

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAVON RICARDO GORDON,

Petitioner,

Case No. C25-682-JNW-MLP

v.

REPORT AND RECOMMENDATION

PAMELA BONDI, *et al.*,

Respondents.

I. INTRODUCTION

15 Petitioner Javon Gordon is currently detained by U.S. Immigration and Customs
16 Enforcement (“ICE”) at the Northwest ICE Processing Center (“NWIPC”) in Tacoma,
17 Washington. He has filed a petition for writ of habeas corpus under 28 U.S.C. § 2241 seeking
18 release from custody. (Dkt. # 1.) Petitioner, who is proceeding through counsel, asserts that he is
19 entitled to release because his detention by ICE has become indefinite within the meaning of
20 *Zadvydas v. Davis*, 533 U.S. 678 (2001). (See *id.* at 3.) Respondents have filed a return
21 memorandum and motion to dismiss which is currently ripe for review. (Dkt. # 7.) Petitioner has
22 filed a response opposing Respondents’ motion to dismiss (dkt. # 11), and Respondents have
23 filed a reply brief in support of their motion (dkt. # 12).

1 Also a part of the record before the Court are a supplemental status report and declaration
2 filed by Respondents at the Court's direction (*see* dkt. ## 16, 16-1), and a response by Petitioner
3 to Respondents' supplemental filing (*see* dkt. # 17).

4 The Court, having now considered the parties' submissions and the governing law,
5 concludes that Respondent's motion to dismiss should be denied. However, as discussed below,
6 final disposition of Petitioner's federal habeas petition should be deferred for a period of thirty
7 days to allow Respondents to confirm whether Petitioner is removable to Jamaica.

8 **II. BACKGROUND**

9 **A. Procedural Background**

10 On April 16, 2025, Petitioner submitted his federal habeas petition to this Court for filing,
11 alleging that his continued detention violates his rights to procedural and substantive due process
12 guaranteed by the Fifth Amendment. (*See* dkt. # 1.) Petitioner, who was born in the Bahamas to
13 Jamaican citizens, asserts that he is currently stateless, that there is no country that will accept his
14 return, and that his detention by ICE has therefore become indefinite within the meaning of
15 *Zadvydas*. (*See id.* at 3-4.) Petitioner claims he is not entitled to Bahamian citizenship because
16 neither of his parents is a citizen of that country and he has no right to Jamaican citizenship
17 because he was not born in that country. (*Id.* at 4.)

18 The petition was served on Respondents (*see* dkt. # 5), and on May 29, 2025,
19 Respondents filed a return and motion to dismiss (dkt. # 7), together with the supporting
20 declaration of ICE Detention and Deportation Officer Daniel Strzelczyk (First Strzelczyk Decl.
21 (dkt. # 8)), and documents from Petitioner's certified administrative file which are attached to the
22 declaration of Respondents' former counsel, Nickolas Bohl (Bohl Decl. (dkt. # 9)). Respondents
23 assert in their motion that Petitioner is a citizen of Jamaica, that ICE is in possession of

1 Petitioner's expired Jamaican passport, and that ICE will be able to pursue Petitioner's removal
2 through the Electronic Nationality Verification ("ENV") process using his expired passport. (See
3 dkt. # 7 at 5, 7.) Respondents maintain that Petitioner would have already been removed had he
4 not made a claim of fear of being removed to Jamaica, a claim currently pending with the United
5 States Citizenship and Immigration Services ("USCIS") Asylum Office. (See *id.*)

6 On June 20, 2025, Petitioner filed a response opposing Respondents' motion to dismiss
7 (dkt. # 11), together with supporting exhibits which include documents showing Petitioner
8 renounced his Jamaican citizenship in 2003 as a pre-condition to becoming a citizen of the
9 Bahamas and that his Jamaican passport was to be recalled for cancellation (*see id.*, Ex. 1).¹
10 Petitioner's exhibits also include copies of email communications between Petitioner's
11 immigration attorney, Sebastian Estrada, and the Jamaican Passport Immigration and Citizenship
12 Agency ("PICA") which indicate Petitioner cannot be deported to Jamaica because he gave up
13 his Jamaican citizenship after being pre-approved for Bahamian citizenship. (*See id.*, Ex. 2.)

