

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HUSSEIN “MIKE” ALI YASSINE,

Petitioner,

v.

CHARLOTTE COLLINS, Warden, T. Don Hutto
Residential Center; VINCENT MARMOLEJO,
Assistant Field Office Director, ICE San Antonio Field
Office, MIGUEL VERGARA, Field Office Director,
San Antonio Field Office, United States Immigration
and Customs Enforcement; TODD M. LYONS,
Acting Director, United States Immigration and
Customs Enforcement; KRISTI NOEM, Secretary of
Homeland Security; PAMELA BONDI, United States
Attorney General, *in their official capacities,*

Respondents-Defendants.

Case No. 1:25-cv-00786

**PETITIONER’S
REPLY IN SUPPORT
OF PETITION FOR
WRIT OF HABEAS
CORPUS**

**PETITIONER’S REPLY IN SUPPORT OF PETITION
FOR WRIT OF HABEAS CORPUS**

Mr. Yassine continues to be held beyond the limits established the Constitution, the INA, and the Supreme Court. First, Mr. Yassine’s petition is ripe for consideration by this Court. Initially, as of August 1, 2025, and under any definition of the term, Mr. Yassine will have been detained post-removal order for at least 180 days. Every day thereafter takes his detention outside the scope of time recognized as presumptively reasonable in *Zadvydas v. Davis*, 533 U.S. 678 (2001). But even were that not true, governing authority merely sets out a *presumption* that 180 days of post-removal order detention is reasonable. It does not require Mr. Yassine have been detained for 180 days in order to challenge his detention.

Second, Mr. Yassine has provided good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. As his Verified Petition makes clear,

beyond mere speculation, Respondents are unlikely to remove him. Respondents have continued, yet failed, to attempt to remove Mr. Yassine to Lebanon or Ivory Coast since long before the filing of his petition. Respondents' dogged, yet futile attempts to remove him over the course of years underscore the unlikely nature of his removal.

Accordingly, this Court should grant Mr. Yassine's petition and order his immediate release.

LEGAL STANDARD

In *Zadvydas*, the Supreme Court provided the framework for analyzing challenges to the prolonged detention of non-citizens under 8 U.S.C. § 1231. 533 U.S. at 683. The Court held that 8 U.S.C. § 1231 authorizes immigration detention after a final removal order only for a period reasonably necessary to accomplish the non-citizen's removal and concluded that six months is a presumptively reasonable period. *Id.* at 699–700.

A challenge to continued detention after the presumptively reasonable period requires the petitioner to “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. If the government is unable to “respond with evidence sufficient to rebut that showing,” the petitioner must be released from confinement. *Id.*

I. Mr. Yassine's Unlawful Confinement Claims are Ripe for the Court's consideration.

As a justification for Mr. Yassine's continued detention, Respondents cite to the 90-day “removal period” following a removal order, and to the 90 days of presumptively reasonable detention following the removal period permitted under *Zadvydas*. ECF No. 17 at 4–5. This justification completely fails to grapple with the plain meaning of the Immigration and Nationality Act (“INA”) as interpreted in *Zadvydas*. Mr. Yassine's 90-day removal period, and the presumably reasonable period following it, have both since run.

a. Mr. Yassine’s removal period ran in 2021, and has not restarted.

Respondents incorrectly suggest that Mr. Yassine is still within the 90-day “removal period” that follows a final removal order, during which his detention would be mandatory. *See* 8 U.S.C. §§ 1231(a)(1)(A), (a)(2)(A). But as Respondents note, that 90-day period begins on the latest of three occurrences: (1) the date an administrative order becomes final, (2) the date a court enters a final order for a stay of removal, or (3) the date an individual is released from non-immigration detention or confinement. 8 U.S.C. § 1231(a)(1)(B); Resp. at 4, ECF No. 17. Only the first circumstance applies here. Mr. Yassine’s order of removal became final on November 20, 2020. *See* ECF No. 1 at ¶ 29.¹ As a result, Mr. Yassine’s removal period expired on February 18, 2021—90 days after the order of removal became final on November 20, 2020.

This remains true irrespective of Mr. Yassine’s re-detention by Immigration and Customs Enforcement (“ICE”) following a period of supervision, which did not restart the removal period. *See Diaz-Ortega v. Lund*, No. 1:19-CV-670-P, 2019 WL 6003485, at *8 (W.D. La. Oct. 15, 2019), *report and recommendation adopted*, No. 1:19-CV-670-P, 2019 WL 6037220 (W.D. La. Nov. 13, 2019) (“[T]he text of § 1231(a)(1)(B) does not mention restarting the removal period. Nor does any interpretive regulation of which the Court is aware.”).

