

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

██████ N ██████ Y ██████ VALLE,

Petitioner,

v.

DON JONES et al.,

Respondents.

Case No.: 5:25-cv-01161-J

PETITIONER'S REPLY TO FEDERAL RESPONDENTS'
OBJECTION TO REPORT AND RECOMMENDATION

Petitioner, Mr. ██████ n ██████ y ██████ Valle ("██████"), hereby replies to the federal respondents' objection, Doc. 16, to the Magistrate Judge's Report and Recommendation, Doc. 15. The Court should adopt the magistrate judge's recommendation, grant habeas relief to ██████, and order his immediate release from custody.

██████ n incorporates by reference all arguments made in his Petition for Habeas Corpus and adds the following in reply.

I. Respondents Have Not Substantively Contested the Magistrate Judge's Findings and Recommendation that ██████ n Must Be Released Under *Zadvydas*.

Although filing a formal objection, Respondents make no substantive arguments to contest the magistrate judge's factual findings or recommendation that ██████ s habeas petition be granted. *See* Doc. 16. Specifically, Respondents do not contest that ██████ n has met his initial burden of providing "good reason to believe that there is no significant likelihood of removal in

the reasonably foreseeable future.” Doc. 15, at 8 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)). Specifically, the Magistrate Judge found that: (1) ██████ has been detained for more than six months; despite (2) being granted withholding of removal from the only country of his nationality; and (3) ICE officials have never been able to remove him to any other country nor provided evidence they could do so now. *See id.* at 8-10. Additionally, the Magistrate Judge found that, despite the opportunity to do so, Respondents did not meet their burden to show the likelihood of removal to a third country in the reasonably foreseeable future. *Id.* at 9-10.

Respondents have not substantively contested any of these findings and have therefore waived any challenge. *See Greer v. Dowling*, 947 F.3d 1297, 1303 (10th Cir. 2020). Nevertheless, to the extent Respondents make vague statements in their final paragraph that ██████ should “exhaust” available remedies or that an upcoming hearing in Immigration Court—which the magistrate already considered—makes any difference, ██████ responds briefly below:

- a. There is No Process to Exhaust in Immigration Court that Would Lead to the Remedy Sought Before This Court.

Respondents suggest that ██████ should “exhaust his available remedies in the immigration court” before a writ of habeas corpus can be issued. Doc 16 at 3. But Respondents have not pointed to any process that ██████ could follow in Immigration Court that would lead to his release from detention, the remedy he seeks here. There is none. Rather, as Respondents previously conceded, Supreme Court caselaw allows individuals like ██████ to obtain release through filing a habeas petition if their removal is not likely in the reasonably foreseeable future and continued detention is therefore unlawful. *Zadvydas*, 533 U.S. at 701; *see* Doc. 11 at 7 (“Upon the Court’s satisfaction that Petitioner’s interests are adequately protected pursuant to Rule 17(c), the Court may conduct its *Zadvydas* analysis.”).

To the extent Respondents suggest that ██████ must first pursue withholding of removal to a country that may not take him before a writ of habeas corpus can be issued, they provide no authority for this proposition. Rather, it is their burden to show that he is likely to be removed in the reasonably foreseeable future, and they have failed to do so. Doc. 15, at 10-11; *Zadvyas*, 533 U.S. at 701. Respondents do not contest that withholding of removal proceedings in Immigration Court could take months or years to complete. *See* Doc. 1-1 at 15; *Salad v. Dep't of Corr.*, 769 F. Supp. 3d 913 (D. Alaska 2025) (finding no significant likelihood of removal in the reasonably foreseeable future where the deportation “depend[ed] on the occurrence of multiple unguaranteed future events”); *Escalante v. Noem*, No. 9:25-cv-00182-MJT, 2025 U.S. Dist. LEXIS 148899 (E.D. Tex. Aug. 2, 2025) (holding that because Petitioner “may succeed on his reasonable fear claim taking Mexico off the table for removal,” his removal is a “remote possibility...not analogous to a significant likelihood that removal will occur in the reasonably foreseeable future”) (internal quotations omitted)). As outlined in the magistrate judge’s report, there is “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” Doc. 15 at 8 (citing *Zadvyas*, 533 U.S. at 701).

b. Respondents Still Have Not Submitted Evidence That There Is Any Country in the World to Which ██████ May Be Removed.

Respondents assert that there is a significant likelihood of removal “to Mexico or another [undesignated] country” in the reasonably foreseeable future because “an administrative hearing is set for December 9, 2025” in Immigration Court. *See* Doc 16 at 3. But despite an additional opportunity to do so, Respondents still have not provided any evidence that any country other than ██████ will accept ██████. *See Zadvyas*, 533 U.S. at 701 (after six months of detention, requiring the government to provide “evidence sufficient to rebut” the presumption that removal is not likely in the reasonably foreseeable future).

As outlined by the magistrate judge, “to date, DHS has not identified any country of removal, requested designation of a new country of removal, nor provided any evidence that any country other than ██████████ would accept [██████████]” Doc. 15 at 3. The magistrate judge highlighted that beyond their assertions that “Mexico was accepting citizens of ██████████ with final orders of removal” and that ██████████ is scheduled for an immigration court hearing on December 9, 2025, “Respondents have presented no evidence that Mexico or any other third country would be actually willing to take [██████████], and the mere possibility of repatriation to third countries, without concrete progress, is insufficient to justify continued detention.” *Id.* at 10 (citing *Momennia v. Bondi*, 2025 WL 3011896, at *10 (W.D. Okla. Oct. 15, 2025) (“[M]ere intent to find a third country,” absent “specific communications between the United States and an identified country” is “too speculative to permit indefinite detention”), adopted, 2025 WL 3006045 (W.D. Okla. Oct. 27, 2025) (additional citations omitted). Respondents have provided no reason to reject the Magistrate Judge’s supported recommendation. Rather, the Court should adopt it and order ██████████ released.¹

II. If the Court Declines to Adopt the Magistrate Judge’s Recommendation, It Should Find that Respondents Violated Their Own Regulations and the Administrative Procedures Act (APA).

Alternatively, if the Court declines to adopt the magistrate judge’s recommendation, it should reach the other claims in ██████████’s habeas petition and find that Respondents violated their own regulations and the APA in re-detaining ██████████ without having identified a removal country or following the proper procedures. *See* Doc. 1, at 3, 75-83. Respondents have waived any answer by failing to address these claims. *See* Doc. 11.

¹ Respondents urge the Court to “review de novo” whether Petitioner’s interests are adequately protected, but provide no reason to reject the Magistrate’s finding that they are so protected through undersigned Counsel’s ongoing representation. *See* Doc. 15, at 7; *Smith v. Howell*, No. CIV-14-1374-HE, 2015 WL 9957355, at *4 (W.D. Okla. Nov. 24, 2015).

CONCLUSION

For the foregoing reasons, the Court should adopt the magistrate judge's recommendation and order [REDACTED]'s immediate release from custody.

Respectfully submitted this 3rd day of December 2025.

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