IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

DORIAN ABAD ABROSI,

Petitioner,

v.

WARDEN OF FOLKSTON ICE PROCESSING CENTER, *et al.*

Respondents.

Case No. 5:25-cv-13

PETITIONER'S RESPONSE TO RESPONDENTS' OBJECTION

Petitioner Dorian Abad Ambrosi ("Mr. Ambrosi") hereby responds to Respondents' objections to Magistrate Judge Cheesbro's Report and Recommendation, Dkt. No. 26, which recommends that this Court grant Mr. Ambrosi's habeas petition and motion for preliminary injunction and order his immediate release from Respondents' custody. Notably, Respondents ***did not object*** to the Magistrate Judge's recommendation to grant a preliminary injunction, and therefore this Court should promptly adopt that finding and order Mr. Ambrosi's release during the pendency of any future proceedings. Moreover, Mr. Ambrosi asks this Court to overrule Respondents' objections with respect to granting his habeas petition, which are conspicuously brief, largely inapposite, and entirely warrantless. Mr. Ambrosi has been in Respondents' custody with a final removal order for ***two years and three months***, and Respondents still have no plan, timeline, or even prospect for his removal from the United States. It is long past time that he be released, return to his family in Connecticut, and resume his life in the United States with the hard-fought protection from deportation that he won nearly a year ago.

A. This Court should grant the preliminary injunction because Respondents failed to object to the Magistrate Judge's recommendation on this issue.

A party who wishes to challenge a Magistrate Judge's Report and Recommendation (R&R) must "file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). As Magistrate Judge Cheesbro specified in his R&R, "objections not meeting the specificity requirement set out above will not be considered by the District Judge." Dkt. No. 26 at 9; *see also Gunn v. United States*, No. 122-151, 2023 WL 358441, at *1 (S.D. Ga. May 22, 2023) (clarifying that objecting party "must specify *each* proposed finding of fact and conclusion of law to which objection is made") (emphasis added). The consequences are clear: "failure to file objections by this deadline may result in th[e] Report and Recommendation becoming the opinion and order of the Court." *Id.* (citing *Devine v. Prison Health Servs., Inc.*, 212 F. App'x 890, 892 (11th Cir. 2006)).

Here, the Magistrate Judge specifically analyzed Petitioner's Motion for Preliminary Injunction and recommended granting it, finding that "based on his health concerns and avowed lack of proper medical care and his continued, indefinite detention, he has shown irreparable injury that outweighs whatever perceived harm Respondent faces by releasing Ambrosi from ICE's custody." Dkt. No. 26 at 8. In their "Objections to Report and Recommendation," Dkt. No. 27, Respondents do not even acknowledge these findings and the recommendation to grant the preliminary injunction, much less object to them. Nor could they reasonably challenge the Magistrate Judge's findings on irreparable harm, the balance of equities, and the public interest: Petitioner has provided significant evidence to this Court about his deteriorating medical condition and lack of proper medical care in ICE custody, which has gone largely, if not entirely, unrebutted and unaddressed by the government throughout these habeas proceedings. *See* Dkt. Nos. 1-9; 14-1; 25-2.

Therefore, this Court should grant Petitioner's Motion for Preliminary Injunction, Dkt. No. 2-1, based on the Magistrate Judge's findings and recommendation to which Respondents have failed to object. *See Wells v. Mateo*, 2:18-cv-109, 2020 WL 1492178, at *1 (S.D. Ga. March 23, 2020) (noting that "Plaintiff does not object to the Magistrate Judge's recommendation that his civil case be dismissed" and granting motion to dismiss accordingly). In granting the preliminary injunction, this Court should, at a minimum, order that Mr. Ambrosi be immediately released from ICE custody on reasonable conditions while his habeas proceedings continue. *See* Dkt. No. 26 at 8 (recommending "issuing a preliminary injunction in the form of release pending these proceedings").