Respondents’ observation that the removal period may be extended “if the alien fails to comply with removal efforts” is irrelevant to the facts here. Resp. at 4–5. There is no indication that Mr. Yassine has “fail[ed] or refuse[d] to make timely application in good faith for travel or other documents necessary to [his] departure or conspire[d] or act[ed] to prevent [his] removal subject to an order of removal.” 8 U.S.C. § 1231(a)(C); *see* 8 C.F.R. § 241.4(g)(ii). Instead, Mr.

¹ At that time, Mr. Yassine had already been in ICE custody for six months, and remained in ICE custody while ICE attempted and failed to remove him until his release on Orders of Supervision on January 19, 2021. *Id.* at ¶ 35.

Yassine has fully cooperated with Respondents' efforts to remove him, including having pictures taken, ECF No. 1 ¶¶ 38, 42, speaking with a representative of the Lebanese Embassy, and signing an application for a Lebanese passport. *See* Yassine Decl. at ¶¶ 15-16, 20-22. Since 2021, he has abided by all requests asked of him, including in-person check-ins, even checking in when he suspected he would be re-detained. ECF No. 1 at ¶¶ 3, 38–40. Respondents do not otherwise allege that Mr. Yassine has obstructed his removal.

Similarly, Respondents argue they may continue to detain Mr. Yassine past the 90-day removal period because they summarily assert that he is a public safety risk. *See* ECF No. 17 at 6 (citing 8 U.S.C. § 1231(a)(6); 8 C.F.R. 241.4). But the statutory and due process protections set forth in *Zadvydas* apply to the “post-removal period” regardless of whether continued detention could, on facts not present here, be justified. *See, e.g., Tran v. Mukasey*, 515 F.3d 478, 485 (5th Cir. 2008) (Court could not “establish an exception where none exists” for the indefinite detention of even violent, mentally ill individuals). Mr. Yassine, who was convicted of white-collar offenses, has not reoffended in the over four years since Respondents first released him, and he has a strong support network, including gainful employment. ECF No. 1 at ¶ 3. Thus, the legal basis for Respondents to extend his detention in the post-removal period is unclear, as the evidence weighs against continued detention post-removal period.

b. Mr. Yassine may challenge his detention because the removal period has expired.

After the removal period expires, “[c]ontinued detention under this provision creates the ‘post-removal-period.’” *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (emphasis added). Once detention during the removal period and post-removal-period exceeds six months, such detention is no longer “presumptively reasonable.” *Zadvydas*, 544 U.S. at 701. Based on this, Respondents assert that Mr. Yassine cannot petition this court because he has “not been detained

in post-order custody for six months,” alleging his claim is “premature” before six months. ECF No. 17 at 4–5.² They are wrong.

First, as of August 1, 2025, Mr. Yassine will have been detained in post-order custody for 180 days. The removal period began on November 20, 2020, and Mr. Yassine was initially detained for 60 days post-final order before he was released on January 19, 2021. ECF No. 1 ¶¶ 29; 35. Then, he was re-detained by ICE on April 3, 2025, ECF No. 1 ¶ 6, making August 1, 2025 his 180th day in post-removal detention in the aggregate.

Second, *Zadvydas* makes clear that the six-month timeframe is not intended to set a bright-line rule, but instead, was meant as a guidepost. *See Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO), 2025 WL 1750346, at *5 (D.N.J. 2025) (citing *Zadvydas*, 533 U.S. at 701 and *Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wisc. 2008)). In fact, in setting this *presumptively* reasonable period for extended detention, the Court looked to a “similar” presumption in *County of Riverside v. McLaughlin*, where the Court made clear that a 48-hour presumptively reasonable time period could be overcome by individualized facts. *Zadvydas*, 533 U.S. at 701 (citing *County of Riverside* 500 U.S. 44, 56 (1991); *see also Munoz-Saucedo*, 2025 WL 1750346, at *5. For the Court in *Zadvydas*, the inquiry regarding the reasonableness of detention turned not on a certain time threshold, but on “whether one’s ‘particular circumstances amount[] to detention within, or beyond, a period reasonably necessary to secure removal.’” *Munoz-Saucedo* at *5 (citing *Zadvydas*, 533 U.S. at 699). Thus, “[t]he presumption of reasonableness is the default, but if a person ‘can prove’ that his removal is not reasonably foreseeable, then he can overcome that presumption.” *Id.* at *6.

² As discussed above, this interpretation is at odds with the plain language of the INA, which ties this period to the 90 day period following the “removal period,” which has run. *See* 8 U.S.C. 1231(a)(1)(B).