14 Respondents filed a reply brief in support of their motion to dismiss on June 26, 2025
15 (dkt. # 12), together with the declaration of Deportation Officer Enrique Rodriguez (Rodriguez
16 Decl. (dkt. # 13)). Respondents reiterate therein their argument that ICE can remove Petitioner
17 based on his expired Jamaican passport because Jamaica is designated under the ENV system.
18 (Dkt. # 12 at 1.) Respondents also assert that the only impediment to Petitioner's removal is his
19 pending claim of fear of returning to Jamaica. (*See id.* at 1-2.) Respondents maintain that if
20 USCIS issues a negative fear finding, ICE believes it can promptly remove Petitioner. (*Id.* at 2.)

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23 ¹ Petitioner acquired a Jamaican passport through his mother when he was a child. (*See dkt. # 1, Ex. A at*

3.)

1 On July 1, 2025, this Court issued an Order directing Respondents to supplement the
2 record with a status report and clarifying declaration. (Dkt. # 14.) The Court directed that the
3 declaration describe with specificity the steps involved in repatriating an individual through the
4 ENV process and detail any communications between ICE officials and Jamaican authorities
5 supporting ICE's belief that Petitioner can be removed through that process given his prior
6 renunciation of his Jamaican citizenship. (*Id.* at 4.)

7 On August 1, 2025, Respondents submitted a supplemental declaration from Officer
8 Strzelczyk. (Second Strzelczyk Decl. (dkt. # 16-1).) Officer Strzelczyk provides some additional
9 information about the ENV protocol but fails to describe with specificity the steps involved in
10 repatriating an individual through the ENV process. (*See id.*, ¶ 4.) Officer Strzelczyk also
11 provides general information about ICE contacts with the Jamaican consulate in the seven
12 months following issuance of Petitioner's removal order, but the precise nature of these contacts
13 is unclear. (*See id.*, ¶ 7.) Officer Strzelczyk suggests in his supplemental declaration that
14 Jamaican authorities have been provided whatever documentation may be necessary to effectuate
15 removal through the ENV protocol and he emphasizes that Jamaican authorities have not denied
16 repatriation or objected to Petitioner's removal. (*See id.*, ¶¶ 6-7.) Finally, Officer Strzelczyk
17 challenges Petitioner's assertions regarding his renunciation of his Jamaican citizenship and
18 claims that Petitioner's removal has not yet been effectuated solely because of Petitioner's claim
19 of fear of returning to Jamaica which remains pending with USCIS. (*See id.*, ¶¶ 8-10.)

20 On August 11, 2025, Petitioner filed a response to Respondents' supplemental status
21 report. (Dkt. # 17.) Petitioner submitted in support of his response a declaration from his
22 immigration attorney (Estrada Decl. (dkt. # 17-1), which was accompanied by supporting
23 exhibits. Petitioner argues therein that he withdrew his fear-based claim in June 2025 and, thus,

1 any purported delay in his removal based on the pendency of this claim before USCIS is
2 attributable to Respondents. (Dkt. # 17 at 2-3.) Petitioner further argues that Respondents have
3 received notification that Petitioner cannot be deported to Jamaica through the ENV program
4 because he is not a Jamaican citizen, and he suggests that ICE has made no effort to confirm this
5 information with Jamaican consular officials. (*Id.* at 3.)

6 The submission of the parties' supplemental materials completed the briefing in this
7 action, and this matter is now ripe for review.

8 **B. Factual Background**

9 Petitioner was admitted to the United States at New York, New York on September 12,
10 2000. (First Strzelczyk Decl., ¶ 3; Bohl Decl., Ex. A at 1, 3.) At the time of his admission,
11 Petitioner had Jamaican citizenship which he derived through his parents, both of whom were
12 natives of Jamaica and subsequently became naturalized United States citizens. (Bohl Decl., Ex.
13 A at 1, 3.) Petitioner was admitted as a lawful permanent resident, IR2 category, *i.e.*, an
14 unmarried minor of a United States citizen.² (First Strzelczyk Decl., ¶ 5; Bohl Decl., Ex. A at 1,
15 3.)

