

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
SAN ANGELO DIVISION

MUKESH SAH,

Petitioner,

v.

Civil Action No. 6:26-CV-00204-H

PHILLIP VALDEZ,

Respondent.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Mukesh Sah is a native and citizen of Nepal who, with assistance of counsel, applied for and was granted a voluntary departure by an immigration judge on April 9, 2026. Doc. 11-1. Petitioner and DHS waived appeal. *Id.* On May 11, 2026, Petitioner filed his petition in this matter *pro se*. Doc. 1. On May 29, 2026, Petitioner departed the United States for his home country of Nepal. Doc. 11-2.

In his petition, Petitioner acknowledges that he was granted a voluntary departure. Doc. 1 at p. 2. He informs that Court that he has a pending U visa application. *Id.* He complains of prolonged detention and presses his U-visa application and work authorization card in support of his request for release from custody. *Id.* at p. 6, 7.

As their response to the petition, Respondents request that the Court dismiss the petition filed herein under Federal Rule of Civil Procedure 12(h)(3). Dismissal is appropriate because since the underlying petition was filed, Petitioner has departed the

United States in accordance with the terms of the voluntary departure order. 8 U.S.C. § 1229c(a). Petitioner is no longer present in the United States and is no longer in DHS custody. As such, there is no further relief that the Court may award. Accordingly, the Court should dismiss the habeas petition for lack of jurisdiction as moot. *See, e.g., Chay v. Holder*, 470 F. App'x 406, 406–07 (5th Cir. 2012); *Singh v. Mukasey*, No. 3:08-CV-2162-O, 2009 WL 1097255, at *1 (N.D. Tex. Apr. 22, 2009); *Caquias v. Dist. Dir. of ICE*, No. 3:08-CV-1808-D, 2008 WL 5378173, at *1 (N.D. Tex. Dec. 23, 2008).

Respectfully submitted,

Ryan Raybould
United States Attorney

/s/ Todd A. Durden
Todd A. Durden
Special Assistant United States Attorney
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Dallas, Texas 75242-1699
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todd.durden@usdoj.gov

Attorneys for Respondent

Certificate of Service

On May 30, 2026, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify the timely and proper service upon all parties electronically or by another manner authorized by Rule 5(b)(2) of the Federal Rules of Civil Procedure, to wit: via USPS First Class Mail to:

Mukesh Sah

BOP Eden Detention Center
PO Box 1617
Eden, TX 76837

/s/ Todd A. Durden
Todd A. Durden
Special Assistant United States Attorney

Exhibit

1



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
EL PASO SPC IMMIGRATION COURT

Respondent Name:

SAH, MUKESH

To:

Wayman, Brian H
1321 E SH-152
Suite E
Mustang, OK 73064

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

04/09/2026

☐ Unable to forward - no address provided.

☐ Attached is a copy of the **decision of the Immigration Judge**. This decision is final unless an appeal is filed with the Board of Immigration Appeals within 30 calendar days of the date of the mailing of this written decision. See the enclosed forms and instructions for properly preparing your appeal. Your notice of appeal, attached documents, and fee or fee waiver request must be mailed to:

Board of Immigration Appeals
Office of the Clerk
P.O. Box 8530
Falls Church, VA 22041

☐ Attached is a copy of the decision of the immigration judge as the result of your Failure to Appear at your scheduled deportation or removal hearing. This decision is final unless a Motion to Reopen is filed in accordance with Section 242B(c)(3) of the Immigration and Nationality Act, 8 U.S.C. § 1252B(c)(3) in deportation proceedings or section 240(b)(5)(c), 8 U.S.C. § 1229a(b)(5)(c) in removal proceedings. If you file a motion to reopen, your motion must be filed with this court:

Immigration Court

☐ Attached is a copy of the decision of the immigration judge relating to a Reasonable Fear Review. Pursuant to 8 C.F.R. § 1208.31(g)(1), no administrative appeal is available.

