

1 THE HONORABLE JAMAL N. WHITEHEAD  
2 THE HONORABLE MICHELLE L. PETERSON  
3  
4

5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 JAVON RICARDO GORDON,

9 Petitioner,

10 v.

11 PAMELA BONDI, Attorney General of  
12 the United States; *et al.*,

13 Respondents.

} Case No. 25-cv-00682-JNW-MLP

} JAVON GORDON'S RESPONSE TO  
14 MOTION TO DISMISS

15 **I. INTRODUCTION**

16 Mr. Gordon petitioned this Court to order his release from immigration  
17 confinement because there is not “good reason to believe” that ICE will be able to  
18 remove him to either The Bahamas or Jamaica in the reasonably foreseeable future. *See*  
19 Pet. for Writ of Habeas Corpus, Dkt. 1, Pg. 3. In response, respondents agree that The  
20 Bahamas will not accept Mr. Gordon, *see* Mot. to Dismiss, Dkt. 7, Pg. 5, but claim that  
21 they can deport Mr. Gordon to Jamaica using an expired Jamaican passport that was  
22 issued when Mr. Gordon was a child. *Id.* at 1.

23 Respondents are incorrect. Jamaica canceled that passport in 2003, four months  
24 before its expiration date,<sup>1</sup> because Mr. Gordon renounced his Jamaican citizenship.  
25 Exh. 1, Declaration of Renunciation of Citizenship (March 3, 2003), at 4. Jamaica’s  
26 Passport, Immigration, and Citizenship Agency (PICA) has confirmed that the passport

<sup>1</sup> The passport was cancelled in September 2003. It was set to expire February 10, 2004.

1 is invalid. Exh.2, Estrada Email (June 13, 2025). Because Mr. Gordon is not a Jamaican  
 2 citizen, Jamaica has stated categorically that it will not accept Mr. Gordon's removal to  
 3 that country. *Id.* Mr. Gordon's removal from the United States therefore is not  
 4 "significantly likely" to occur "in the reasonably foreseeable future." *Zadvydas v.*  
 5 *Davis*, 533 U.S. 678, 697 (2001).

6 ICE no longer has any statutory authority to continue to imprison Mr. Gordon.  
 7 *Id.* The Court must order his release subject to appropriate conditions.

8 **II. BACKGROUND AND PROCEDURAL HISTORY**

9 Mr. Gordon was born in The Bahamas, but did not receive Bahamian citizenship  
 10 because both his parents are Jamaican citizens. *See* Pet. for Writ of Habeas Corpus,  
 11 Dkt. 1, Pg. 3,4 (citing Bahamian immigration code). Jamaica eventually issued him a  
 12 passport but cancelled that passport in 2003, when Mr. Gordon renounced his Jamaican  
 13 citizenship as part of a failed effort to obtain Bahamian citizenship. Exh. 1. Declaration  
 14 of Renunciation of Citizenship (March 3, 2003). To the extent he ever was, Mr. Gordon  
 15 is no longer a citizen of Jamaica. Exh. 2.

16 Mr. Gordon became a lawful permanent resident of the United States but lost  
 17 that status due to criminal convictions. The immigration judge overseeing Mr. Gordon's  
 18 removal proceedings heard argument about Mr. Gordon's citizenship. The judge  
 19 ultimately ordered his removal to The Bahamas.

20 The Bahamas refused to accept Mr. Gordon for removal. *See* Motion to Dismiss,  
 21 dkt 7, at p5. For that reason, on May 16, 2025, approximately 16 months after taking  
 22 Mr. Gordon into custody, ICE announced its intention to remove Mr. Gordon to  
 23 Jamaica. Strzelczyk Decl., Dkt. 8, ¶ 7,9. Respondents evidently believe that Mr. Gordon  
 24 is a citizen of Jamaica who can be removed to Jamaica because Jamaica's recent  
 25 designation as an Electronic Nationality Verification Country eliminates the need for  
 26

1 any travel documents other than the cancelled and expired Jamaican passport. *See Mot.*  
 2 to Dismiss, Dkt. 7, Pg. 1.