16 Since his admission to the United States, Petitioner has amassed a significant criminal
17 history. (*See* Bohl Decl., Exs. A-E.) Of particular relevance here are an August 2005 conviction
18 in the Superior Court of New Jersey, Bergen County, for distribution of cocaine (*id.*, Ex. C), and
19 a September 2011 conviction in the United States District Court for the District of New Jersey,
20 for transporting minors in interstate commerce to engage in prostitution (*id.*, Exs. D-E).

21 Petitioner was sentenced to a term of 188 months for his convictions on the federal charges. (*Id.*,
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² Petitioner's father was a naturalized United States citizen at the time Petitioner entered the United States, while Petitioner's mother did not naturalize until many years later. (*See* Bohl Decl., Ex. A at 3.)

1 Ex. E.) Petitioner also has prior convictions in New Jersey and New York for various offenses
2 including obstruction of justice, eluding law enforcement, and promoting prostitution. (*See id.*,
3 Ex. A at 3; First Strzelczyk Decl., ¶ 4.)

4 In November 2023, while Petitioner was in the custody of the Federal Bureau of Prisons
5 (“BOP”), ICE Enforcement and Removal Operations (“ERO”) encountered Petitioner at the
6 Federal Correctional Institution in Allenwood, Pennsylvania, and thereafter issued an
7 immigration detainer and a warrant for Petitioner’s arrest. (Bohl Decl., Ex. A at 2.) On January
8 31, 2024, Petitioner was served with a Notice to Appear (“NTA”) while confined at the
9 Moshannon Valley Processing Center, an ICE detention facility in Philipsburg, Pennsylvania.³
10 (*See id.*, Ex. F.) The NTA charged Petitioner as removable under various provisions of § 237(a)
11 of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1227(a), including those pertaining
12 to convictions for controlled substance offenses, for crimes involving moral turpitude, for crimes
13 involving child abuse or stalking, and for aggravated felonies related to drug trafficking and
14 prostitution. (*See* First Strzelczyk Decl., ¶ 4; Bohl Decl., Ex. F at 4.)

15 On October 2, 2024, Petitioner appeared before an immigration judge (“IJ”) at the
16 Tacoma Immigration Court. (First Strzelczyk Decl., ¶ 6; Bohl Decl., Ex. G.) At that hearing,
17 Petitioner withdrew various applications for relief from removal and he was ordered removed to
18 the Bahamas. (*See id.*) Petitioner waived his right to appeal the IJ’s decision, and his removal
19 order thus became administratively final on October 2, 2024. (*See id.*) Respondents thereafter
20 had 90 days to effectuate Petitioner’s removal. 8 U.S.C. § 1231(a)(1)(A).

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23 ³ It is unclear from the record when Petitioner was released from BOP custody, though Officer Strzelczyk
avers that Petitioner has remained in ICE custody since his release from the BOP. (First Strzelczyk Decl.,
¶ 5.)

1 Following issuance of the final order, ICE attempted to secure a travel document for
2 Petitioner from the Bahamian government, but the Bahamian government declined to issue one.
3 (First Strzelczyk Decl., ¶ 7.) In May 2025, Jamaica was designated as an ENV country. (*Id.*, ¶ 8;
4 Second Strzelczyk Decl. ¶ 4.) An ENV country is one that accepts the repatriation of its citizens
5 based on identity confirming information, such as a passport, without requiring issuance of a new
6 travel document. (Second Strzelczyk Decl., ¶ 4.) After Jamaica was designated as an ENV
7 eligible country, ICE determined that it could serve as a removal destination for Petitioner
8 because ICE had in its possession an expired Jamaican passport for Petitioner.⁴ (*Id.*)

9 On May 16, 2025, a Notice of Third Country Removal to Jamaica was issued and served
10 on Petitioner. (First Strzelczyk Decl., ¶ 9; Second Strzelczyk Decl., ¶ 5.) Petitioner refused to
11 sign or accept the notice on two occasions. (*Id.*) A copy of the notice was also sent to Petitioner
12 through institutional mail and to the address of record for Petitioner's attorney. (*See id.*) ICE
13 thereafter notified the ICE Air Operations Center "to initiate transfer staging, consistent with
14 ENV removal protocol." (Second Strzelczyk Decl., ¶ 5; *see also* Rodriguez Decl., ¶ 3.)
15 Respondents do not explain what "transfer staging" entails.