☐ Attached is a copy of the decision of the immigration judge relating to a **Credible Fear Review**. This is a final order. No appeal is available.

☒ Other:

IJ ORDER

Date:

A handwritten signature in black ink, consisting of a stylized 'N' followed by a 'Z'.

Immigration Judge: Lucic, Nicholas B. 04/09/2026

Certificate of Service

This document was served:

Via: ☐ M] Mail | ☐ P] Personal Service | ☐ E] Electronic Service | ☐ U] Address Unavailable

To: ☐] Alien | ☐] Alien c/o custodial officer | ☐ E] Alien atty/rep. | ☐ E] DHS

Respondent Name : SAH, MUKESH | A-Number : 

Riders:

Date: 04/10/2026 By: Neuse, Georgina, Court Staff



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
EL PASO SPC IMMIGRATION COURT

Respondent Name:

SAH, MUKESH

To:

Wayman, Brian H
1321 E SH-152
Suite E
Mustang, OK 73064

A-Number:



Riders:

In Removal Proceedings

Initiated by the Department of Homeland Security

Date:

04/09/2026

ORDER OF THE IMMIGRATION JUDGE

Based on Respondent's admissions, the court has determined that the Respondent is removable from the United States based on the charge(s) set forth in the Notice to Appear. The Respondent has made an application solely for voluntary departure in lieu of removal and has waived appeal of all issues.

ORDER: Accordingly, it is HEREBY ORDERED that the respondent be GRANTED pre-conclusion voluntary departure under Immigration and Nationality Act (INA) § 240B(a), in lieu of removal, without expense to the Government, on or before 05/11/2026, or any extensions as may be granted by the Department of Homeland Security (DHS), and under any other conditions DHS may direct.

It is FURTHER ORDERED:

- ☐ that the Respondent post a voluntary departure bond in the amount of \$ USD with DHS on or before .
- ☐ that the Respondent provide DHS with the Respondent's passport or other travel documentation sufficient to assure lawful entry into the country to which Respondent is departing within 60 days of this order, or within any time extensions that DHS may grant and/or
- ☒ Other:
Under Safeguards

It is FURTHER ORDERED that if any of the above-ordered conditions are not met as required or if the Respondent fails to depart as required, the above grant of pre-conclusion voluntary departure shall be withdrawn without further notice or proceedings and the following order, entered pursuant to 8 C.F.R. § 1240.26(d), shall become immediately effective:
the Respondent shall be removed to NEPAL on the charge(s) set forth in the Notice to Appear.

It is FURTHER ORDERED that if the above country advises DHS that it is unwilling to accept the Respondent into its territory, or fails to advise DHS within three months following original inquiry whether it will accept Respondent into its territory, the Respondent shall be removed to N/A

The Respondent is HEREBY ADVISED that if the Respondent fails to voluntarily depart the United States within the time specified, or within any extensions that DHS may grant, the Respondent will be subject to the following penalties:

The Respondent will be subject to a civil monetary penalty as listed in 8 C.F.R. § 280.53(b). *See* INA § 240B(d). The court has set the presumptive civil monetary penalty amount of \$3,000.00 USD (or \$ USD instead of the presumptive amount).

The Respondent will be ineligible, for a period of 10 years, to receive cancellation of removal, adjustment of status, registry, voluntary departure, or a change in nonimmigrant status. *See* INA § 240B(d).

The Respondent is FURTHER ADVISED that if Respondent files a motion to reopen or reconsider during the voluntary departure period, the period allowed for voluntary departure will not be stayed, tolled, or extended, the grant of voluntary departure will be terminated automatically, the alternate order of removal will take effect immediately, and the above penalties for failure to depart voluntarily under INA § 240B(d) will not apply. 8 C.F.R. §§ 1240.26(b)(3)(iii), (e)(1).

