondents had reason to revoke Petitioner's release and detain him in anticipation of a likely removal to Pakistan. Moreover, as shown by the declarations submitted in support of this response, there is a significant likelihood that Petitioner can be removed in the reasonably foreseeable future, based on the United States' recent experience with Pakistan's willingness to accept their citizens. App. p. 4, at ¶ 13. For these reasons, Petitioner is entitled to no relief on his challenges to the revocation of his release and detention. The relevant circumstances have changed, and therefore revocation and detention at this time for the purpose of attempting

to execute Petitioner's removal order are constitutionally permissible.

B. Petitioner's Remaining Claims are Improper.

1. Petitioner cannot seek APA review in a Habeas Petition.

In this proceeding, Petitioner expressly challenges his civil detention. *See, e.g.*, ECF 1. Such a challenge must be brought in the form of a petition for a writ of habeas corpus. *See Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973) (holding that when a detainee "is challenging the very fact or duration of his physical imprisonment, and the relief he seeks is a determination that he is entitled to immediate release or a speedier release from that imprisonment, his sole federal remedy is a writ of habeas corpus"); *see also, e.g.*, *Miller v. Commw. of Pa.*, 588 F. App'x 96, 97 n.1 (3d Cir. 2014) ("Relief in the form of . . . release from custody indicates a challenge to 'the very fact or duration of [one's] physical imprisonment' and may be sought *only* through a petition for a writ of habeas corpus[.]" (emphasis added) (quoting *Preiser*, 411 U.S. at 500)). Put simply, "release from ICE custody . . . is a remedy that is *only* available through a habeas petition." *Armando C. G. v. Tsoukaris*, No. 20-5652, 2020 WL 4218429, at *7 (D.N.J. July 23, 2020) (emphasis added). And indeed, a "Petition for a Writ of Habeas Corpus" is exactly what Petitioner filed. ECF 1.

In the Petition, Petitioner purports to assert a claim under the Administrative Procedure Act ("APA")—a civil claim. *Id.* ¶¶ 77-87. This he may not do, as a civil APA claim is not cognizable in the habeas context. *See, e.g.*, *Mesina v. Wiley*, 352 F. App'x 240, 241-42 (10th Cir. 2009) (holding that petition asserting APA claim "does not state a habeas claim").

2. Petitioner's Third Country Removal Claims are Not Ripe for Review.

Petitioner asserts he was told that he would be removed to El Salvador, a country not designated on his removal order. ECF. 1, ¶ 94. Petitioner further claims that he has not received notice or opportunity to be heard prior to third country removal. *Id.* at ¶ 96. This is pure conjecture, accordingly, this claim challenging a potential third country removal is not ripe for judicial review. *See Texas v. United States*, 523 U.S. 296, 300 (1998) (a "claim is not ripe for adjudication if it rests upon contingent future events that may not occur as anticipated or indeed may not occur at all." (cleaned up)).

Whether Petitioner will be removed to a third country is contingent on many things, none of which have happened. Most importantly, Respondents have requested a travel document from Pakistan. App. p. 4, at ¶ 12. That request has not been denied. Until and unless that occurs, there are no plans for third country removal. Moreover, there is no evidence ICE suggested or told Petitioner he would be removed to El Salvador. App. pp. 24-25. Simply put, Petitioner's claims are all hypothetical with no indication when or whether they will even occur. As such, they are not ripe for adjudication.

C. Petitioner is Not Entitled to a Temporary Restraining Order or Preliminary Injunction.

Petitioner's preliminary injunction motion is premised on his habeas claim that his re-detention is unlawful and that he cannot be removed to Pakistan. ECF 2. ICE has authority to re-detain noncitizens such as Petitioner when there are changed circumstances such that there is a significant likelihood that the noncitizen may be

removed in the reasonable future. Circumstances have changed and therefore there is a significant likelihood that Petitioner will be removed to Pakistan soon. (cite) Petitioner's re-detention is proper, and his detention is not unconstitutional. But for all the reasons already discussed above in connection with the consideration of these issues in the context of Petitioner's habeas petition, these claims fail on the merits and therefore Petitioner also is not entitled to any temporary or preliminary relief on them. Petitioner cannot show that these claims are likely to succeed on the merits because, in fact, they fail on the merits as outlined herein. *See Canal Auth. of State of Fla. v. Callaway*, 489 F.2d 567, 572 (5th Cir. 1974).

V. Conclusion

Petitioner's motion for temporary restraining order and petition for habeas should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On October 17, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag
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