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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

AZMY ABDELRAAUF EL-GHAZALY,
Petitioner-Plaintiff,
v.
CHRISTOPHER CHESTNUT, *et al.*,
Respondents-Defendants.

No. 1:25-cv-01621-DC-CKD (HC)

**PETITIONER'S REPLY TO
RESPONDENTS' OPPOSITION TO
MOTION FOR TEMPORARY
RESTRAINING ORDER**

I. INTRODUCTION

The government's arguments are, at best, incomplete and, at worst, potentially misleading. Contrary to the sworn affidavit of Deportation Officer Patrick J. Cruz, Sr., Petitioner-Plaintiff, Azmy Abdelraauf El-Ghazaly ("Mr. El-Ghazaly" or "Petitioner") does not have a "documented history of noncompliance with his OSUP reporting obligations, including a more than two-year failure to report, relocating to another state without prior approval and most recently failed to report as required on October 21, 2023." ECF No. 4 (*Respondents' Opposition*, Cruz Decl., ¶ 10). On the contrary, it appears that Respondents' lack of proper record-keeping – and failure to abide by their

own regulations – has led to Mr. El-Ghazaly’s unconstitutional re-detention, keeping him separated from his wife and children for more than forty-three days, including over a long holiday weekend.

As discussed below, Mr. El-Ghazaly has never failed to comply with his OSUP reporting obligations, did not report for a two-year period at the direction of his deportation officer, and relocated from Oklahoma to Texas with the pre-approval of ICE, which scheduled his check-in appointment on October 12, 2023 in Dallas, Texas -- at which he appeared at 2:04pm.

II. ARGUMENT

Respondents’ arguments fail, because they are relying on information that is inconsistent with the documented facts and history of this case.

First, despite stating the correct legal standard under *Zadvydas v. Davis*, 533 U.S. 678 (2001), Respondents curiously fail to mention that Mr. El-Ghazaly already completed the 90-day removal period in 2002, when he was detained from April 18, 2002 until August 23, 2002 – and was released after he sought habeas relief from the U.S. District Court. Instead, Respondents simply state that “his current stint of custody began last month” and that ICE “actively pursue[s]” issuance of a travel document from Saudi Arabia. ECF No. 4 (*Respondents’ Opposition* at p.3, citing Cruz Dec., ¶ 13). Deportation Officer Cruz declares: “As of the date of this filing, efforts to secure a travel document for Petitioner remain ongoing, and ERO continues to actively pursue its issuance.” ECF No. 4 (*Respondents’ Opposition*, Cruz Dec., ¶ 13). Except, in the forty-three days that Mr. El-Ghazaly has been in custody during his current stint, he has not been requested to sign any applications for travel documents to Saudi Arabia. If, indeed, ICE is actively pursuing issuance of a travel document for Mr. El-Ghazaly, it has had twenty-three years to do so. As stated in *Zadvydas*, if a detainee provides “good reason” to believe that his removal is not significantly likely in the reasonably foreseeable future, “the Government must respond with evidence sufficient to rebut that showing.” 533 U.S. at

701. Here, Mr. El-Ghazaly has provided a good reason to believe that his removal is not significantly likely in the reasonably foreseeable future – he is stateless and Saudi Arabia has already declined to accept him. The government has not pointed to anything sufficient to rebut that presumption. *See Phouvieng K. v. Andrews et al.*, No. 1:25-CV-01512-KES-SAB (HC), 2025 WL 3265504, at *5 (E.D. Cal. Nov. 24, 2025) (“[W]hen ICE revokes release to effectuate removal, it is [ICE’s] burden to show a significant likelihood that the alien may be removed. Imposing the burden of proof on the alien each time he is re-detained would lead to an unjust result and serious due process implications.”), quoting *Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (internal quotation marks and citations omitted).

Second, Respondents claim that “ICE did comply with its regulations” because Mr. El-Ghazaly’s “noncompliance on supervision” and “efforts to secure his travel documents to Saudi Arabia” both, “independently, justify revocation of his release.” ECF No. 4 (*Respondents’ Opposition* at p.4) (internal citations omitted). The facts of this case undermine both bases on which Respondents rely. Deportation Officer Cruz asserts that Mr. El-Ghazaly’s “documented history of noncompliance with his OSUP reporting obligations” “includ[e] a more than two-year failure to report, relocating to another state without prior approval and most recently failed to report as required on October 21, 2023.” ECF No. 4 (*Respondents’ Opposition*, Cruz Dec., ¶ 10). Undersigned counsel spoke to Mr. El-Ghazaly by phone just after receiving the government’s opposition and he informed her that:

- (1) Shortly after his spouse’s Form I-130, Petition for Alien Relative was approved on his behalf on February 25, 2015, he met with Deportation Officer Davis in Oklahoma City, Oklahoma and shared the good news, as well as his hope that his removal case would be reopened so that he could apply for lawful permanent residence. Officer Davis, apparently sympathetic to

1 Mr. El-Ghazaly's situation, tore up the OSUP paperwork and told Mr. El-Ghazaly "let's get
2 you done with reporting" or something to that effect. With Officer Davis's permission, Mr.
3 El-Ghazaly stopped reporting to ICE for about two years until the agency re-initiated his
4 reporting requirement.

