

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

MOHAMMAD ABUSHANAB,

Petitioner,

v.

PAM BONDI, *et al.*,

Respondents.

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Civil Action No. 4:25-CV-05340

**FEDERAL RESPONDENTS’ MOTION FOR SUMMARY JUDGMENT**

Pam Bondi, in her capacity as Attorney General of the United States; Kristi Noem, in her capacity as Secretary of the U.S. Department of Homeland Security; Todd Lyons, Acting Director of United States Immigration and Customs Enforcement (ICE); and Bret Bradford, in his capacity as Field Office Director of ICE Houston Field Office, (“Federal Respondents”) file this Motion for Summary Judgment in opposition to the Petition for a Writ of Habeas Corpus (Dkt. No. 1). For the following reasons, the Court should deny the Petition on summary judgment.

**I. STATEMENT OF JURISDICTION**

The Court has jurisdiction to review this habeas petition as it challenges the lawfulness of the Petitioner’s detention. *See* 28 U.S.C. § 2241.

**II. STATEMENT OF AUTHORITY**

Petitioner is detained pursuant to a final order of removal issued by an immigration judge on February 3, 2025. *See* Exhibit 1 (Declaration of Deportation Officer Matthews), ¶ 22-23.

### III. SUMMARY

The Federal Respondents disagree with Abushanab's argument that his detention is unlawful because it is "indefinite" and that "there is 'no significant likelihood' that ICE will be able to remove Mr. Abushanab from the United States 'in the reasonably foreseeable future.'" Dkt. No. 1, ¶¶ 2, 64. Abushanab has been detained for approximately eight months post-removal order. Based on his own allegations, ICE has been making attempts to effectuate his removal by requesting travel documents. It is an insufficient basis for Abushanab to rely simply on the facts that he cannot be removed to Palestine due to a previous grant of Withholding of Removal and that removal has not been effectuated yet. As such, he fails to satisfy his initial burden to show that there is no significant likelihood of removal in the reasonably foreseeable future or that his detention is otherwise unlawful. Thus, summary judgment in favor of the Respondents is appropriate.

### IV. BACKGROUND

Petitioner Mohammad Abushanab is a Palestine citizen considered "stateless" who has been in immigration detention since July 2024. Dkt. No. 1, ¶ 1; Ex. 1, ¶ 9-10. During most of his detention, Abushanab had a pending asylum application that was made on July 24, 2024 and ultimately denied on February 3, 2025. Ex. 1, ¶¶ 14, 22. As such, he was ordered removed and has been detained post-removal for approximately eight months. Ex. 1, ¶ 23. Federal Respondents do not dispute Abushanab's contention that his application for Withholding of Removal and Convention Against Torture was granted (Dkt. No. 1, ¶¶ 22-23) and that as a result he cannot be removed to Palestine. However, as Abushanab acknowledges in the Petition, he can be removed to a third country. Dkt. No. 1, ¶ 47. And since March 2025, ICE

has requested Abushanab to assist in submitting documentation to effectuate his removal to multiple third countries. Dkt. No. 1, ¶¶ 38-39.

## V. STANDARD OF REVIEW

Summary judgment is appropriate where the pleadings and evidence demonstrate that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). Materiality is determined from the governing substantive law. *See Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986). Disputes over facts that may affect the outcome of the case according to the substantive law are “material” and a dispute is “genuine” if the evidence allows a reasonable jury to return a verdict for the nonmoving party. If the moving party meets its burden, the non-moving party must show a genuine issue of material fact exists. *Celotex*, 477 U.S. at 322; *Anderson*, 477 U.S. at 256.

## VI. ARGUMENT

In a petition for a writ of habeas corpus, the petitioner challenges the legality of the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286, 61 S.Ct. 574, 85 L.Ed. 830 (1941). As set forth in the INA, an alien must be held in custody after entry of a final removal order and during the 90-day removal period. 8 U.S.C. § 1231(a)(2). After this period, the INA nevertheless contemplates continued detention. *Id.* § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001), the Supreme Court addressed “whether aliens that the Government finds itself unable to remove are to be condemned to an indefinite term of imprisonment within the United States.” *Id.* at 695. It held that post-removal detention

is presumptively lawful up to six months, after which the detention may still be reasonable and lawful until “the alien provides good reason” to “determine that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

Thus, the primary issue before the Court is whether Abushanab has satisfied his burden of proof by providing good reason to show that there is no significant likelihood of removal in the reasonably foreseeable future.

