

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

VINCENT JOBO,

Petitioner,

v.

BOBBY THOMPSON, Warden, South Texas ICE Processing 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. 5:25-cv-00687

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

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CORPUS**

Petitioner Vincent Jobo timely submits this reply in support of his Petition for Writ of Habeas Corpus pursuant to this Court's order dated June 25, 2025, allowing Petitioner seven days from the date of Respondents' response to file a reply. *See* Dkt. Nos. 6, 10. All Respondents except Bobby Thompson, the Warden of the South Texas ICE Processing Center, (hereinafter "Federal

Respondents”) filed a response on July 7, 2025. Dkt. No. 10. Respondent Thompson has not served any response to the Petition, despite the fact that Respondent Thompson was properly served with the Petition on or before July 3, 2025. Dkt. No. 9.

As of today, Vincent, a native and citizen of South Africa, has been detained in the South Texas ICE Processing Center for 258 days since his removal order became administratively final. During this time, and despite repeated attempts by Immigration and Customs Enforcement (“ICE”) to remove him to his country of birth, South Africa has refused to issue travel documentation to facilitate his removal. On top of that, there is no evidence to suggest that his removal order will be executed *at all*, much less in the reasonably foreseeable future. Federal Respondents’ attempts to dispute this conclusion merely underscore its truth.

Because Vincent has been detained for more than six months following a final removal order, and because there is “no significant likelihood of [Vincent’s] removal in the reasonably foreseeable future,” his continued detention violates federal law and the due process protections afforded by the Constitution. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001). This Court should grant Vincent’s habeas 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; *see also Rodriguez Del Rio v. Price*, EP-20-CV-00217-FM, 2020 WL 7680560 at *2 (W.D. Tex. 2020). The Supreme Court held that 8 U.S.C. § 1231 authorizes immigration detention after a final removal order 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 this presumptively reasonable period proceeds

under a three step burden-shifting analysis. *See id.* First, the petitioner must show “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701; accord *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006). The burden then shifts to the government to “respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701. Finally, if the government meets its burden, the burden shifts back to the petitioner to rebut the government’s evidence. *See, e.g., Thanh v. Johnson*, 2016 WL 5171779 at *4 (W.D. Tex. 2016).

I. Vincent Has Met His Initial Burden to Show Good Reason to Believe His Removal to South Africa Is Not Significantly Likely in the Reasonably Foreseeable Future.

‘Good reason’ is not a high bar, and Vincent has more than met his initial burden. For example, in finding petitioners have met this burden, courts in the Fifth Circuit have found persuasive the length of a petitioner’s detention and the fact that there was an injunction preventing removal, *Abdulle v. Gonzales*, 422 F.Supp.2d 774, 779 (W.D. Tex. 2006); that scheduled flights to the petitioner’s country of citizenship had been cancelled and that no new removal date had been established, *Rodriguez Del Rio*, 2020 WL 7680560 at *3; and that there existed a diplomatic standoff between the United States and the ostensible country of removal, as well as a suspension of flights between the two due to the coronavirus pandemic, *Balza v. Barr*, 2020 WL 6143643 at *4-5 (W.D. La. 2020), *report and recommendation adopted*, 2020 WL 6064881.

Here Vincent has demonstrated ‘good reason’ to believe his removal is not likely to occur in the reasonably foreseeable future for at least three reasons. While each is likely sufficient independently to meet his burden, together they certainly surpass that threshold.

First, the length of Vincent’s detention has already significantly exceeded the presumptively constitutional removal period. *See Zadvydas*, 533 U.S. at 701.

Second, as Federal Respondents must and do concede, ICE has tried and failed to remove Vincent *six* times. Dkt. No. 10 at 5. South Africa has rejected at least twelve sets of Vincent's fingerprints apparently without explanation. Dkt. No. 1 at 7; Dkt. No. 10-1 at ¶¶ 12-22, 27, 31. Although the South African consulate interviewed Vincent on June 13, 2025, Federal Respondents have since reached out to the South African consulate *three* times, on June 24, 2025, June 27, 2025, and July 7, 2025, and have "not received a response." Dkt. No. 10-1 at ¶¶ 27-30.¹

Third, ICE's repeated, failed attempts at removal, and the lack of response from the South African consulate regarding its repeated refusal to accept Vincent's fingerprints, have taken place against the backdrop of declining diplomatic relations between the United States and South Africa, which are at their "lowest point since the end of the apartheid system of racial segregation in 1994."² The South African consulate has made no indication that South Africa will accept Vincent's removal soon, or *at all*. Meanwhile, diplomatic relations between the United States and South Africa continue to decline. *See* Dkt. No. 1 at ¶¶ 47-55.

Federal Respondents reply that they continue to make good faith efforts to effectuate Vincent's removal in the future, Dkt. No. 10 at 5, but that is immaterial to whether his continued, indefinite detention is lawful, *see Zadvydas*, 533 U.S. at 702; *see also, e.g. 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). All the evidence suggests that Federal

¹ The court in *Rodriguez Del Rio v. Price* ordered the petitioner's release on similar facts. *See generally* 2020 WL 7680560. There, even though the petitioner had a final removal order and Cuba had agreed to accept his removal, repeatedly-extended COVID-19 flight restrictions resulted in him remaining detained for almost a year following the removal order. *Id.* at *1-*2. The court held that despite ICE's ongoing efforts to negotiate Cuba's acceptance of repatriation flights, the government had "not shown that it [was] any closer" to removing the petitioner, and the circumstances "fail[ed] to make it *certain* that Petitioner [would] be removed in the reasonably foreseeable future." *Id.* at *4-*5 (emphasis added). The court ordered the petitioner released pending removal. *Id.* But here, unlike the petitioner in *Rodriguez Del Rio*, Vincent's country of citizenship has *not* even accepted his removal in the near future—in fact, South Africa has not accepted his removal *at all*.