3 That is wrong. Correspondence between Mr. Gordon's immigration lawyer and  
 4 the Jamaican government shows that Jamaica has rejected ICE's assertion that  
 5 Mr. Gordon is a citizen of that country. Exh. 2. Because he has no lawful status in  
 6 Jamaica, Jamaica's Passport, Immigration, and Citizenship Agency writes,  
 7 categorically, that "Mr. Gordon cannot be deported to Jamaica." *Id.*

8 **III. ARGUMENT**

9 **A. ICE has no statutory authority to imprison Mr. Gordon.**

10 In *Zadvydas v. Davis*, 533 U.S. 678, 697 (2001), ICE claimed both the authority  
 11 to imprison immigrants indefinitely post-removal and the right to be free from judicial  
 12 review of its detention decisions. The Supreme Court rejected both arguments. The  
 13 Court held instead 8 U.S.C. § 1231(a) gives the government six months during which  
 14 detention is presumed reasonable. *Id.* at 701. After that time, if the defendant presents  
 15 "good reason to believe" that deportation was not "significantly likely in the reasonably  
 16 foreseeable future," the government must release the detainee. *Id.* The Court  
 17 emphasized that what counts as "the reasonably foreseeable future" shrinks as the  
 18 period of confinement grows longer. *Id.*

19 To ensure that ICE does not exceed its statutory detention authority, the Supreme  
 20 Court emphasized that Courts may not defer to respondents' opinion about whether  
 21 removal is "significantly likely in the reasonably foreseeable future." *See id.* ("The  
 22 Government seems to argue that . . . a federal habeas court would have to accept the  
 23 Government's view about whether the implicit statutory limitation is satisfied in a  
 24 particular case, conducting little or no independent review of the matter. In our view,  
 25 that is not so.") and *id.* (admonishing district courts not to "abdicat[e] their legal  
 26 responsibility to review the lawfulness of an alien's continued detention."). Rather, the

1 Court must conduct an “independent review” of the likelihood of removal. *Id.* That  
 2 should include any testimony or discovery necessary to test the ICE’s assertions. See  
 3 *Bracy v. Gramley*, 520 U.S. 899, 909 (1997) (Where “specific allegations before the  
 4 court show reason to believe that the petitioner may, if the facts are fully developed, be  
 5 able to demonstrate that he is entitled to relief, it is the duty of the court to provide the  
 6 necessary facilities for an adequate inquiry.”); *Batyuchenko v. Reno*, 56 F. Supp. 2d  
 7 1163, 1163 (W.D. Wash. 1999) (ordering an evidentiary hearing to take more evidence  
 8 regarding “the likelihood of Belarus or Russian reconsidering their decisions” not to  
 9 claim the petitioner as one of their citizens and “the extent of the government’s efforts  
 10 to secure travel documents...from a third country,” among other things.)

11       **B. Because neither The Bahamas nor Jamaica will accept Mr. Gordon,  
 12 there is no good reason to believe he will be removed to either  
 13 country in the reasonably foreseeable future.**

14       Here, the undisputed facts establish no “good reason to believe” there exists any  
 15 likelihood, much less a significant likelihood, that Mr. Gordon will be deported in the  
 16 reasonably foreseeable future. To begin, all parties agree that Mr. Gordon cannot be  
 17 deported to The Bahamas, the country to which he was ordered removed, because that  
 18 country has declined to issue a travel document for him. Mot. to Dismiss, Dkt. 7, Pg. 5.  
 19 Jamaica, the only other country to which removal has been suggested, also refuses to  
 20 accept him.<sup>2</sup> Exh. 2.

21       Because neither The Bahamas nor Jamaica will take Mr. Gordon, and because  
 22 there is no suggestion that that Mr. Gordon can be removed to any other country, ICE  
 23 may not continue to imprison him. The Court should order Mr. Gordon’s immediate  
 24 release.

25  
 26 <sup>2</sup> Jamaica’s refusal to accept Mr. Gordon renders his application for asylum to that  
 country moot.

#### IV. CONCLUSION

Because there is no good reason to believe that Mr. Gordon can be removed in the reasonably foreseeable future, ICE has no statutory authority to prolong his detention. The Court should grant Mr. Gordon's petition and order Mr. Gordon's conditional release.

Dated this 20th day of June, 2025.

Respectfully submitted,

s/ *Gregory Murphy*  
Attorney for Javon Gordon  
Office of the Federal Public Defender

I certify that the foregoing contains 1210 words, in compliance with Local Civil Rules.