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6 (2) Mr. El-Ghazaly's last check-in at ICE in Oklahoma City was on June 1, 2023. At that time,
7 he was provided with his next appointment date of August 31, 2023. When Mr. El-Ghazaly
8 called ICE in Oklahoma City to notify them that he would like to move to Dallas, Texas with
9 his family, a deportation officer told him not to appear for his check-in on August 31, 2023
10 but, instead, to report to the ICE office in Dallas on October 12, 2023, where his file would
11 be transferred.

12
13 (3) On October 12, 2023, at 2:04pm, Mr. El-Ghazaly reported to ICE in Dallas for his check-in,
14 and has continued to do so every year since then.

15 (4) Mr. El-Ghazaly is certain of the timing regarding the 2023 sequence of events because it is
16 documented in the ICE paperwork in his possession.

17 See Att. 1 (*Declaration of Lina Baroudi*). Even assuming that Mr. El-Ghazaly has a "documented
18 history of noncompliance with his OSUP reporting obligations" – which he does not – Respondents
19 could have revoked his release in October 2023 or October 2024. But they did not.

20 Likewise, if "efforts to secure his travel documents to Saudi Arabia" independently
21 "justif[ies] revocation of his release," Respondents do not offer any explanation as to why Mr. El-
22 Ghazaly's release was not revoked in the last twenty-three years. ECF No. 4 (*Respondents'*
23 *Opposition* at p.4). See *N.D.N v. Bondi, et al.*, No. 1:25-CV-01587-DAD-CKD, 2025 WL 3251102,
24 at *4 (E.D. Cal. Nov. 21, 2025) (It is undisputed that petitioner has not been able to be removed for
25 the past twenty-five years, during which time petitioner has been on supervised release [. . .]
26

[R]espondents have not shown why a travel document could not previously be obtained nor why Vietnam is likely to reach a different conclusion this time.”); *Hoac v. Becerra*, No. 2:25-cv-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding that the respondents failed to show a significant likelihood of removal where the respondents provided no evidence as to why a travel document could not previously be obtained to Vietnam nor why it was more likely in that instance). Finally, even if the Respondents assert that changed circumstances will result in Mr. El-Ghazaly’s removal to Saudi Arabia in the reasonably foreseeable future, “[8 C.F.R.] § 241.13(i)(2) requires that this determination is made *before* [he] has had his release revoked.” *Duong v. Charles*, No. 1:25-CV-01375-SKO, 2025 WL 3187313, at *3 (E.D. Cal. Nov. 14, 2025) (emphasis in original).

Third, Respondents note that once in custody, ICE “promptly ‘notified’ [Mr. El-Ghazaly] ‘of the reasons for revocation’ and provided him ‘an initial informal interview’ in which he could ‘respond to the reasons for revocation.’” ECF No. 4 (*Respondents’ Opposition* at p.4) citing 8 C.F.R. § 241.14(i)(3). Under the regulations:

Upon revocation, the [noncitizen] will be notified of the reasons for revocation of his or her release. The Service will conduct an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification. The [noncitizen] may submit any evidence or information that he or she believes shows there is no significant likelihood he or she be removed in the reasonably foreseeable future, or that he or she has not violated the order of supervision. The revocation custody review will include an evaluation of any contested facts relevant to the revocation and a determination whether the facts as determined warrant revocation and further denial of release.

8 C.F.R. § 241.13(i)(3) (emphasis added); *see also Yang v. Kaiser*, No. 2:25-CV-02205-DAD-AC (HC), 2025 WL 2791778, at *5 (E.D. Cal. Aug. 20, 2025). Notably, nowhere in their opposition, or in Deportation Officer Cruz’s sworn declaration, do Respondents assert that Mr. El-Ghazaly was

1 provided with the required Notice of Revocation of Release *upon revocation*. Indeed, according to
2 Mr. El-Ghazaly, he has not been provided *any* paperwork upon, or since, his re-detention. “Courts
3 have found that when ICE fails to follow its own regulations in revoking release, the detention is
4 unlawful, and the petitioner’s release must be ordered.” *Truong v. Noem*, No. 25-CV-2597-JES-
5 MMP, 2025 WL 2988357, at *6 (S.D. Cal. Oct. 22, 2025). Based on Mr. El-Ghazaly’s assertion that
6 he has not received any paperwork since his re-detention, and Respondents’ failure to produce – nor
7 mention – a Notice of Revocation of Release, there is a strong likelihood that ICE violated its
8 regulations in revoking Mr. El-Ghazaly’s release.
9

10 Instead of reiterating his arguments that he satisfies the requirements for a TRO, Mr. El-
11 Ghazaly submits:

12 We could all stand to pause for a moment and consider what it would mean,
13 personally, to be separated from our families. Now, discount that loss by however
14 much you think Petitioner’s immigration status makes it actually not that big of a
15 deal. The Court submits that there is no humane way to perform that calculus
without concluding that Petitioner has a tremendous interest at stake here.

16 *Tenemasa-Lema v. Hyde, et al.*, No. CV 25-13029-BEM, 2025 WL 3280555, at *9 (D. Mass. Nov.
17 25, 2025).

18 **III. CONCLUSION**

19 For all the aforementioned reasons, and the arguments set forth in his motion, Mr.
20 El-Ghazaly respectfully requests that the Court grant his motion for a TRO.
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1 Dated: November 28, 2025

2 Respectfully submitted,

3 /s/ Lina Baroudi

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