UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Ronny Samuel Velasquez Lopez, Petitioner, v. David Venturella, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement, *et al.*, Respondents.	No. 5:26-CV-04303-XR

FEDERAL[1] RESPONDENTS' RESPONSE IN OPPOSITION TO PETITIONER'S WRIT OF HABEAS CORPUS

Federal Respondents provide the following response to petitioner's habeas petition. Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief sought, including attorney's fees under the Equal Access to Justice Act (EAJA).[2] Petitioner is a citizen of Honduras and is subject to a final order of removal from 2012 which was reinstated on May 22, 2026, which mandates his detention. *See* Exh. A ¶ 8 (ERO Declaration); Exh. B (Notice of Intent/Decision to Reinstate Prior Order); *see also* 8 U.S.C. § 1231(a)(5); *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

Respondents urge this Court to also find that Petitioner has not shown that his mandatory detention provision is unconstitutional as applied to him. *See Huipe Ramos v. De Anda Ybarra*, No. 3:25-CV-00503-LS, 2026 WL 851992 at *2 (W.D. Tex. Mar. 27, 2026) (no due process violation where alien is detained on a mandatory basis during removal proceedings). Upon information and belief, Petitioner's application for relief remains pending before the agency.

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1 The Department of Justice represents only federal employees in this action.

2 *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

Accordingly, no application for relief has been granted, and he is subject to a final order of removal. The petition should be denied in its entirety without a hearing.

I. BACKGROUND

Petitioner, a native and citizen of Honduras, was ordered removed on April 19, 2012. Exh. B. He was removed on May 14, 2012. *Id.* Petitioner admits in his petition, he returned to the United States without inspection or admission in 2017. ECF No. 1 at 6. Petitioner was served with notice indicating that his order of removal was reinstated under 8 U.S.C. § 1231(a)(5) when ICE encountered him on May 22, 2026. Exh. B.

On July 9, 2026, Petitioner filed his petition. ECF No. 1. Petitioner alleges he is seeking VAWA relief, but Petitioner's location is not dispositive of eligibility, and he can pursue this status from outside the United States. *See* https://www.uscis.gov/humanitarian/abused-spouses-children-and-parents (last accessed July 17, 2026).

ICE is not seeking to remove Petitioner to a third country and plans to effectuate his removal to Honduras. Exh. A ¶¶ 10-11. ICE is in possession of Petitioner's valid Honduran passport. *Id.* ¶ 11.

II. ARGUMENT

a. Petitioner's Post-Order Detention under § 1231(a)(5) Without A Bond Hearing Comports with Due Process

Petitioner has not established a cognizable due process claim or otherwise demonstrated that his detention is at odds with the purpose under which Congress enacted § 1231(a)(5). *See Johnson v. Guzman-Chavez,* 594 U.S. 523, 544 (2021) (recognizing Congress's judgment in distinguishing the detention of different groups of aliens who posed different risks of flight: those detained before having been ordered removed and those detained after already having been ordered removed). Aliens who reentered the United States illegally after being removed have demonstrated

a willingness to violate the terms of a removal order, which means they may be less likely to comply with the reinstated order. *Id.*

Petitioner's detention is not indefinite. Petitioner's removal order was reinstated. ICE will remove Petitioner, and salient here, Petitioner does not allege that removal is not foreseeable. *See generally* ECF No. 1. Petitioner cannot request this Court order additional process than what he has received in this case: the Supreme Court has already decided what constitutional due process is required under these circumstances to avoid violating the rights of an alien in this position. The *Zadvydas* standard *is* due process: a § 1231 detainee who fails the *Zadvydas* test fails to prove a due process violation. *Castaneda v. Perry*, 95 F.4th 750, 760 (4th Cir. 2024); *see also Linares v. Collins*, 1:25-CV-00584-RP-DH, ECF No. 14 at 10–14 (W.D. Tex. Aug. 12, 2025) (discussing *Johnson v. Arteaga-Martinez*, 596 U.S. 573 (2022) and *Castaneda*, 95 F.4th at 760).

In *Zadvydas*, the Supreme Court determined what "limits" the "Constitution's demands" imposed on "post-removal-period detention" pursuant to § 1231. *Zadvydas v. Davis,* 533 U.S. 678, 689 (2001). After determining that the Constitution "does not permit indefinite detention," the Court held that a habeas court "should hold continued detention unreasonable" only "if removal is not reasonably foreseeable." *Id.* at 689, 699. But the Supreme Court did not stop there—it went on to detail the process by which that determination would be made. After the end of the presumptively reasonable six-month detention period, an alien must "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. If that showing is made, "the Government must respond with evidence sufficient to rebut that showing." *Id.* This process was sufficient, the Court reasoned, to avoid the "serious constitutional concerns" that "indefinite detention" would raise. *Id.* at 682. The upshot of this decision is straightforward. "[T]he Supreme Court . . . had occasion to consider the constitutional

implications of indefinite detention under § 1231(a) ," and it "offered [courts] a standard through which to judge indefinite-detention cases—the *Zadvydas* standard." *Martinez v. Larose*, 968 F.3d 555, 566 (6th Cir. 2020); *see Wang v. Ashcroft*, 320 F.3d 130, 146 (2d Cir. 2003) (*Zadvydas* "articulates the outer bounds of the Government's ability to detain aliens . . . without jeopardizing their due process rights").