16 On or about May 20, 2025, Petitioner refused to report to the intake area of NWIPC for
17 what was apparently a scheduled removal staging flight. (First Strzelczyk Decl., ¶ 10.) Petitioner
18 advised NWIPC mental health staff that he would not appear due to his fear of being deported to
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23 ⁴ According to Petitioner, his passport was cancelled in September 2003, which corresponds with the time period when Petitioner's renunciation of his Jamaica citizenship was registered in accordance with Jamaican law. (*See* dkt. # 11 at 1 n.1, Ex. 1.) Petitioner's passport was set to expire on February 10, 2004, several months after it was purportedly cancelled. (*See* Bohl Decl., Ex. A at 4.)

1 Jamaica. (*Id.*) Petitioner's statement to NWIPC staff resulted in a referral to the USCIS Asylum
2 Office for a "fear screening."⁵ (Rodriguez Decl., ¶ 4.)

3 On June 20, 2025, Petitioner and his immigration attorney informed USCIS that
4 Petitioner was withdrawing his fear-based claim for Jamaica and they did not want to move
5 forward with the screening process. (Estrada Decl., ¶ 4.) The USCIS officer present at that
6 meeting told Petitioner and his counsel he had noted Petitioner's wishes and would inform
7 USCIS. (See *id.*, ¶¶ 4-5.) On June 23, 2025, Petitioner participated in a telephone screening
8 interview with USCIS asylum staff regarding his CAT screening referral. (Rodriguez Decl., ¶ 7.)
9 Petitioner made clear during the interview that he did not wish to pursue a CAT claim. (*Id.*)

10 On July 30, 2025, USCIS scheduled Petitioner for a CAT screening interview without
11 prior notice to either Petitioner or his immigration attorney. (See Estrada Decl., ¶¶ 6, 8.)
12 Petitioner learned of the interview that morning and contacted his attorney who instructed him to
13 remind USCIS he had withdrawn his Jamaica fear-based claim. (*Id.*, ¶ 6, Ex. 1 at 1.) When
14 Petitioner attempted to attend the interview later that day he was "turned around." (See *id.*, ¶ 7,
15 Ex. 1 at 1.)

16 On August 6, 2025, Petitioner contacted his immigration attorney and advised that
17 another CAT screening had been scheduled for later that day. (Estrada Decl., ¶ 9.) This interview
18 was also scheduled without any prior notice. (*Id.*) Petitioner's attorney once again advised him to
19 remind USCIS he did not want to move forward with the CAT screening process. (*Id.*) When
20 Petitioner was called for the interview, he informed an NWIPC officer that he had previously
21 withdrawn his Jamaica fear-based claim, and the officer then informed USCIS. (*Id.*) Despite
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23 ⁵ The "fear screening" referenced in Respondents' materials is apparently the Convention Against Torture
("CAT") screening process. (See Estrada Decl., ¶ 3.)

1 Petitioner's multiple attempts to withdraw his CAT claim, the claim apparently remains pending
2 before USCIS and, according to Respondents, is the sole impediment to Petitioner's removal.
3 (See Rodriguez Decl., ¶ 4; Second Strzelczyk Decl., ¶ 9, 10.)

4 **III. DISCUSSION**

5 **A. Indefinite Detention**

6 Title 8 U.S.C. § 1231 governs the detention and release of noncitizens such as Petitioner
7 who have been ordered removed. Under § 1231(a), the Department of Homeland Security
8 ("DHS") is required to detain a noncitizen during the 90-day "removal period." See 8 U.S.C.
9 §§ 1231(a)(1)(A), (a)(2). In this case, the removal period began on the date Petitioner's removal
10 order became administratively final, October 2, 2024, and the period expired 90 days later on
11 December 31, 2024. See 8 U.S.C. § 1231(a)(1)(B)(i).

12 After the removal period expires, DHS has the discretionary authority to continue to
13 detain certain noncitizens, including those who are removable under § 1227(a)(2), or to release
14 them on supervision. 8 U.S.C. § 1231(a)(6). Because the IJ sustained Petitioner's charges of
15 removability under § 1227(a)(2), Petitioner's detention comports with the statute.

