

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MEHRAB RAHIM BHAI,

Petitioner,

v.

PAMELA BONDI, *et al.*,

Respondents.

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Civil Action No. 4:25-CV-5382

**FEDERAL RESPONDENTS' MOTION FOR SUMMARY JUDGMENT
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 56**

Respondents Pamela Bondi, Attorney General of the United States; Kristi Noem, Secretary of U.S. Department of Homeland Security; Todd Lyons, Director, U.S. Immigrations and Customs Enforcement (ICE), and Paul McBride, Field Office Director, ICE Houston Field Officer, (the "Federal Respondents") hereby request that the Court deny Petitioner's habeas petition and grant summary judgment in the Government's favor under Federal Rule of Civil Procedure 56.¹

SUMMARY

The Court should reject Petitioner Mehrab Rahim Bhai's habeas petition because the factual record in this case does not support the legal theories that he relies on. First, Bhai has been in detention for approximately four months, less than the six-month detention period

¹ Petitioner alleges that he is being detained at the Montgomery Detention Center in Conroe, Texas. Dkt. No. 1 at ¶ 6. This facility operates under the direction of the Federal Government; as such, it is the Federal Respondents, not the named warden in this case, who makes the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code. Therefore, the Federal Respondents are the real party in interest and respond herein.

presumed to be reasonable under *Zadvydas*. Bhai has the burden of proof to show that there is no significant likelihood of removal in the foreseeable future. And he has not met his burden. Second, he fails to show that there have been arbitrary or capricious actions by ICE related to the applicable federal regulations regarding revocation of supervised relief. As such, summary judgment in favor of the Government is appropriate.

STATEMENT OF AUTHORITY

Bhai is detained pursuant to a final removal order by an immigration judge. Dkt. 1-1.

BACKGROUND

A. In 2001, Bhai enters the country with a stolen passport under the name of “Kamran Safdar Ali”.

Bhai has a lengthy detention history due largely to his use of a false identity. Bhai was born in Pakistan (Dkt. No. 1 at ¶ 13) but entered the country using a United Kingdom (UK) passport. Specifically, on March 28, 2001, Bhai was admitted into United States under Section 217 of the Immigration and Nationality Act (INA), the visa waiver program, with authorization to stay until June 26, 2001, using a UK passport under the name “Kamran Safdar Ali”. Exhibit 1 (Declaration of Deportation Officer Salinas) at ¶ 9. Ten months later, on January 30, 2002, ICE encountered Bhai after he was arrested and released by officers in Brazoria County, Texas for Promotion of Gambling and Possession of a Gambling Device charges, which were eventually dropped. Ex. 1 at ¶ 10. On January 30, 2002, Bhai, still identifying as “Ali”, told ICE that the UK passport he used to enter the country was lost. Ex. 1 at ¶ 11. On March 14, 2002, ICE submitted a request to the UK Consulate to issue a travel document (TD) under his “Ali” identity to effectuate his removal. Ex. 1 at ¶ 12. A few months

law, a UK Consular Officer notified ICE that the UK passport used by Bhai to enter the US had been reported stolen the year before in 2000. Ex. 1 at ¶ 13.

Between June 2002 and 2004, ICE attempted to obtain a TD from Pakistan on at least three occasions. Ex. 1 at ¶¶ 14-19. However, these attempts were under Bhai's assumed "Ali" identity. Ex. 1 at ¶¶ 14-19. Bhai's legal counsel at the time had also submitted a UK birth certificate to corroborate his "Ali" identity. Ex. 1 at ¶ 21. Eventually, on July 26, 2004, the Consulate of Pakistan issued an emergency TD for Bai under the "Ali" identity. Ex. 1 at ¶ 20.

B. Shortly before boarding his removal flight to Pakistan, Bhai claims to be a UK citizen.

On August 26, 2004, Bhai was scheduled for a charter removal flight to Pakistan, but when Bhai was interviewed by a Pakistani official prior to boarding the flight, he claimed to be a UK citizen, and he was subsequently removed from the flight. Ex. 1 at ¶ 22.

C. The UK Consulate notifies ICE that it found the real Kamran Safdar Ali residing in the UK.

On May 17, 2005, the UK Consulate informed ICE that a consular investigation revealed that the real owner of the "Ali" identity was located and that he was physically residing in the UK and had been personally interviewed to confirm he was in fact "Kamran Safder Ali. Ex. 1 at ¶ 27.

D. Following Pakistan's refusal to issue a TD due to his prior false claims, Bhai is released from detention.

On January 20, 2006, the Consulate of Pakistan met with Bhai while in ICE detention and then declined to issue a TD because of his prior claims to be a UK citizen. Ex. 1 at ¶ 28. After receiving documents from Bhai's counsel proving his real identity and Pakistani

citizenship, ICE submitted two additional TD requests to the Consulate of Pakistan in August 2006 and again in January 2007 using his real name. Ex. 1 at ¶¶ 31-33.

In May 2007, after Bhai filed a habeas corpus petition in U.S. District Court, ICE released Bhai under an order of supervision. Ex. 1 at ¶¶ 32-33. Based on ICE records, ICE attempted to obtain a TD from Pakistan in June 2007 and September 2009. Ex. 1 at ¶¶ 37-29.

