

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

MURAD LADAK,

PETITIONER,

v.

KRISTI NOEM, et al,

RESPONDENTS.

Civil Case No. 1:25-CV-00194-H

**REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION
TO PETITION FOR WRIT OF HABEAS CORPUS AND
MOTION FOR A PRELIMINARY INJUNCTION**

Petitioner, Murad Ladak, by and through undersigned counsel, files this reply to Respondents' opposition to his Petition for a Writ of Habeas Corpus and Motion for Temporary Restraining Order. In his habeas application filed on September 29, 2025, Petitioner challenged his re-detention in ICE custody several ways. He argued that his re-detention was a violation of his due process rights under the Fifth Amendment; violated constitutional and statutory authority; was a violation of the Administrative Procedure Act; and constituted an ultra vires action. ECF 1. In the corresponding Motion for Temporary Restraining Order, Mr. Ladak argued that he should be released from custody because he is likely to succeed in establishing his re-detention is unconstitutional and unlawful. ECF 2. Petitioner also argued against third-country removal, and if such removal happens, that he is entitled to procedures prior to removal.

Respondents filed a response on October 17, 2025, claiming that Petitioner's re-detention comports with due process under *Zadvydas v. Davis*, 533 U.S. 678 (2001);

circumstances have changed because Petitioner now may be removed to Pakistan; and third-country removal claims are not ripe for review. ECF 8. Petitioner now files this reply.

1. Respondents' assertion that the *Zadvydas* standard comports with due process for Petitioner's re-detention is not correct.

In its response, Respondents rest on the *Zadvydas* standard as providing the requisite due process for Petitioner's re-detention. ECF 8 at 4. In doing so, Respondents claim that Petitioner asks this Court to reconsider *Zadvydas*' holding. ECF 8 at 5-6. Petitioner certainly does not ask this Court to reconsider a Supreme Court holding. Instead, Petitioner asks this Court to determine whether there is constitutional or statutory authority to re-detain him after years of compliance that comports with his due process rights.

Indeed, the Immigration and Nationality Act provides that a noncitizen who is "ordered removed" "shall" be removed "from the United States within a period of 90-days."¹ The 90-day period is "referred to as the 'removal period'" in § 1231.² The 90-day "removal period begins on the latest of the following: (i) The date the order of removal becomes administratively final; (ii) If the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order; (iii) If the alien is detained or confined (except under an immigration process); the date the alien

¹ 8 U.S.C. § 1231(a)(1)(A).

² *Id.*

is released from detention or confinement.”³ The statute also has a subsection entitled “Suspension of period” which states:

The removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of removal.⁴

If the alien does is not removed within the removal period, the alien, pending removal, shall be subject to supervision, *i.e.*, an OSUP.⁵

Mr. Ladak went through this 90-day removal period in 2009 after he was taken into ICE custody and ordered removable by an IJ. He was detained almost two years after his removal order due to the fact that Pakistan refused to issue travel documents for him. Because Mr. Ladak’s removal was not, has not, and is not, a practical possibility, ICE released him after spending over a year detained. He has been following all the rules of his OSUP ever since that date.

The INA provides no legal authority to detain Mr. Ladak after his 15 years of compliance with the OUSP. Congress specifically laid out reasons that the time can be extended beyond 90 days in subsection (C)’s provision. None of these reasons apply to Mr. Ladak. The provision shows that Congress was well aware that there may be reasons to toll the timing of the removal period but still chose not to include situations like the

³ *Id.* at (a)(1)(B).

⁴ *Id.* at (a)(1)(C).

⁵ *Id.* at (a)(3).

one that Mr. Ladak is currently facing. There is no statutory authority that permits Mr. Ladak's current detention.

Respondents fail to address the constitutional mandates required in a civil detention setting, like the one that Mr. Ladak is currently facing. The Supreme Court has made very clear that indefinite civil detention is not constitutionally permissible. Indeed, “[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem.”⁶ “There is no sufficiently strong special justification here for indefinite civil detention.”⁷ Indeed, the Court has explained that under the INA, the Government has an interest in “ensuring the appearance of aliens at future immigration proceedings” and “preventing danger to the community” and therefore can justify limited detention.⁸ But “preventative detention based on dangerousness” is “limited to specially dangerous individuals.” And an alien’s removable statute in itself “bears no relation to a detainee’s dangerousness.”⁹ The Supreme Court has made explicitly clear, then, that the only way that extended re-detention can be constitutional is if Respondents can demonstrate that it is necessary to prevent a flight risk or danger to the community. Here, however, Respondents have made no such effort to do that.