16 Although § 1231(a)(6) authorizes ICE to detain Petitioner, it cannot do so indefinitely. In
17 *Zadvydas*, the Supreme Court held that § 1231(a)(6) implicitly limits a noncitizen's detention to
18 a period reasonably necessary to bring about that individual's removal from the United States
19 and does not permit "indefinite" detention. *Zadvydas*, 533 U.S. at 701. The Supreme Court
20 determined that it is "presumptively reasonable" for DHS to detain a noncitizen for six months
21 following entry of a final removal order while it works to remove the individual from the United
22 States. *Id.* "After this 6-month period, once the [noncitizen] provides good reason to believe that
23 there is no significant likelihood of removal in the reasonably foreseeable future, the

1 Government must respond with evidence sufficient to rebut that showing.” *Id.* If the Government
2 fails to rebut the noncitizen’s showing, the noncitizen is entitled to habeas relief. *Id.*

3 The six-month presumption “does not mean that every [noncitizen] not removed must be
4 released after six months. To the contrary, [a noncitizen] may be held in confinement until it has
5 been determined that there is no significant likelihood of removal in the reasonably foreseeable
6 future.” *Zadvydas*, 533 U.S. at 701. Nevertheless, “for detention to remain reasonable, as the
7 period of prior post removal confinement grows, what counts as the ‘reasonably foreseeable
8 future’ conversely would have to shrink.” *Id.*

9 In this case, the presumptively reasonable six-month period expired on or about April 2,
10 2025, almost five months ago. Petitioner argues that there is no good reason to believe his
11 removal will be effectuated in the foreseeable future because he is currently stateless and there is
12 nowhere that will accept his return. (See dkt. # 1 at 3; dkt. # 11 at 1.) There is no dispute that the
13 Bahamian government refused to accept Petitioner for removal. (See First Strzelczyk Dec., ¶ 7.)
14 The question presented herein is whether Petitioner can be removed to Jamaica. Respondents
15 maintain that Petitioner is a citizen of Jamaica and that ICE can remove him there based on his
16 expired Jamaican passport because of Jamaica’s recent designation as an ENV country.
17 Petitioner, on the other hand, argues that he is not a citizen of Jamaica and that his immigration
18 attorney has been expressly advised by Jamaican government officials that he cannot be deported
19 to Jamaica because he has renounced his Jamaican citizenship.

20 Respondents’ position that Petitioner can be removed to Jamaica appears to be based
21 solely on the fact that Jamaican authorities have, to this point, not denied repatriation or objected
22 to Petitioner’s removal. According to Officer Strzelczyk, under the ENV protocol, a destination
23 country’s affirmative denial is required to preclude removal, and the absence of a formal refusal

1 constitutes acceptance. (Second Strzelczyk Decl., ¶ 7.) Officer Strzelczyk also avers that no
2 evidence has been provided demonstrating that Petitioner has renounced his citizenship in
3 accordance with Jamaican law and he cites the lack of any formal confirmation from Jamaican
4 authorities that this has occurred. (*Id.*, ¶ 8.)

5 As indicated above, there is still a lack of clarity surrounding the specifics of the ENV
6 protocol and a lack of detail surrounding communications between ICE and Jamaican authorities.
7 The lack of specificity in Respondents' materials is particularly notable when compared with that
8 contained in Petitioner's materials.

9 Petitioner's materials demonstrate that his immigration attorney has had communications
10 with multiple Jamaican authorities since Petitioner was ordered removed, including
11 conversations with the Jamaican consulate in Miami, the Jamaican embassy in Washington,
12 D.C., and PICA, and counsel has been repeatedly advised that Petitioner is not a Jamaican citizen
13 and/or that Jamaica will not accept Petitioner's removal. (*See* Estrada Decl., ¶ 14.) Petitioner's
14 materials show as well that his immigration attorney, in December 2024, informed Officer
15 Strzelczyk that the Jamaican Consulate in Miami had confirmed with PICA that Petitioner did
16 not have Jamaican citizenship, though there is no indication that ICE ever followed up on this
17 information. (*See id.*, ¶ 13, Ex. 2.) Indeed, Officer Strzelczyk makes no mention of this
18 communication and continues to maintain that Petitioner is a Jamaican citizen and that his
19 removal can be effectuated through the ENV process.

