

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

**MOTION FOR
EXPEDITED
DISCOVERY**

PETITIONER'S MOTION FOR EXPEDITED DISCOVERY

Petitioner Vincent Jobo respectfully submits this motion for expedited discovery. On June 18, 2025, Vincent filed his Petition for Writ of Habeas Corpus (Docket Entry 1). On June 25, 2025, this Court ordered Respondents to file a Response (Docket Entry 6). On July 7, 2025, Respondents filed a Response (Docket Entry 10), and on July 14, 2025, Vincent filed a Reply (Docket Entry 11). On July 15, 2025, this Court set this matter for an evidentiary hearing on September 9, 2025 (Docket Entry 12).

Over the past several weeks, Vincent's counsel and counsel for Federal Respondents have conferred in good faith regarding the discovery dispute subject of this motion. As a result of counsel's conversations, some discovery has been produced and the remaining issues before this

Court have been narrowed significantly. Until August 25, 2025, it appeared that the parties would reach an agreement about all requested documents without court intervention. Despite counsel's best efforts, however, important discovery issues could not be resolved. Accordingly, Vincent files the present motion to seek limited and expedited discovery from this Court.

LEGAL STANDARD

Although a habeas petitioner is not entitled to discovery as a matter of course, the All Writs Act grants federal courts "the power to fashion appropriate modes of procedure, including discovery, to dispose of habeas petitions as law and justice require." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997) (cleaned up).

In habeas corpus proceedings, including *Zadvydas* habeas cases, federal courts apply the Rules Governing Section 2254 Cases in the United States District Courts. *See, e.g., Phouk v. Warden*, 378 F.Supp.3d 1209, 1211 (M.D. Ga. 2019); *see also* Rules Governing Section 2254 Cases in the United States District Courts R. 1(b) (effective Dec. 1, 2019) (hereinafter "Rules Governing Section 2254 Cases.") ("The district court may apply any or all of these rules to a habeas corpus petition not covered by Rule 1(a)").

A habeas petitioner showing "good cause" is entitled to limited discovery as authorized by the court. Rules Governing Section 2254 Cases R. 6. "Good cause" is shown by providing "reasons for the request," including "proposed interrogatories and requests for admission," and specifying "requested documents." *Id.* R. 6(b).

I. Vincent Has 'Good Cause' For Discovery Under Rule 6(a).

Vincent has 'good cause' for discovery under Rule 6(a). Here, Vincent is entitled to discovery because there is reason to believe the "essential elements of his claim"—1) the six-month period has expired, and 2) there is good reason to believe that there is no significant

likelihood of removal in the reasonably foreseeable future—may be more fully developed through discovery. *See Phouk*, 378 F. Supp. 3d at 1211–12 (citing *Bracy*, 520 U.S. at 904; *Gozo v. Napolitano*, 309 F. App'x. 344, 346 (11th Cir. 2009); *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002)). Because Vincent has shown “reason to believe that if the facts are fully developed, he may be entitled to relief,” it is the duty of this Court to “provide the necessary facilities and procedures for an adequate inquiry.” *Bracy*, 520 U.S. at 908–09 (cleaned up) (citing *Harris v. Nelson*, 394 U.S. 286, 299 (1969)).

Vincent has demonstrated that there is ‘good cause’ for discovery allowing further development of the essential elements of his *Zadvydas* claim. Vincent has made an initial showing that 1) the six-month period that commenced when his order of removal became administratively final has long expired; and 2) there is good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future. *See* Docket Entry 1 at ¶¶ 1, 6–8, 33–55; Docket Entry 1-3 (Order of Removal); Docket Entry 11.

Discovery in this case will allow Vincent to more fully develop the facts and demonstrate that he is entitled to habeas relief in the form of release. Vincent’s requests for production are attached as an exhibit to this motion and seek only the following:

- Documents showing communications between Respondents’ agents and the South African Embassy regarding efforts to obtain a travel document for Petitioner and secure Petitioner’s removal; and
- Documents detailing Respondents’ efforts to remove Petitioner.

Vincent’s requests for production are carefully crafted and targeted to obtain relevant discovery that Vincent has reason to believe exists. In fact, agents of Respondents have personally told Vincent and submitted a sworn declaration attesting that documents of this nature exist. ICE Deportation Officers told Vincent in conversation about emails and other communications between

ICE and the South African Embassy. *See* Docket Entry 1 at ¶¶ 38–43. ICE Deportation Officers likewise communicated to Vincent that his removal was scheduled for February 18, 2025, and later cancelled. *Id.* at ¶¶ 37–41. It follows that documentary records would have been created in the process of arranging and then cancelling Vincent’s removal. Additionally, in the declaration of Supervisory Detention and Deportation Officer Poll Duran, filed by Respondents, Officer Duran referenced several occasions on which ICE communicated or attempted to communicate with the South African Embassy. (Docket Entry 10-1). Officer Duran’s testimony confirms the existence of relevant communications and documents, including travel document requests to the South African embassy, requests for status updates sent to the South African Embassy, communications from the South African Embassy regarding fingerprint retakes, and other communications. *Id.* at ¶¶ 9, 11–15, 17–19, 21–22, 24, 26–27, 29–30.

Additionally, on August 18, 2025, counsel for Federal Respondents informed Vincent’s counsel about recent correspondence between a Deportation Officer and an ERO Attaché in South Africa regarding Vincent’s fingerprints. Vincent is entitled to these documents, as well as others that he and his counsel may not have been personally told about and were not mentioned in Respondents’ declaration.

