UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MELIZA CHAVARRIA QUIROZ,	§	
	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 4:25-CV-06142
	§	
MARTIN FRINK, *et al.*,	§	
	§	
Respondents.	§	

FEDERAL RESPONDENTS' RESPONSE AND MOTION FOR SUMMARY JUDGMENT

The Government[1] files this response to the Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 (Dkt. 1) and moves for summary judgment pursuant to Federal Rule of Civil Procedure 56. As explained below, Petitioner's claim for habeas relief should be denied because she was lawfully detained, and the length of her detention did not violate the law. For these reasons and those discussed below, any claim for emergency injunctive relief should also be denied.

I. SUMMARY OF THE ARGUMENT

When this action was initiated, Petitioner was in the custody of Immigration and Customs Enforcement (ICE). The Court issued a TRO and Petitioner was released. *See* Dkt. 8, 9. It is uncontested that Petitioner is subject to a final order of removal. This removal

[1] The proper respondent in a habeas petition is the person with custody over the petitioner. 28 U.S.C. § 2242; *see also* § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). That said, it is the originally named federal respondents, not the named warden in this case, who make the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code.

order was issued on November 12, 2025. Petitioner was therefore lawfully detained under 8 U.S.C. § 1231. Indeed, Petitioner was within the mandatory detention period of § 1231. The time that petitioner was detained prior to the issuance of her removal order is irrelevant for the purposes of the Court's § 1231 and *Zadvydas* analysis. Thus, the instant habeas petition should be denied as premature.

II. AUTHORITY BY WHICH PETITIONER WAS HELD

Petitioner was being held in immigration detention pursuant to a final removal order, which was issued on November 12, 2025. *See* Exhibit 1. She was therefore detained under 8 U.S.C. § 1231.

III. RELEVANT BACKGROUND

Petitioner is a native and citizen of Mexico. Dkt. 10 at ¶ 12. Petitioner first entered the United States in 2012, and immigration officials originally placed her in expedited removal proceedings. *See* Exhibit 1, Declaration of Deportation Officer Garcia at ¶¶ 9-12. Petitioner was subsequently allowed to enter the United States as a parolee. *Id.* at ¶ 13. U.S. Immigration and Customs Enforcement (ICE) detained petitioner on or about June 25, 2025. *Id.* at ¶ 22. Petitioner was granted a bond hearing and an immigration judge denied bond. *Id.* at 26.

On November 12, 2025, an immigration judge ordered Petitioner removed from the United States. Exhibit 1 at ¶ 30; *see also* Exhibit 2, IJ Removal Order. The immigration judge also granted Petitioner a deferral of removal under the Convention Against Torture, as to Mexico. *See* Exhibit 2. Petitioner waived an appeal of that removal order. *Id.* Since the removal order was issued, ICE has been working to identify a third country to which Petitioner could be removed. *Id.* at ¶¶ 31-32.

IV. STANDARD OF REVIEW

Summary judgment is appropriate under Rule 56 of the Federal Rules of Civil Procedure only if the pleadings, along with evidence, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *see also* Fed. R. Civ. P. 56(c). Once a motion has been made, the nonmoving party may not rest upon mere allegations or denials in the pleadings but must present affirmative evidence, setting forth specific facts, to show the existence of a genuine issue for trial. *Celotex Corp.*, 477 U.S. at 322-23. If the moving party meets its burden, the non-moving party must show a genuine issue of material fact exists. *Id.* at 322. Furthermore, "'only *reasonable* inferences can be drawn from the evidence in favor of the nonmoving party.'" *Eastman Kodak Co. v. Image Tech. Servs., Inc.*, 504 U.S. 451, 469 n.14 (1992) (emphasis in original) (quoting *H.L. Hayden Co. of N.Y., Inc. v. Siemens Med. Sys., Inc.*, 879 F.2d 1005, 1012 (2d Cir. 1989)).

V. ARGUMENT

Petitioner's detention was lawful because she is subject to the mandatory detention provision of 8 U.S.C. § 1231. In addition, Petitioner cannot show that the length of her detention was unreasonable under the *Zadvydas* framework because (1) she cannot count the period of detention prior to her final order of removal and (2) *Zadvydas* is inapplicable to someone who is within the 90-day removal period.

A. Petitioner's detention was lawful.

The statutory provision governing Petitioner's detention is 8 U.S.C. § 1231, which applies once an alien is ordered removed. Section 1231(a)(1)(A) provides that the Government

has a 90-day "removal period" to remove an alien ordered removed from the United States. *See* 8 U.S.C. § 1231(a)(1)(A). During the "removal period," the alien must be detained. *See* 8 U.S.C. § 1231(a)(2); *Kujoe Bonsafo Agyei-Kodie v. Holder*, 418 Fed. Appx. 317, 318 (5th Cir. 2011) (noting that § 1231 "provides that the Attorney General shall remove the alien within a period of 90 days, during which time the alien shall be detained").