⁶ *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

Indeed, Mr. Ladak's documented history of reporting to ICE over the past 15 years shows he is not a flight risk. He has proven that he is willing to assist in ICE's attempts to remove him by trying to obtain travel documents for himself. In 2018, Mr. Ladak traveled to the Embassy of Pakistan in Houston, Texas, to apply for a Pakistani passport, but the Embassy denied his request because it deemed his birth certificate from Pakistan insufficient proof of his citizenship.¹⁰ He has no objection to assisting with travel documents now. Moreover, Mr. Ladak has strong ties to area and no reason to flee. His United States citizen wife and children live here, and he is gainfully employed as a contractor to support his family.¹¹ His Lawful Permanent Resident spouse and children heavily depend on him and his employment. None of this behavior or personal history indicates that Mr. Ladak is a flight risk. Mr. Ladak also does not possess a history that indicates he is a "specially dangerous individual." Even though Respondents have made no attempt to justify limited civil detention here, there are no facts that would warrant it.

What's even more alarming, however, is that the "civil confinement here at issue is not limited, but potentially permanent."¹² *Zadvydas* and its progeny make certain that indefinite detention in the immigration context is not constitutionally permissible.¹³

Rather, *Zadvydas* explained that once 180 days have passed since the removal period

¹⁰ ECF 1 at Ex. 2.

¹¹ ECF 1 at Ex. 1.

¹² *Zadvydas*, 533 U.S. at 690 (citing *United States v. Salerno*, 481 U.S. 739 (1987); *Carlson v. Landon*, 342 U.S. 524, 545-46 (1962)).

¹³ *Id.*

began, a noncitizen may bring a habeas petition seeking release from further ICE custody. Mr. Ladak has already spent over 180 days in ICE custody almost two decades ago. And now, over 90 days have passed since Mr. Ladak was unlawfully taken back into custody. Respondents have made zero attempt to justify the re-detention in that period of time and have failed to provide how long they expect Mr. Ladak to remain in custody.

Mr. Ladak does not ask this Court to reconsider Supreme Court precedent. But it does ask this Court to determine whether there is a legitimate reason and constitutional authority for keeping him indefinitely detained at this time. This Court should grant the habeas petition.

2. The *Matthews* balancing test applies, and a weighing of the factors points to Mr. Ladak's immediate release.

Next, Respondents argue that the three-factor balancing test set forth in *Matthews v. Eldridge*, 424 U.S. 319 (1976), should not apply, but even if it does, the factors do not weigh in Mr. Ladak's favor. ECF 8 at 6-7. Respondents question the applicability of *Matthews* to these types of cases because the Fifth Circuit has not applied *Matthews* to due-process challenges to section 1231. ECF 8 at 12. But the three-part test set forth in *Matthews* is used "[t]o determine whether a civil detention violates a detainee's due process rights."¹⁴ Mr. Ladak is currently being civilly detained, and he asserts that this detention is violating his due process rights. And as recently as last week, a district court in the Western District of Texas applied the *Matthews* test in the context of an

¹⁴ *Hernandez-Fernandez v. Todd Lyons*, 2025 WL 2976923, at *8 (W.D. Tex.

immigration proceeding and, after weighing the factors, found in favor of the petitioner.¹⁵ Although these cases involved bond issues, the Western District expressed no issue about applying *Matthews* in this context and did not question whether *Matthews* applied in the Fifth Circuit to immigration cases. This Court should follow suit and find that *Matthews* applies.

Respondents next claim that a balancing of the factors does not weigh in Mr. Ladak's favor. For the first *Matthews* factor, the private interest that will be affected by the official action, Respondents quickly set aside Mr. Ladak's liberty interest in freedom from lengthy imprisonment and say that the interest "is diminished because he is subject to an order of removal." ECF 8 at 13. Respondents have made it abundantly clear they feel little for Mr. Ladak's liberty interest, but it still stands. Indeed, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests."¹⁶ "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process] clause protects."¹⁷ This is only more true where Mr. Ladak is an individual that has been previously released from custody and placed on an OSUP.¹⁸ His liberty interest therefore should be couched

¹⁵ See *Martinez v. Kristi Noem*, No. EP-25-CV-430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025); *Martinez v. Secretary of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *(W.D. Tex. Sept. 8, 2025) (granting petitioner's request for a temporary restraining order).

¹⁶ *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

¹⁷ *Vieira v. De Anda-Ybarra*, 2025 WL 2937880, at *6 (Oct. 15, 2025) (quoting *Zadvydas*, 533 U.S. at 690).

¹⁸ Compare *Hernandez-Fernandez*, 2025 WL 2976923, at *9 ("[O]nce released from immigration custody, noncitizens acquire 'a protectable liberty interest in remaining out of custody on bond.'") (quoting *Diaz v. Kaiser*, No. 25-CV-05071, 2025 WL 1676854, at *2 (N.D. Cal. June 14, 2025)); accord *Vieira*, 2025 WL

in the fact that he is being *re*-detained after being initially detained over 15 years ago for almost two years. Now he has been detained again for close to 60 days. Unlike Respondents claim, this factor weighs in Mr. Ladak's favor.