**A. Petitioner fails to carry his burden of showing that there is no significant likelihood of removal.**

Failing to satisfy his burden, Abushanab relies mostly on conclusory allegations to support his habeas petition. Abushanab carries the burden to show that “there is no significant likelihood of removal . . . in the reasonably foreseeable future.” 8 C.F.R. § 241.13; *see Tawfik v. Garland*, No. 4:24-CV-02823, 2024 WL 4534747, at \*3 (S.D. Tex. Oct. 21, 2024) (citing *Zadvydas v. Davis*, 533 U.S. 678, 701, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001)) (explaining that it is the detainee’s burden to show that his removal is not significantly likely in the reasonably foreseeable future). To carry that burden requires “something beyond speculation and conjecture,” and a lack of visible progress, such as “a lack of post-order-of-removal proceedings,” is insufficient; rather, a petitioner must demonstrate that there are particular individual barriers preventing his removal. *Idowu v. Ridge*, No. 3:03-CV-01293, 2003 WL 21805198, at \*3 (N.D. Tex. Aug. 4, 2003); *see also Apau v. Ashcroft*, No. 3:02-CV-02652, 2003 WL 21801154 (N.D. Tex. June 17, 2003) (holding the fact that the respondent country had yet to issue travel documents was insufficient to meet this burden).

Abushanab does not allege plausible facts demonstrating that ICE is incapable of effecting his removal in the near future. His argument is simply that the Government is

incapable of removing him in the near future because he cannot be removed to Palestine.<sup>1</sup> But this contention fails to appreciate that he can be removed to a third country. In fact, Abushanab's alleges that ICE is and has attempted to remove him to Jordan, Canada, and Mexico. Dkt. No 1, ¶¶ 38-39. He has offered no evidence, other than conclusory allegations, indicating that any real, non-speculative barriers to his removal exist. There are therefore no constitutional infirmities with his detention at this juncture.

**B. Petitioner's Due Process claim is unsupported.**

Failing to show an unlawful detention under the statutory and *Zadvydas* frameworks, the Petition further fails to otherwise show any Due Process violation. Procedural due process protects an individual's right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridge*, 424 U.S. 319, 332-333 (1976). In the instant case, detention beyond the removal period may be maintained upon compliance with applicable process. *See* 8 C.F.R. § 241. There is no showing that procedural due process rights have been violated. *See* Dkt. No. 1, ¶¶ 35, 41 (alleging that ICE repeatedly reviewed its decision to detain him). Further, the threshold question in assessing substantive due process is "whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience." *County of Sacramento v. Lewis*, 523 U.S. 833, 847 n. 8 (1998). The Petition does not suggest that any immigration officer involved in this case acted in a manner

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<sup>1</sup> As previously stated, Abushanab was granted Withholding of Removal to Palestine only. "Withholding of removal is a form of immigration relief that requires the Government not to remove a noncitizen to a country where he has shown a sufficient likelihood of persecution, though it does not guarantee relief from removal to an alternative country." *Sagastizado v. Noem*, No. 5:25-CV-00104, 2025 WL 2957002, at \*1 (S.D. Tex. Oct. 2, 2025).

that could be characterized as egregious or that would shock the conscience. Thus, the Due Process claim fails to show a material fact issue

**C. The Court is without jurisdiction to enjoin removal or transfer to a third country.**

Finally, in a request that is outside the scope of a habeas petition, Abushanab asks this Court “to enjoin Respondents from removing or transferring Petitioner to a third country without notice and an opportunity to seek relief from removal to that country before an Immigration Judge.” Dkt. No. 1, ¶ 6. This claim fails for two reasons.

First, the Court lacks jurisdiction to consider such request as it would relate to a decision or action by the Attorney General to execute a removal order against an alien. *See Alvidres-Reyes v. Reno*, 180 F.3d 199, 206 (5th Cir. 1999) (Section 1252(g) removed jurisdiction to consider a “challenge to the Attorney General’s decision to decline to commence proceedings or to adjudicate deportations, *or to bear the plaintiffs’ claim for suspension of their deportations which concomitantly arises therefrom.*”); *Fabuluje v. Immigr. & Naturalization Agency*, 244 F.3d 133 (5th Cir. 2000). Relatedly, to the extent Abushanab raises due process claims to challenge execution of his removal order, such claims are also barred by Section 1252(g). *Foster v. Townsley*, 243 F.3d 210 (5th Cir. 2001); *see also, Chen v. Escareno*, No. 4:09-CV-00270, 2009 WL 3073928, at \*2, 6 (S.D. Tex. Sept. 18, 2009) (rejecting petitioner’s claim that she faced removal “without due process,” as “all of the plaintiffs’ claims are connected directly and immediately with a decision or action by the Attorney General to execute the [removal order],” and thus were unreviewable under Section 1252(g)).

Second, this claim is not yet live because there is no allegation or evidence that Abushanab is or will be deported to a third country without notice and an opportunity for him

to challenge the removal to an immigration judge. Thus, not only is Abushanab's request outside the scope of his habeas petition but it is not yet a live controversy until ICE identifies his third country, and he opposes such country.

## **VII. CONCLUSION**

For the reasons stated above, the Court should grant judgment as a matter of law in the Government's favor and dismiss the petition for writ of habeas corpus.

Dated: December 3, 2025

Respectfully submitted,

NICHOLAS J. GANJEI  
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**CERTIFICATE OF SERVICE**

I certify that on December 3, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

/s/ Lisa Luz Parker  
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