On August 27, 2025, Bhai was taken into custody at the ICE Houston Field Office, then transferred to the Montgomery Processing Center (MPC) in Conroe, TX. Ex. 1 at ¶ 40. On September 25, 2025, ICE submitted a TD request for Bhai to the Consulate of Pakistan. Ex. 1 at ¶ 41. Bhai is currently detained at MPC pending a travel document from the Consulate of Pakistan. Ex. 1 at ¶ 42. As of December 2, 2025, ICE is actively working with the Embassy of Pakistan and the Department of State in issuing a travel document to effectuate Bhai's removal. Ex. 1 at ¶ 43.

ARGUMENT

Bhai presents two arguments as to why his detention is unlawful. First, he argues that there is no significant likelihood that he will actually be removed to Pakistan. Dkt. No. 1 at ¶¶ 33-43. Second, he challenges the revocation of his order of supervision, arguing (1) that he did not receive notice as to the reason for revocation and an opportunity to respond to those reasons, and (2) he did not satisfy the criterion for revocation. Dkt. No. 1 at ¶¶ 44-49. Federal Respondents address each argument in turn.

A. Likelihood of Removal

To prevail on his habeas petition, Bhai 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*, 533 U.S. at 701) (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).

Bhai does not demonstrate that ICE is incapable of effecting his removal in the near future. Rather he simply concludes that the Government is incapable of removing him in the near future because it has not been able to do so since 2007. *See* Dkt. No. 1, ¶ 29. But it is not as if the Government has been continuously attempting removal since 2009. *See* Ex. 1 at ¶ 39-40 (referencing TD requests made in 2009 and then in 2025). Bhai has offered nothing to suggest that subsequent removal attempts would have been unsuccessful. To the extent there has been inaction between 2009 and 2025, such inaction can (and indeed does) reflect different enforcement priorities across administrations. That various administrations previously elected not to attempt to remove Bhai does not mean it would not have been able

to. And second, it goes without saying that the state of foreign affairs is inherently dynamic, and thus any unsuccessful removal efforts 16 years ago are minimally probative of renewed efforts now.

In this case, the Government took Petitioner back into custody upon determining “that there is a significant likelihood of removal.” Dkt. No. 1-5. And ICE has stated that it is actively pursuing removal by requesting a TD to Pakistan. Ex. 1 at ¶ 43. Bhai has offered no evidence indicating that any real, non-speculative barriers to his removal exist. There are therefore no constitutional infirmities with his detention at this juncture.

B. The Six-Month Clock

Next, Bhai’s current detention has been ongoing for less than six months and thus presumptively constitutional. While *Zadvydas* did not speak with precision on the six-month presumption, courts have treated the clock on detention as re-starting each time an alien subject to a final order of removal is again detained by ICE. *See, e.g., Guerra-Castro v. Parra*, No. 1:25-CV-22487, 2025 WL 1984300 (S.D. Fla. July 17, 2025); *Thai v. Hyde*, -- F.Supp.3d --, 2025 WL 1655489 (D. Mass. June 11, 2025); *Dogra v. Immigr. Customs Enf’t*, No. 1:09-CV-00065, 2009 WL 2878459, at *2 n.2 (W.D.N.Y. Sept. 2, 2009). Such an approach makes sense, as the overarching anathema that *Zadvydas* sought to avoid was indefinite detention—not some total cumulative period of detention.

Here, Petitioner pleads that his detention began on August 27, 2025. Dkt. No. 1, ¶ 19. This habeas petition is therefore premature as it has not been brought within the presumptively lawful six-month period.

C. Revocation of Supervised Release

Bhai cites to 8 C.F.R. § 241.4(l)(1), arguing that this regulation entitled him to notice prior to revocation. But read in context, that sub-provision is inapplicable to him as it only addresses aliens re-detained based on a violation of the conditions of their release. Start with its title: “Violation of conditions of release.” *Id.* And it immediately proceeds to address “[a]ny alien . . . who has been released under an order of supervision or other conditions of release *who violates the conditions of release[.]*” *Id.* (emphasis added). And the remainder of that sub-provision in turn addresses “[a]ny such alien,” and then “the alien,” the scope of which is naturally read as directed at the earlier-specified subset of aliens. *Id.* That scenario is not present here. *See, e.g., Barrios v. Ripa*, No. 1:25-CV-22644, 2025 WL 2280485, at *6 (S.D. Fla. Aug. 8, 2025) (holding that the petitioner was not entitled to notice and an interview because such requirements “are only referenced in § 241.4(l)(1)—the OSUP revocation provision based on an alien’s violation of his conditions of release—and not § 241.4(l)(2)—the OSUP revocation provision based on the discretion of a qualified official to enforce a removal order or to commence removal proceedings”).

As to criterion, revocation of release is in the discretion of the revoking official. As set forth in the regulation, the revoking official has discretion to find that:

- (i) The purposes of release have been served;
- (ii) The alien violates any condition of release;
- (iii) It is appropriate to enforce a removal order or to commence removal proceedings against an alien; or
- (iv) The conduct of the alien, or any other circumstance, indicates that release would no longer be appropriate.

8 C.F.R. § 241.4(l)(2). It is clear that the third justification is present here. ICE is actively working to remove him, i.e., to enforce a removal order. These decisions are expressly entrusted to the revoking official's discretion. Thus, ICE lawfully exercised that discretion and re-detained Petitioner to enforce a removal order—in compliance with 8 C.F.R. § 241.4(l)(2). As a result, Bhai has failed to show a violation of the regulations.

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 (Dkt. No. 1).

Dated: December 1, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 1, 2025, the foregoing was filed and served on counsel for Petitioner via the Court's CM/ECF service.

/s/ Lisa Luz Parker
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