20 Petitioner has also provided the Court with documentation supporting his assertion that
21 he has renounced his Jamaican citizenship. Petitioner's documentation includes his Declaration
22 of Renunciation of Jamaican Citizenship, executed on March 3, 2003, and a communication from
23 the Jamaican Ministry of Foreign Affairs and Foreign Trade to the Jamaican Honorary Consulate

1 in the Bahamas stating that Petitioner's Declaration of Renunciation of Jamaican Citizenship was
2 registered with the Jamaican Ministry of Security, effective September 5, 2003. (See dkt. # 11,
3 Ex. A at 2, 4-5.) According to Petitioner's immigration attorney, Jamaican authorities provided
4 him with certified copies of these documents in June 2025. (Estrada Decl., ¶ 15.) While Officer
5 Strzelczyk maintains that no evidence of Petitioner's renunciation of Jamaican citizenship has
6 been provided to either ICE or to DHS counsel, there is sufficient evidence in the record before
7 this Court to confirm the Jamaican government's position is that Petitioner is *not* a Jamaican
8 citizen and cannot be removed there.

9 The question remains whether ICE will continue to pursue Petitioner's removal through
10 the ENV protocol even with the evidence presented by Petitioner in this proceeding that Jamaica
11 will not accept his return. While the Court accepts Respondents' representation that Jamaican
12 authorities have yet to deny repatriation through the ENV process, there is still little detail in the
13 record as to how the ENV process actually functions, and thus, as noted in the Court's Order
14 directing supplemental briefing, the Court can infer little of substance from Jamaica's purported
15 silence. (See dkt. # 14 at 3.) It is also the case, however, that Petitioner preempted ICE's prior
16 attempt to remove him to Jamaica through the ENV process by interposing his now withdrawn
17 CAT claim. Had the ENV process been allowed to run its course, it may have proven effective in
18 accomplishing Petitioner's removal.

19 It seems likely that at some point in the repatriation process, Jamaican authorities will
20 convey to ICE what they have conveyed to Petitioner's attorney, *i.e.*, that Petitioner renounced
21 his Jamaican citizenship and cannot be removed there, even through use of the ENV process.
22 (See dkt. # 11, Ex. 2; Estrada Decl., ¶¶ 12-16.) It thus appears that Petitioner is not likely to be
23 removed to Jamaica, despite Respondents' assertions to the contrary, and that his detention has

1 therefore likely become indefinite within the meaning of *Zadvydas*. However, before Petitioner is
2 granted the relief he seeks by way of this federal habeas action, ICE should be afforded an
3 opportunity to confirm whether he is removable to Jamaica now that his CAT claim has been
4 withdrawn given that Petitioner stymied ICE's initial attempt to remove him.⁶

5 IV. CONCLUSION

6 Based on the foregoing, this Court recommends that Respondents' motion to dismiss
7 (dkt. # 7) be DENIED. Respondents should, however, be granted thirty days within which to
8 ensure that USCIS records accurately reflect Petitioner's CAT claim has been withdrawn, and to
9 confirm whether Petitioner is removable to Jamaica in light of his withdrawal of that claim. If
10 Respondents are unable to confirm that Petitioner is removable within that time period,
11 Petitioner's federal habeas petition (dkt. # 1) should be GRANTED, and Petitioner should be
12 released on appropriate conditions of supervision. A proposed Order accompanies this Report
13 and Recommendation.

14 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
15 served upon all parties to this suit not later than **fourteen (14) days** from the date on which this
16 Report and Recommendation is signed. Failure to file objections within the specified time may
17 affect your right to appeal. Objections should be noted for consideration on the District Judge's
18 motions calendar **fourteen (14) days** from the date they are filed. Responses to objections may
19 be filed by **the day before the noting date**. If no timely objections are filed, the matter will be
20 ready for consideration by the District Judge on **September 17, 2025**.

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⁶ While Respondents maintain that Petitioner's CAT claim remains an impediment to removal, there is ample evidence in the record that Petitioner has withdrawn that claim and the records of USCIS and/or ICE have simply failed to properly document that fact.

1 DATED this 27th day of August, 2025.

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4 MICHELLE L. PETERSON
United States Magistrate Judge