B. This Court should overrule Respondents' objections and grant the habeas petition.

As the Magistrate Judge correctly noted, this Court need not reach his recommendation on the preliminary injunction if it is inclined to adopt his recommendation to grant the habeas petition outright. *See* Dkt. No. 26 at 8 n.5 ("Of course, if the Court adopts this recommendation and grants Ambrosi all requested relief in the form of release from custody, Ambrosi's request for preliminary injunctive relief will likely be moot."). Petitioner respectfully requests that this Court overrule Respondents' vague and baseless objections and grant the habeas petition.

The Magistrate Judge found that Mr. Ambrosi is entitled to release under *Zadvydas v. Davis*, 533 U.S. 678 (2001) because his detention exceeds the presumptively reasonable six-month period and his removal from the United States is not reasonably foreseeable. Respondents did not dispute before the Magistrate Judge, nor do they now dispute in their Objections to the R&R, that Mr. Ambrosi has been detained with a final removal order for two years and three months, and therefore that he satisfies the first *Zadvydas* prong. *See* Dkt. No. 26 at 4 ("Respondent acknowledges that Ambrosi has been detained longer than the six-month presumptively reasonable

period."). Respondents' only objection is to the Magistrate Judge's finding that Mr. Ambrosi's removal is not reasonably foreseeable. *See* Dkt. No. 27 at 2. But their objection consists of vague platitudes and inapposite caselaw, and it notably does not include any new information indicating that Mr. Ambrosi's removal is even remotely foreseeable.

As they have done repeatedly throughout this case, Respondents cite to several out-of-circuit cases dealing with the prolonged detention of non-citizens while they seek "withholding-only relief." Dkt. No. 27 at 3. These cases involved non-citizens who remained in ongoing immigration proceedings, and they held that the length of detention during those proceedings is not enough to show that removal is not reasonably foreseeable under *Zadvydas*. *See Casteneda v. Perry*, 95 F.4th 750, 758 (4th Cir. 2024). But Mr. Ambrosi is no longer in withholding-only proceedings, nor is he still seeking "withholding-only relief"; he *already won it*, and his immigration case is over. *See* Dkt. No. 19-1 (BIA decision on June 9, 2025, rendering Mr. Ambrosi's grant of withholding of removal final). Thus, his case is distinguishable, and as Respondents acknowledge, presents "an issue of first impression" in this Court. Dkt. No. 27 at 3.

Despite acknowledging this difference, Respondents appear to suggest that the two years Mr. Ambrosi spent in ongoing proceedings before his withholding grant was finalized somehow count against him and undermine the Magistrate Judge's analysis with regard to the foreseeability of his removal. But this is incorrect for several reasons. First, as the Magistrate Judge recognized and Respondents do not dispute, Mr. Ambrosi has been detained pursuant to 8 U.S.C. § 1231(a)(6) with a final removal order for the entirety of his more than two-year detention, because his prior removal order was reinstated at the outset of detention. *See* Dkt. No. 26 at 4. Thus, this time clearly counts toward the first *Zadvydas* prong—showing more than six months of post-removal order

detention—and this analysis on the first prong is largely independent of the analysis on the second prong—whether his removal is currently reasonably foreseeable.

Second, Respondents' argument appears to be based on the false premise that ICE was not able to deport Mr. Ambrosi during the two years that his withholding-only proceedings were ongoing. *See* Dkt. No. 27 at 4 (complaining that Court has "afforded DHS too little time" since relief grant became final to remove Mr. Ambrosi to alternative country). While it is true that ICE was not authorized to deport Mr. Ambrosi to his country of origin, Ecuador, during the proceedings about with his fear of return there, nothing was stopping ICE from seeking to remove him to an alternative country during those two years, as ICE is ostensibly trying to do now.[1] Why ICE did not begin those efforts when the Immigration Judge initially granted Mr. Ambrosi withholding of removal back in November 2024 is particularly unclear. *See* Dkt. No. 1-3. Therefore, ICE has had two years and three months to remove Mr. Ambrosi from the United States and it has failed to do so. *Zadvydas* makes clear that such indefinite civil detention is "unreasonable and no longer authorized by statute." 533 U.S. at 699-700.