Here, Petitioner's order of removal was issued on November 12, 2025. Thus, at the time the instant habeas petition was filed and when the Court entered the TRO, Petitioner was within the 90-day removal period and subject to mandatory detention. Because ICE was lawfully subjecting Petitioner to detention under § 1231(a), the habeas petition should be denied.

B. The *Zadvydas* framework is inapplicable.

The *Zadvydas* framework does not apply to aliens, like Petitioner, who are in the 90-day removal period. Because Petitioner is within the initial removal period, she is subject to mandatory detention. 8 U.S.C. § 1231(a)(2). Petitioner cannot count the time she was in pre-removal detention for the purposes of a *Zadvydas* claim. Petitioner points out that she has been detained since June 25, 2025. Dkt. 10 at ¶ 1. That is correct. But her detention from June 25, 2025 to November 12, 2025, is classified as pre-removal detention. That detention period is not relevant to the instant analysis. Because the statutory basis for her current detention, § 1231, was triggered by her removal order, she cannot challenge the duration of her detention before that time. *See Agyei-Kodie v. Holder*, 418 F. App'x 317, 318 (5th Cir. 2011) (holding that the petitioner's claims challenging his pre-removal order detention were moot after his removal order became final, and citing *Andrade v. Gonzales*, 459 F.3d 538, 542-43 (5th

Cir. 2006)); *Ndudzi v. Perez*, 490 F. Supp. 3d 1176, 1182 (S.D. Tex. 2020) ("[B]ecause the finality of the removal order shifts the statutory basis of Petitioner's detention, Petitioner's claims [challenging her detention in the months preceding the BIA's final removal order] are improperly presented.") (internal citations omitted); *Singh v. Johnson*, No. 3:23-CV-192-E-BH, 2023 WL 3235928, at *3 at n.4 (N.D. Tex. Mar. 7, 2023), report and recommendation adopted, No. 3:23-CV-192-E-BH, 2023 WL 3238949 (N.D. Tex. May 3, 2023) (same). Because Petitioner had been detained for approximately 30 days when this habeas petition was filed, she was well within the 90-day mandatory detention period and this habeas petition should be denied.

C. Petitioner's remaining claims also fail.

The Court should deny Plaintiff's remaining claims concerning an alleged violation of the Administrative Procedure Act (APA) (Count II) and the Due Process clause (Count III). First, Petitioner fails to identify a 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. Eldridg*e, 424 U.S. 319, 332-333 (1976). In the instant case, Petitioner makes a conclusory statement regarding the alleged denial of "an individualized custody review." Dkt. 10 at ¶ 22. It's not clear what custody review Petitioner is referencing because there is no citation to a regulation. But an alien is entitled to a custody review is she is still in detention after the 90-day removal period. Here, as explained above, Petitioner is still within the 90-day removal period and a custody review is not yet warranted. Moreover, because Petitioner was in full removal proceedings, she was afforded numerous procedural protections in immigration court. Thus, there is no showing that her due process rights have been violated.

Petitioner's APA claim also fails because she cannot bring her APA claim in a habeas action. Petitioner's APA claim is that her detention violates the law. *See* Dkt. 10 at ¶¶ 21 (alleging that "ICE has deviated from its own policy in continuing to detain Petitioner after she was granted immigration relief").[2] The APA only provides a basis for relief when "there is no other adequate remedy" available. 5 U.S.C. § 704. Here, habeas itself provides an adequate remedy to address Petitioner's statutory arguments concerning the legal basis for her detention. Thus, her APA claim fails. *See Trump v. J.G.G.*, 604 U.S. 670, 674 (2025) (Kavanaugh, J., concurring) (noting that the availability of habeas relief constitutes an "adequate remedy" barring suit under the APA).

VI. CONCLUSION

For the foregoing reasons, the Petition for Writ of Habeas Corpus should be denied.

Dated: December 30, 2025

Respectfully submitted,

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[2] To be clear, the granting of relief under the Convention Against Torture (CAT) does not prevent detention or removal. It merely prevents removal to a specific country. *See Ruiz-Perez v. Garland,* 49 F.4th 972, 979 (5th Cir. 2022) (noting that CAT protection does not "prevent the removal from going forward …[it] just prevents removal to a particular country.") (cleaned up).

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CERTIFICATE OF SERVICE

I certify that on December 30, 2025, the foregoing was filed and served on counsel of record through the Court's CM/ECF system.

s/ Jimmy A. Rodriguez
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