There is no basis for the Court to hold that due process demands more than what the Supreme Court already held it requires in this circumstance. *See Hernandez-Esquivel v. Castro*, No. 5-17-cv-0564-RBF, 2018 WL 3097029, at *8 (W.D. Tex. June 22, 2018) (stating that to the extent petitioner sought periodic bond hearings in federal court, "*Zadvydas* addressed the extent to which due process demands relief in the § 1231(a) setting"); *M.P. v. Joyce, No.1:22-cv-06123,* 2023 WL 5521155, at *5-6 (W.D. La. Aug. 10, 2023) (finding petitioner was not in custody in violation of his procedural due-process rights where petitioner received requisite custody review panels, where petitioner's detention was not "indefinite" or "potentially permanent," and, "to the extent the *Mathews* factors" applied, the government's interests outweighed petitioner's); *cf. Roman v. Garcia*, No. 6:24-cv-01006, 2025 WL 1441101, at *3 (W.D. La. Jan. 29, 2025) (finding that petitioner's detention did not violate due process because the government could detain her beyond the 90-day removal period pursuant to § 1231(a)(6), and § 1231(a)(6) does not require a bond hearing). Petitioner's removal order was reinstated under Section 1231(a)(5). Petitioner has received all the process to which he is entitled. *See, e.g., Andrade v. Gonzales,* 459 F.3d 538, 543 (5th Cir. 2006).

b. *ICWC* Class Membership Does Not Lead to Release

Even assuming the Petitioner is a class member of *Immigration Center for Women & Children v. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026) (Birotte, J.), ECF 57, said membership would not lead to relief.

First, *ICWC* ordered no classwide coercive relief—and it could not have. Section 1252(f)(1) strips district courts of "jurisdiction or authority to enjoin or restrain the operation of" 8 U.S.C. §§ 1221–1232. Id. at *17. The Court in *ICWC* was explicit that "[c]lasswide injunctions are barred." Id. It held that § 1252(f)(1) barred the classwide injunctions plaintiffs sought, and it entered none. The only coercive relief in the order—the two re-entry injunctions issued by the Court—runs solely to the three named plaintiffs. The classwide relief is three APA § 705 stays, nothing more. A stay read to coercively forbid ICE from seeking enforcement actions such as removing, detaining, or charging class members would itself restrain the operation of those provisions and thus violate § 1252(f)(1)—so the stays cannot be read that way. Further, reading the APA § 705 stays in this matter does not survive Garland v. Aleman Gonzalez, where the bar applies "[r]egardless of the nature of the action or claim" and "restrain" means broadly "to check, hold back, or prevent." 596 U.S. 543, 549–51 (2022); accord *Biden v. Texas*, 597 U.S. 785, 798 (2022). The bar turns on what the order does, not what it is captioned: Like the Constitution, the INA "deals with substance, not shadows." *SFFA v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 230 (2023); *cf. San Juan Cellular Tel. Co. v. PSC*, 967 F.2d 683, 684 (1st Cir. 1992) (Breyer, J.) (a declaratory judgment of unlawfulness "is equivalent to an injunction").

Second, *ICWC* issued relief beyond the certified classes, by also issuing relief to the organizations' "current and future clients. *Immigration Center for Women & Children v. Noem*, No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. May 20, 2026) (Birotte, J.), ECF 57, at *47. *Trump v. CASA, Inc.* confines equitable relief to "the plaintiffs before the court," 606 U.S.

831, 852 (2025), and warns that class certification cannot be used to resurrect the universal injunction "under the guise of 'nationwide class relief,'" id. at 868 (Alito, J., concurring). The "current and future clients" sweep in *ICWC* as to Organizational Plaintiff CHIRLA is the cleanest universal-relief defect; § 1252(f)(1) independently permits relief only as to "an individual alien against whom proceedings . . . have been initiated," not a non-party's prospective book of clients.

Lastly, jurisdiction never attached to claims under *ICWC*. Relief in the form of barring detention, commencement of proceedings, or halting removal is specifically channeled to the Fifth Circuit Court of Appeals. Section 1252(g) bars claims "arising from the decision or action" to "commence proceedings, adjudicate cases, or execute removal orders." *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). The *ICWC*'s attempt to characterize their claims as a challenge to a different administrative action does not remedy this either. Said characterization is still relief sought to preclude the execution of a removal order. *Cardoso v. Reno*, 216 F.3d 512, 516 (5th Cir. 2000).

"Section 1252(b)(9) operates as an unmistakable zipper clause designed to consolidate and channel review of al legal and factual questions that arise from the removal of an alien through the preordained administrative process." *Duron v. Johnson*, 898 F.3d 644, 647 (5th Cir. 2018).

Taken together both sections effectively stripped the *ICWC* Court of any jurisdiction to enter an order effectively staying or precluding commencement of proceedings, detention, and removal. Congress' decision to channel these claims to the Circuit Courts is not a denial of any forum Channeling is not a denial of any forum—only of the wrong one. *Aguilar v. ICE*, 510 F.3d 1, 11 (1st Cir. 2007).

III. Conclusion

Petitioner is lawfully detained, and this Court should deny the habeas petition.

Respectfully submitted,

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