Finally, regardless of how much time ICE has had to pursue removal to an alternative country, there has never been, nor is there now, any indication in the record that such removal is even remotely feasible. Once the Board of Immigration Appeals dismissed ICE's appeal of Mr. Ambrosi's withholding grant on June 9, 2025, and his removal to Ecuador was thereby definitively taken off the table, the Magistrate Judge aptly ordered Respondents to provide basic information

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[1] When confronted with this question at oral argument, Respondents' counsel noted that it is ICE's "practice" to wait until the conclusion of withholding-only proceedings before seeking removal to an alternative country. But Respondents have not pointed to any statutory or regulatory provision supporting this "practice." And ICE's "practice" is not dispositive of the legal analysis demanded by *Zadvydas*.

regarding any plans to remove Mr. Ambrosi to a different country. Two weeks later, Respondents openly admitted that "neither DHS nor ICE have identified a country to which Petitioner is expected to be removed." Dkt. No. 22 at 2. Nearly three months later, Respondents *still* have not identified such a country. They ask for "additional time" but offer no plan for how they will use that time, or even any potential prospect for removal. Dkt. No. 27 at 4.

This is exactly the sort of governmental stalling and indefinite detention that *Zadvydas* soundly rejected. *Zadvydas* was clear that the test is not whether removal is theoretically *possible*, but rather whether removal is likely to happen in the *reasonably foreseeable future*. 533 U.S. at 702 ("But this standard would seem to require [a non-citizen] seeking release to show the absence of *any* prospect of removal—no matter how unlikely or unforeseeable—which demands more than our reading of the statute can bear."). For this reason, the fact that the government may be engaged in some unspecified efforts to remove Mr. Ambrosi to alternative countries is not enough to rebut his preliminary showing of the lack of foreseeable removal. *See Shefqet v. Ashcroft*, No. 02-cv-7737, 2003 WL 1964290, at *5 (N.D. Ill. Apr. 28, 2003) ("Even if [ICE] has been making regular efforts to secure Petitioner's travel document . . . at this time there must be some concrete evidence of progress. [ICE] cannot rely on good faith efforts alone.").

Even if this Court focuses primarily or solely on the three months since Mr. Ambrosi's relief grant became final, it can look to several recent cases granting release under *Zadvydas* in highly similar circumstances. *See, e.g., Munoz-Saucedo v. Pittman*, No. 25-2258, 2025 WL 1750346, at *7 (D.N.J. June 24, 2025) (ordering non-citizen's release under *Zadvydas* after three months of non-citizen's detention with final grant of protection from removal to country of origin); *Santiago Jimenez v. Crawford*, 1:25-cv-1199, Dkt. No. 16 (E.D. Va. Aug. 20, 2025) (ordering non-

citizen's release under *Zadvydas* after five months of non-citizen's detention with final grant of protection from removal to country of origin).

C. Mr. Ambrosi urges the Court to promptly adopt the Magistrate Judge's recommendation and order his release.

While the government continues to senselessly oppose this habeas petition and stubbornly refuses to release Mr. Ambrosi despite repeated efforts from undersigned counsel, Mr. Ambrosi continues to suffer immensely in detention. Mr. Ambrosi, who is 54 years old, suffers from multiple serious medical issues, including Type 2 diabetes, hyperlipidemia, legal blindness, tooth decay, depression, osteoarthritis, chronic knee pain, and a persistent shoulder injury. Dkt. No. 25-2. For unclear reasons, Mr. Ambrosi is currently receiving only half of the medications and treatments that he was receiving at the time he was transferred from Folkston in Georgia to Adelanto in California. *Compare id.* at 2 with *id.* at 11. These conditions are so serious that the Magistrate Judge found Mr. Ambrosi would likely suffer irreparable harm absent a preliminary injunction. Dkt. No. 26 at 8.

Therefore, Mr. Ambrosi urgently requests that this Court grant his habeas petition and order his release from ICE custody. Specifically, Mr. Ambrosi should be released to his willing family sponsor in Connecticut, where he has lived for much of his adult life. *See* Dkt. No. 1-12. A proposed order is attached for the Court's convenience.

DATED: September 4, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I uploaded the foregoing Response to Objections and any attachments, which will send a Notice of Electronic Filing to all counsel of record.

Dated: September 4, 2025

Respectfully submitted,

/s/ Felix Montanez
Felix A. Montanez, Esq.