Vincent does not possess any of these documents. He cannot access them, or know what they contain, without discovery. Moreover, good faith efforts by Vincent’s counsel to obtain these documents without the Court’s intervention have not succeeded. Vincent’s counsel and opposing counsel have been in ongoing discovery discussions for the past four weeks, and most recently conferred on August 18, 2025. Though the conference resulted in production of several other documents and greatly narrowed the discovery sought in this motion, Vincent has not succeeded in obtaining communications between ICE and the South African embassy and other documents

regarding ICE's efforts to remove him that would further develop the record regarding the likelihood of his removal.

Vincent's counsel further attempted to contact the South African embassy by phone and email on July 29, 2025, but has not heard back. Nonetheless, such evidence is of critical relevance to the question before this Court at the evidentiary hearing: whether Vincent's removal is significantly likely in the reasonably foreseeable future. *See, e.g., Ka v. Bureau of Immigration and Customs Enforcement*, 1:07-cv-00197, Dkt. 32, Order to Supplement the Record (S.D. Tex. May 30, 2008) (ordering federal respondents to supplement the record with "documentation . . . from custody determinations" regarding habeas petitioner because "[t]he Court needs all records and documents used in these reviews in order to properly rule on the matter").

II. Counsel For Both Parties Have Engaged in Good Faith Efforts to Resolve This Discovery Matter Without Intervention of This Court.

For the past several weeks, counsel for both parties have engaged in extensive good faith efforts to resolve this discovery matter. On July 31, 2025, Vincent's counsel emailed counsel for Federal Respondents asking if Federal Respondents would be amenable to discovery of certain documents without a motion. On August 4, 2025, counsel for Federal Respondents responded indicating willingness to work to provide the requested documents and asking for more specific discovery requests. Vincent's counsel responded that same day, August 4, attaching requests for production and requesting a conference with counsel for Federal Respondents on August 11. Vincent's counsel also requested production of responsive documents on or before August 25, 2025.

On August 8, 2025, counsel for Federal Respondents responded asking for an emailed list of discovery requested and confirmed availability for a conference on August 12. As an alternative to producing documents, counsel for Federal Respondents offered a declaration

addressing the topics of the discovery sought.

On August 9, 2025, Vincent's counsel responded with the emailed discovery request and confirmed the scheduled conference on August 12. Vincent's counsel also indicated that they would consider the declaration offer, as well as a discovery motion, if the parties were unable to come to an agreement on the documents. On August 12, 2025, counsel for Federal Respondents informed Vincent's counsel of a family situation, and the parties rescheduled the conference for August 18, 2025. Counsel for Federal Respondents again indicated willingness to continue discovery negotiations and expressed hope that the parties could reach a mutually beneficial agreement regarding the documents without court involvement.

On August 18, 2025, counsel for both parties conferred via videoconference. Federal Respondents agreed to produce and did produce some of the requested discovery. Counsel for Federal Respondents advised Vincent's counsel of continued efforts to obtain and share the documents at issue in the present motion. Counsel for Federal Respondents indicated that by August 25, 2025, she would share the documents or, in the alternative, the basis for Federal Respondents' withholding of the documents.

On August 25, 2025, Vincent's counsel followed up with counsel for Federal Respondents regarding the ongoing discovery negotiation. Counsel for Federal Respondents replied the same day that in lieu of producing documents, Federal Respondents prefer to provide a declarant at the hearing for in-court testimony, subject to cross-examination. Counsel for Federal Respondents also conveyed that Federal Respondents said they would provide an updated declaration by August 26, 2025 regarding the status of removal efforts and addressing the requested communications with South Africa. Counsel for Federal Respondents also indicated that she had again requested information about how many documents might be

responsive to Vincent's request and the basis for withholding the documents, but she was unsure whether she would receive such information.

Until August 25, 2025, it appeared that the parties would be able to come to an agreement about the requested documents without court intervention. However, Federal Respondents have now indicated that they prefer not to disclose these documents to Vincent. Accordingly, to obtain this key information about his case and the diplomatic situation underlying ICE's inability to remove him, Vincent has no options remaining but to file the present motion.

III. Conclusion

Vincent has demonstrated sound reason to believe that if the facts are more fully developed he may be entitled to habeas relief. Vincent respectfully requests that this Court "provide the necessary facilities and procedures for an adequate inquiry," *see Bracy*, 520 U.S. at 908–09, by ordering Respondents to produce all documents responsive to Vincent's attached Requests for Production on or before **September 5, 2025**.

Vincent further requests that this Court keep the evidentiary hearing scheduled for **September 9, 2025**. This emergency motion was filed only as a last resort after weeks of conference and good-faith efforts of counsel for both parties to resolve the discovery matters at issue without the intervention of this Court. Postponing the hearing would penalize the parties for their amicable efforts to resolve this dispute and result in further elongation of Vincent's unconstitutional detention.

Dated: August 27, 2025

Respectfully submitted,

/s/ Kate Gibson Kumar

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CERTIFICATE OF SERVICE

I hereby certify that on August 27, 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/ Kate Gibson Kumar

CERTIFICATE OF CONFERENCE

I hereby certify that on July 31, 2025, August 4, 2025, August 8, 2025, August 9, 2025, August 18, 2025, and August 25, 2025, Kate Gibson Kumar and Daniel Hatoum for Petitioner and Lacy L. McAndrew for Respondents conferred by videoconference and email. Despite conferring in good faith, counsel were unable to reach a resolution regarding the discovery sought in this motion.

/s/ Kate Gibson Kumar