Mr. Yassine will have passed the 180-day mark of post-removal order detention on August 1, 2025. Even were that not true, his unusual circumstances—where Respondents re-detained a stateless man without any forward momentum towards removal—constitute exactly the individualized scenario fit to challenge a rebuttable presumption. As such, the period of reasonable detention has run and Mr. Yassine’s petition is ripe for consideration.

II. Mr. Yassine’s Removal is Not Significantly Likely in the Reasonably Foreseeable Future.

Because of the unchangeable circumstances of Mr. Yassine’s birth, ICE has not been successful in the years since his removal order to obtain travel documents from any country. He therefore faces unconstitutionally indefinite detention.

a. Mr. Yassine has met his burden to show good reason that his removal to Lebanon is not significantly likely in the reasonably foreseeable future.

“Good reason” is not a high bar, and Mr. Yassine has more than met his initial burden. *See Zadvydas*, 533 U.S. at 701. Evidence that courts in the Fifth Circuit have relied upon to find “good reason” include that (1) flights to the petitioner’s country of citizenship had been cancelled and no new removal date had been established, *Rodriguez Del Rio v. Price*, No. EP-20-CV-00217-FM, 2020 WL 7680560, at *3 (W.D. Tex. Nov. 3, 2020); (2) a diplomatic standoff existed between the United States and the target country of removal, *Balza v. Barr*, No. CV 20-00866, 2020 WL 6143643 at *4–5 (W.D. La. 2020), *report and recommendation adopted*, 2020 WL 6064881; and (3) officials refused to issue documents to an individual who, through no fault of his own or lack of trying, could not produce a birth certificate, *Ka v. Bureau of Immigr. & Customs Enf’t*, No. CV B-07-197, 2008 WL 11462867, at *2 (S.D. Tex. 2008).

Mr. Yassine has demonstrated “good reason” to believe his removal is not significantly likely to occur in the reasonably foreseeable future for at least two reasons. While each is

independently sufficient to meet his burden, together they certainly surpass that threshold.

First, as discussed above, the length of Mr. Yassine’s post-removal period has already exceeded the presumptively constitutional bounds. *See Zadvydas*, 533 U.S. at 701.

Second, as Respondents’ one-sentence explanation should indicate, although they are “actively seeking removal to Lebanon,” Respondents have been unable to make meaningful progress in those efforts since the issuance of his removal order in 2020. Mr. Yassine has detailed in his petition³ and the attached declaration, that Respondents, who have had over four years to remove him since his removal order became final—are nowhere near that goal—even with Mr. Yassine’s full cooperation. Indeed, it is undisputed that Respondents made the decision to re-detain Mr. Yassine, not because they had made any progress whatsoever in their attempts to remove him, but because of a change in Administrations—a fact confirmed to Mr. Yassine by Respondents’ employees not once, but twice, shortly after his re-detention. *Id.* at ¶¶ 40, 43. ICE officers continue to send e-mail correspondence to Lebanese Embassy officials every thirty days, even as Lebanese officials confirmed for ICE, on at least three occasions, that they have no record of Mr. Yassine and have been unable to verify him as a Lebanese citizen. Yassine Decl. at ¶ 16.

Respondents’ conclusory denial that there is no likelihood of removal in the reasonably foreseeable future⁴ does not make their futile attempts lawful. *See Zadvydas*, 533 U.S. at 702; *see also Rodriguez del Rio*, 2020 WL 7680560 at *4 (despite ICE’s ongoing efforts to remove the petitioner, removal was not significantly likely in the reasonably foreseeable future). Mr. Yassine has proffered evidence that Respondents’ future repeated attempts at removal are likely to produce the same futile results. If anything, ICE’s repeated failures to remove Mr. Yassine despite such consistent and meaningful efforts underscore that his removal is not significantly likely in the

³ ECF No. 1 at ¶¶ 42-46.

⁴ Dkt. No. 17 at 3, 6.

reasonably foreseeable future. *See*, Yassine Decl. at ¶¶ 6, 9, 14-21. Contrary to Respondents’ failure to engage with their failed removal efforts, Mr. Yassine has “demonstrate[d] . . . ‘the circumstances of his status’ or the existence of ‘particular individual barriers to his repatriation.’” *Idowu v. Ridge*, No. 3:03-CV-1293-R, 2003 WL 21805198, at *4 (N.D. Tex. Aug. 4, 2003).

Nor, as Respondents suggest, are Mr. Yassine’s claims that he is detained indefinitely “conclusory” or “speculative.” *See* ECF No. 17 at 6-7. Each case Respondents cite in support of this position is inapposite, involving individuals whose country of nationality had been making forward progress, individuals who had done nothing to inquire regarding their removal, let alone cooperate, or other delays created by a country that had already recognized a petitioner as their citizen.⁵ Respondents make no attempt to explain how these materially distinguishable cases show that Mr. Yassine’s claims are conclusory or why his *Zadvydas* claims are supposedly unfounded.