Turning to the second factor, the risk of erroneous deprivation, Respondents fail to consider that reasonable alternatives are available besides the procedures they list. ICE can continue its pursuit in obtaining travel documents from Pakistan with Mr. Ladak out of custody. He will continue to report and comply with his OSUP as he has done for 15 years. "The risk lies in the automatic continued deprivation of liberty for a noncitizen who has already been determined to not be a flight risk nor a danger to the community, and has lived in the United States for a prolonged period of time, especially where there are no facts in the record to reflect material changes in [Mr. Ladak's] dangerousness or flight risk."¹⁹ This factor weighs in Mr. Ladak's favor, too.

And finally, the Government's interest, Respondents contend that its interest "in maintaining the existing procedures are legitimate and significant," and immigration enforcement is a "vital public interest." ECF 8 at 15-16.²⁰ Respondents go so far as to state that there's a public interest in "prompt execution of removal orders." ECF 8 at 16.²¹ The irony is that the process has been anything but "prompt" for Mr. Ladak and others

2937880, at *6 (noting petitioner possesses a cognizable interest in his freedom from detention after being previously released on bond).

¹⁹ *Vieira*, 2025 WL 2937880, at *7.

²⁰ (quoting *Miranda v. Garland*, 34 F.4th 338, 364 (4th Cir. 2022)).

²¹ (quoting *Nken v. Holder*, 556 U.S. 418, 436 (2009)).

facing a similar situation. Mr. Ladak again remains in detention with little likelihood of being removed. Two weeks ago, Respondents sent a travel document request to the Consulate of Pakistan, which included a copy of Mr. Ladak's birth certificate.²² This is no different than what Mr. Ladak attempted to do in 2018 when he traveled to Houston to obtain a Pakistani passport.²³ Again, then, the Embassy deemed his birth certificate as insufficient proof of his Pakistani citizenship.²⁴ He does not possess any other documents to show his Pakistani citizenship. Respondents do not explain how the situation today is any different than the one seven years ago.

Meanwhile, Mr. Ladak remains detained with no end in sight. The *Matthew* test applies because Mr. Ladak is currently in civil detention, and a weighing of the factors points to granting him relief in the form of his immediate release from custody. This Court should grant relief.

3. Respondents' claim that third-country removal is not ripe for review demonstrates why an evidentiary hearing is necessary.

Respondents contend that Mr. Ladak's third-country removal claim is not ripe for review because there "are no plans for third county removal," and "Petitioner's claims are all hypothetical." ECF 8 at 19. In his habeas petition, Mr. Ladak provided evidence in the form of a declaration that he was informed he would be removed to El Salvador, a country that was not designated on his removal order. But Respondents claim that "there

²² ECF 9 at 6.

²³ ECF 1 at Ex. 1, 2.

²⁴ ECF 1 at Ex. 2.

is no evidence ICE suggested or told Petitioner he would be removed to El Salvador.” ECF 8 at 19. Mr. Ladak has no desire to conjecture or speculate that he may be removed—he included the evidence of his declaration because this is what he was told. However, DO Victor Figueroa states otherwise in a declaration submitted by Respondents.

This disputed statement shows that an evidentiary hearing is necessary to resolve critical factual disputes central to Mr. Ladak’s habeas petition. This is not a matter of legal interpretation but contested facts that go to the very heart of Mr. Ladak’s claims. What happens when Pakistan does not provide travel documents as it refused to do so back in 2018? Will Respondents provide the requisite notice of third-party removal at that time? Mr. Ladak does not wish to wait and find out.

Removal to a country other than Pakistan would be unlawful and in violation of ICE’s own regulations and would only be intended as a form of punishment. Mr. Ladak explains that he is “terrified” of being sent to El Salvador due to the country’s “notorious prison conditions.”²⁵ He has no connection to any country besides Pakistan and the United States. Mr. Ladak must be notified and given an opportunity to respond and contest that removal if he has a fear of prosecution or torture in that country. No process like this has been conducted at this time. Removal to a third county is not a feasible option and otherwise would be a violation of Mr. Alizadeh’s due process rights.

²⁵ ECF 1 at Ex. 1.

An evidentiary hearing would clear up the discrepancies and determine whether this issue is ripe for review.

4. Habeas relief is warranted here.

Petitioner Ladak has shown that he is entitled to relief habeas relief because his continued, indefinite detention in ICE custody is unlawful and violates his constitutional and statutory rights. He therefore asks this Court to grant the writ of habeas corpus and direct Respondents to immediately release Petitioner from custody under reasonable conditions of supervision. Alternatively, Mr. Ladak asks this Court to order Respondents not to remove him to any country other than Pakistan without proper notice and an opportunity to respond.

RESPECTFULLY SUBMITTED,

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CERTIFICATE OF SERVICE

I hereby certify that I electronically submitted this document via this Court's ECF system and served all parties electronically, including AUSA Ann Cruce-Haag on the date of filing.

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