Failure to Depart: If Respondent is subject to a final order of removal and willfully fails or refuses (1) to depart from the United States pursuant to the immigration court's order, (2) to make timely application in good faith for travel or other documents necessary to depart the United States, (3) to present themselves at the time and place required for removal by the DHS, or (4) conspires to or takes any action designed to prevent or hamper their departure pursuant to the order of removal, Respondent shall be subject to a civil monetary penalty for each day Respondent is in violation, pursuant to INA § 274D and 8 C.F.R. § 280.53(b)(14). If Respondent is removable pursuant to INA § 237(a), then Respondent shall be further fined and/or imprisoned for up to 10 years. *See* INA § 243(a)(1). Further, any Respondent that has been denied admission to, removed from, or has departed the United States while an order of exclusion, deportation, or removal is outstanding and thereafter enters, attempts to enter, or is at any time found in the United States shall be fined or imprisoned not more than two years, or both. 8 U.S.C. § 1326(a).

 

Immigration Judge: Lucic, Nicholas B. 04/09/2026

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☒ waived ☐ reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : SAH, MUKESH | A-Number : 

Riders:

Date: 04/10/2026 By: Neuse, Georgina, Court Staff

Exhibit 2

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

VOLUNTARY DEPARTURE AND VERIFICATION OF DEPARTURE

To: (Alien's Last Name, First Name, and Address) MUKESH SAH FAILED TO PROVIDE ADDRESS	Alien's Phone Number 	A Number XXXXXXXXXX FIN XXXXXXXXXX
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- ☐ You have violated the terms of your admission as a nonimmigrant. Consequently, the permission previously granted you to remain in the United States is rescinded. You are required to depart from the United States at your own expense on or before _____.
- ☒ On April 9, 2026 you were granted voluntary departure by the ☒ IJ ☐ BIA ☐ DHS. You are required to depart from the United States on or before May 11, 2026 ☐ at your expense. ☐ at government expense. ☒ under safeguard.
- ☒ Your request for an extension of time to depart from the United States has been GRANTED. You are required to depart on or before May 29, 2026.
(Granted/Denied)
- ☐ You state that you will be departing the United States on _____ through _____
(Port of Departure)
- on _____
(Give Airlines, Flight Number and Time or Other Manner of Departure)

NOTICE: The Immigration Judge's Alternate Order of Removal will take effect if the alien does not depart within the time specified. Failure to depart on or before the specified date may result in the withdrawal of voluntary departure and action being taken to effect your removal. A warrant for your arrest will be issued if this office has not received verification of your departure by the specified date. Failure to depart on or before the specified date may also subject you to a possible civil penalty of not less than \$1,000 and not more than \$5,000, and render you ineligible for a period of 10 years for any further authorization for voluntary departure or for relief under sections 240A, 245, 248, and 249 of the Immigration and Nationality Act.

Additionally, if an Immigration Bond has been posted on the alien, the DHS will initiate the appropriate action in accordance with the terms of the executed bond and any attached rider or riders specified.

To any U.S. official: This document can be completed and transmitted to DHS/ICE Headquarters Office of Enforcement and Removal via VD-Bond-Verifications@ice.dhs.gov.

X D
Signature of Alien - Acknowledgment of Conditions and Receipt of Form _____ Date _____

D. 0523 HERRERA
Signature of Authorized DHS Official _____ Date 5/21/2026

Michael Thompson DO 5/29/26 Dallas
DHS Official Serving Form (Name and Title) _____ Office _____



If
Available



Verification of Departure (Completion by an official of the Department of Homeland Security or the U.S. Department of State)			
Signature of Official Verifying Identity	<u>Michael Thompson</u>	Date <u>5/29/26</u>	Phone #:
Printed Name/Title of Official Verifying Identity	<u>Michael Thompson DO</u>		
U.S. Departure Place	<u>DFW</u>	Date <u>5/29/26</u>	
Method of Departure	☒ Air ☐ Train ☐ Boat ☐ Other:		
Comments	<u>Air</u> XXXXXXXXXX		