Finally, *Zadvydas* does not require Mr. Yassine to show that his removal is *impossible*. To require he “show the absence of *any* prospect of removal—no matter how unlikely or unforeseeable” would “demand more than the Supreme Court’s reading of 8 U.S.C. § 1231(a) could bear.” 533 U.S. at 702 (cleaned up). Mr. Yassine has therefore met his initial burden to show that there is “good reason” to believe his removal is not significantly likely in the reasonably foreseeable future, and the burden shifts to the government to rebut this showing. *See id.* at 701.

⁵ *See Andrade*, 459 F.3d at 543-544 (petitioner still in ongoing proceedings offered nothing beyond conclusory statements suggesting he would not be immediately removed following the resolution of appeals); *Ali v. Johnson*, No. 3:21-CV-00050-M (BT), 2021 WL 4897659, at *1 (N.D. Tex. Sept. 24, 2021), *report and recommendation adopted*, 2021 WL 4893605 (N.D. Tex. Oct. 20, 2021) (India had received supporting documentation to confirm petitioner was an Indian national yet was working to issue emergency travel documents); *Idowu v. Ridge*, No. 3:03-CV-1293-R, 2003 WL 21805198, at *4 (N.D. Tex. Aug. 4, 2003) (petitioner had not attempted to inquire as to progress of his removal); *Nagib v. Gonzales*, No. 3:06-CV-0294-G, 2006 WL 1499682, at *2 (N.D. Tex. May 31, 2006) (Sudanese Embassy delayed in issuing travel documents, but acknowledged petitioner as a Sudanese citizen).

b. Respondents have failed to meet their burden to provide evidence rebutting Mr. Yassine's showing that his removal is not significantly likely in the reasonably foreseeable future.

For their rebuttal, Respondents simply state that they are “actively seeking [his] removal to Lebanon,” ECF No. 17 at 4, and deny that there is no likelihood of removal in the reasonably foreseeable future, citing equally conclusory language in Mr. Yassine’s 90-day custody review. *Id.* at 3, 6. This paltry statement does not constitute evidence nor contest any of the detailed, verified statements in Mr. Yassine’s petition. *See* ECF No. 1 ¶¶ 38–46. Indeed, Respondents have left Mr. Yassine’s evidence “uncontradicted and unimpeached,” leaving no true dispute of fact about his likelihood of removal. *Silvera v. Joyce*, No. EP-17-CV-00363-DCG, 2018 WL 1249913, at *2 (W.D. Tex. Mar. 9, 2018) (quoting *Orr v. Copeland*, 844 F.3d 484, 490 (5th Cir. 2016)). They have therefore failed to meet their burden to rebut Mr. Yassine’s strong initial showing in his petition, and the attached declaration provides even more evidence supporting the indefinite nature of Mr. Yassine’s detention.

Respondents’ purported plan to conduct another custody review does nothing to cure the constitutional deficits arising from Mr. Yassine’s continued detention. *See* ECF. No. 17 at 3. Respondents have not suggested that if they continue to fail in their removal efforts, they will release Mr. Yassine. Nor is there any reason to believe another post-custody review would do anything other than result in a permanent feedback loop where Respondents use repeated custody reviews to rubber stamp their constitutional violations.

In sum, Respondents have done nothing to rebut Mr. Yassine’s showing that there is “good reason” to believe his removal is significantly likely in the reasonably foreseeable future.

CONCLUSION

Respondents have had over four years to attempt to remove Mr. Yassine. Closing their eyes to reality and facing political pressure, they re-detained Mr. Yassine and have now detained him beyond what the law allows. Every day that Mr. Yassine remains in detention while Respondents remain unable to meaningfully begin the process of removing him constitutes a “good reason” to believe that his removal is not significantly likely in the reasonably foreseeable future. Mr. Yassine has therefore met his burden to justify release, while Respondents have done nothing to rebut that showing.

Mr. Yassine therefore respectfully requests that this Court grant his petition for a Writ of Habeas Corpus and order his immediate release. Should further evidence be necessary, Mr. Yassine requests an order for Respondents to submit supplemental briefing, or for a hearing on this petition.⁶

Dated: July 31, 2025

Respectfully submitted,

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⁶ In another *Zadvydas* case where government respondents “did not meaningfully contest [petitioner’s] allegations,” the court ordered supplemental briefing and a hearing. *Munoz-Saucedo*, 2025 WL 1750346, at *7.

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CERTIFICATE OF SERVICE

I hereby certify that on July 31 2025, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of this filing to all counsel of record.

/s/Erin D. Thorn