² Gerald Imray, *South Africa's leader aims to salvage relationship with Trump in face of 'genocide' claim*, AP News (May 21, 2025), <https://apnews.com/article/trump-south-africa-ramaphosa-genocide-3f599aa3e91277dcc095d9bc9003357c>.

Respondents' future attempts to remove Vincent will have the same result: continued detention that flies in the face of constitutional protections. If anything, ICE's repeated failures to remove Vincent despite such efforts merely underscores the fact that his removal is not significantly likely in the reasonably foreseeable future.

Nor, as Federal Respondents suggest, are Vincent's claims that he is detained indefinitely "conclusory" or "speculative." *See* Dkt. No. 10 at 5. Each case Federal Respondents cite in support is inapposite, involving petitioners still in removal proceedings, conditions of confinement in the COVID-19 pandemic, petitioners who had impeded their own removal, or petitioners whose removal had already been approved by their country of citizenship.³ Federal Respondents make no attempt to explain how these materially distinguishable cases show that Vincent's claims are conclusory or why his *Zadvydas* claims are supposedly unfounded.

Finally, *Zadvydas* does not require Vincent 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).

Vincent 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 Zadvydas*, 533 U.S. at 701.

³ *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); *Silvera v. Joyce*, 2018 WL 1249913 at *4 (W.D. Tex. 2018) (same); *Boroky v. Holder*, 2014 WL 6809180 at *1, *4 (Petitioner impeded his removal by failing to provide necessary identification documents he possessed); *Nogales v. Dept. of Homeland Sec.*, 2022 WL 851738 at *1 (5th Cir. 2022) (Petitioner challenged *conditions* of confinement rather than constitutionality of continued detention); *Akbar v. Barr*, 2021 WL 1345530 at *4-*5 (W.D. Tex. 2021) (same), *report and recommendation adopted* 2021 WL 1345528; *Thanh*, 2016 WL 5171779 at *2, *4 (denying habeas relief where country of citizenship already *approved* removal, attempts to obtain travel documents had *not been denied*, and petitioner failed to rebut government's evidence by *failing to respond*).

II. Federal Respondents Have Failed to Meet Their Burden to Provide Evidence Rebutting Vincent’s Showing that Removal is Not Significantly Likely in the Reasonably Foreseeable Future.

Because Vincent has shown that there is “good reason” to believe that his removal is not significantly likely in the reasonably foreseeable future, the burden now shifts to the government to “respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701. Federal Respondents entirely fail to carry this burden and in fact only reiterate the very conditions that make Vincent’s removal so unlikely.

To start, Federal Respondents do not contest that Vincent has already been detained for over eight months since his final removal order. This is significantly longer than the presumptively constitutional six-month period permitted by *Zadvydas*. *See* 533 U.S. at 701.

Next, Federal Respondents argue only that they have already failed numerous times to remove Vincent, and that the South African consulate has ignored multiple inquiries by ICE about the issuance of a travel document. *See* Dkt. No. 10 at 5, Dkt. No. 10-1 at ¶¶ 29–30. Federal Respondents do not contend that the June 13, 2025 interview with the South African consulate resulted in any indication from South Africa that Vincent’s removal will soon be accepted. Accordingly, Federal Respondents make no showing that Vincent’s removal will be possible *at all*, much less in the reasonably foreseeable future—particularly given that “as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Zadvydas*, 533 U.S. at 701.

Finally, Federal Respondents’ purported plan to conduct a 270-day custody review does nothing to cure the constitutional deficits arising from Vincent’s continued detention. *See* Dkt. No. 10-1 at ¶ 32. There is no indication that, if Federal Respondents continue to fail in their removal efforts, they will release Vincent at that point (nor have they suggested they would). Nor is there

any reason to believe another post-custody review would do anything other than further violate Vincent's constitutional rights and result in a second habeas petition when Federal Respondents fail *yet again* to remove Vincent.

In sum, Federal Respondents have done nothing to rebut Vincent's showing that there is 'good reason' to believe his removal is significantly likely in the reasonably foreseeable future.

CONCLUSION

Federal Respondents have already had much longer than the constitutionally permissible period to remove Vincent and have failed in each attempt to do so. Every day that Vincent remains in detention past the presumptively reasonable six-month detention period, on the facts set out in his petition, constitutes a 'good reason' to believe that his removal is not significantly likely in the reasonably foreseeable future. Vincent has therefore met his burden to justify release, while Federal Respondents have done nothing to rebut that showing. Vincent therefore respectfully requests that this Court grant his petition for writ of habeas corpus and order his immediate release.

Dated: July 14, 2025

Respectfully submitted,

/s/ Kate Gibson Kumar

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CERTIFICATE OF SERVICE

I hereby certify that on July 14, 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.

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