

**IN THE UNITED DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

(1) Joel Rodriguez Rosales)	
)	Case No. 5:25-cv-01139-J
Petitioner)	
)	
v.)	HABEAS CORPUS
)	
(1) Don Jones, Warden, Kay County)	
Detention Center;)	
(2) Russel Holt, Director of Chicago)	
Office, U.S. Immigration and)	
Customs Enforcement;)	
(3) Kristi Noem, Secretary of the)	
Department of Homeland Security))	
(4) Pamela Bondi, Attorney General)	
of the United States,)	
in their official capacities,)	
)	
Respondents.)	
)	

PETITIONER'S REPLY

I. INTRODUCTION

Petitioner Joel Rodriguez Rosales (Petitioner) submits this Reply to Respondent's Response in Opposition to Petitioner's Petition for Writ of Habeas Corpus. The Respondents Don Jones, Warden, Kay County Detention Center, et al. (Respondents) filed their Response on October 21, 2025. Petitioner filed a Motion for Temporary Restraining Order on October 27, 2025. The Magistrate Judge recommended that both the Emergency Motion for Temporary Restraining Order and the Habeas Corpus petition be denied. For the reasons below: Petitioner submits that this Court should grant both.

II. ARGUMENT

Respondents argue that the government can detain Petitioner for as long as it likes, so long as there is theoretically a country in the world that will take him and so long as the government at some point in Petitioner's detention makes an effort to secure a third country removal. The government also suggests that there is no procedural due process violation related to Petitioner's continued detention, since he has been afforded post-order custody reviews. Finally, the government suggests that no process need be afforded to Petitioner once a third country that will accept him has been identified, beyond a reasonable fear interview conducted by the Department of Homeland Security itself, and states that Petitioner would be removed on October 28, 2025.

First, contrary to Respondents' assertion, Petitioner, a Honduran national who was granted deferral of removal under the Convention Against Torture, remains in the custody of Immigration and Customs Enforcement (ICE) and has not been removed to Mexico.

As was his right, Petitioner stated he was afraid to return to Mexico and had a third country fear interview. He also has the right to have an Immigration Judge review the asylum officer's decision. 8 C.F.R. 208.31(g). Petitioner explaining in his reasonable fear interview that Mexican drug cartels beat and kidnapped him in Mexico, leading him to flee to the United States. Although the decision from this fear interview was negative, the asylum office offered no reasoning in its decision for that result. Thus far there has been no immigration judge review of the negative decision.

Second, such endless detention undoubtedly violates Petitioner's due process rights, particularly where the government has failed to exercise due diligence to actually secure a third country for removal. Petitioner has had a final grant of deferral of removal under the Convention Against Torture since January 28, 2025. It took almost three months before the Chicago Enforcement and Removal Operations (ERO) submitted resettlement requests to Canada, Guatemala and Belize, countries to which Petitioner has no ties whatsoever. These countries denied entry to Petitioner. Document 8, Exhibit 2 at ¶20. It was not until after Petitioner filed a habeas petition that ERO made another attempt to resettle Petitioner to Mexico.

As explained in the Petition, the Respondents' burden under *Zadvydas* has two components, a success component ("significant likelihood of removal") and a timing component ("in the reasonably foreseeable future"). The government's only attempt to meet the burden rests on an outdated timeline from Officer McNary. Officer McNary's declaration is the entirety of the government's attempt to establish the significant likelihood of removal and does not meet either *Zadvydas* prong.

Respondents additionally claim that Petitioner has been awarded two Post-Order Custody Reviews and that as such, "...ICE has protected Petitioner's liberty interest, undermining his procedural due process claim," Document 8 at page 11. Petitioner's Post-Order Custody Reviews have been denied to his criminal history, however, again there is no analysis or any mention that the majority of Petitioner's arrests and convictions occurred over 15 years ago. Since Petitioner's last entry to the United States, he has had two driving while under the influence arrests. Although, Petitioner does not wish to undermine these arrests, there is mitigation to demonstrate that Petitioner's criminal history is mostly remote in nature. Additionally, these reviews fail to consider the extensive families ties Petitioner has in the United States, his involvement in his Church and the remoteness in nature of Petitioner's criminal history.

Finally, Respondents mischaracterize Petitioner's allegations that "Petitioner's due process claim fails on this detention as it is reasonably foreseeable that he will be removed, irrespective of any challenges or speculative delays attached thereto." Document 8 at page 11. As demonstrated, the Respondents have failed to provide any meaningful review of either Petitioner's fear of being sent to a third country or of his Post Order Custody Review. They also have delayed identifying any countries in any timely manner and instead wait months in between responses to communicate to Petitioner of any intention. There is no limit as to how many countries, Respondent can seek removal to, the Respondent is essentially asking for this Court to allow it seek removal to a country, that Petitioner may fear returning to, at whatever rate it seeks to move.

I. CONCLUSION

Petitioner has met his burden and respectfully asks this Court to grant his petition and order his immediate release from custody.

Respectfully submitted,

/S/ Braxton A. Coil

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Pro Bono Counsel for Petitioner

Dated: November 4, 2025

CERTIFICATE OF SERVICE

I, Braxton A. Coil, hereby certify that the above document was served upon Respondents electronically via ECF on November 4, 2025.

November 4, 2025

/S/ Braxton A Coil