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Counsel for petitioner.

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF OREGON

EUGENE DIVISION

| | | |
|--------------------------------------------|---|---------------------------|
| S.F., |) | File No. |
| |) | |
| Petitioner, |) | Agency No. |
| |) | |
| vs. |) | AXXX-XXX-755 |
| |) | |
| DREW BOSTOCK, Seattle Field Office |) | PETITIONER'S REPLY |
| Director, U.S. Immigration and Customs |) | BRIEF |
| Enforcement and Removal Operation, et al., |) | |
| |) | |
| Respondents. |) | |

Petitioner submits the following as his reply to the respondent's brief.

I. PROLONGED DETENTION PAST SIX MONTHS.

Zadvydas v. Davis, 533 U.S. 678, 701 (2001) held that a person can be held in custody for six months pending deportation. “After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the

reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701.

Here, the respondents have not been able to execute the order of removal to Iran for almost 20 years. This provides, as *Zadvydas* states “good reason to believe there is no significant likelihood of removal in the reasonably foreseeable future.” This is particularly so given the recent bombing of Iran by the United States which makes it seem less likely that Iran will be willing to cooperate with the United States in the enforcement of the immigration laws.

Thus, under *Zadvydas*, the burden now shifts to the government to rebut this showing. In this respect, the respondents present the following evidence, in the following paragraphs of the declaration of deportation officer Rodriguez:

“¶ 3. A request for a travel document to Iran has been submitted and is currently pending.

¶ 5. On September 9, 2025, I was informed by ERO Headquarters Removal and International Operations ("HQ-RIO") that there is a charter removal flight to Iran scheduled for the first week of October and that they expect some travel documents to be issued before that date. As the process is ongoing, I have not been informed whether Petitioner's travel document is among those expected or if he would need a travel document to be placed on the charter flight. Depending on how the process plays out, Petitioner could be a candidate for placement on the charter flight.

This is not enough to rebut the petitioner's showing. The respondents speak of having a removal flight chartered for the first week in October. They present no

information as to whether respondent's travel document will be available for the flight, nor do they even know if they will need a travel document.

The first week in October will occur in just two weeks. The respondents simply have not what if any chances they have of placing the petitioner on this flight.

Counsel for respondents states that “one can reasonably expect that the government will need time in the coming weeks to move Petitioner to a location where he can be placed on the flight.” But this is not supported by evidence. Nothing in the declaration by Officer Rodriguez speaks to this.

Respondents admit that the “placement on the flight remains fluid” and they will update the court. What this really is is an admission that as of right now, respondents have no proof they can execute the removal order any time soon. Under *Zadvydas* then, the petitioner must be released.

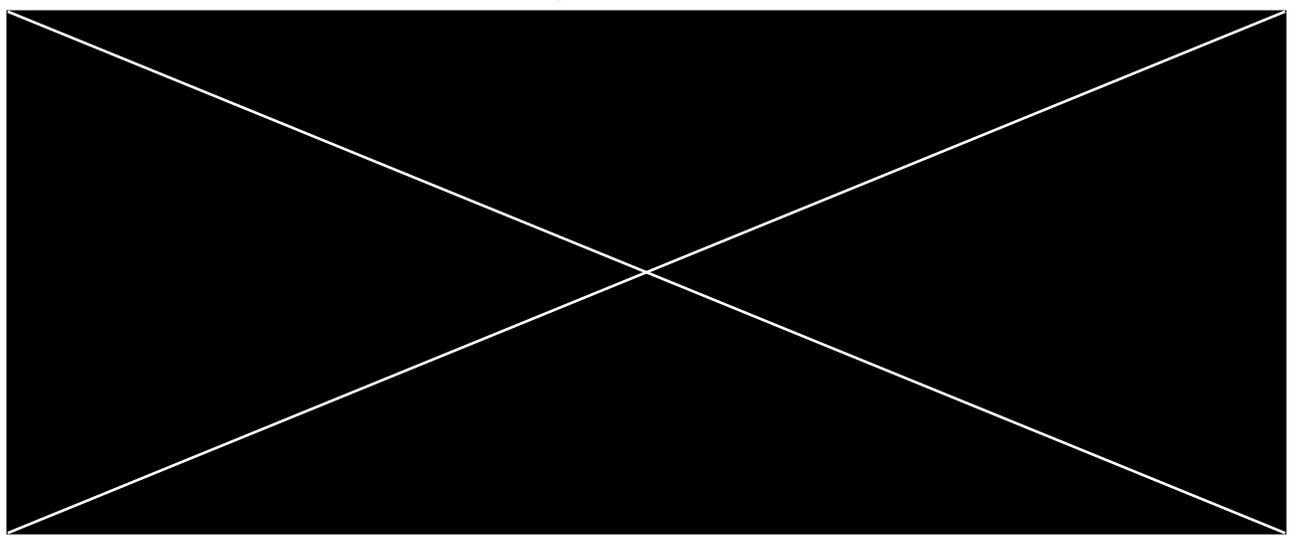
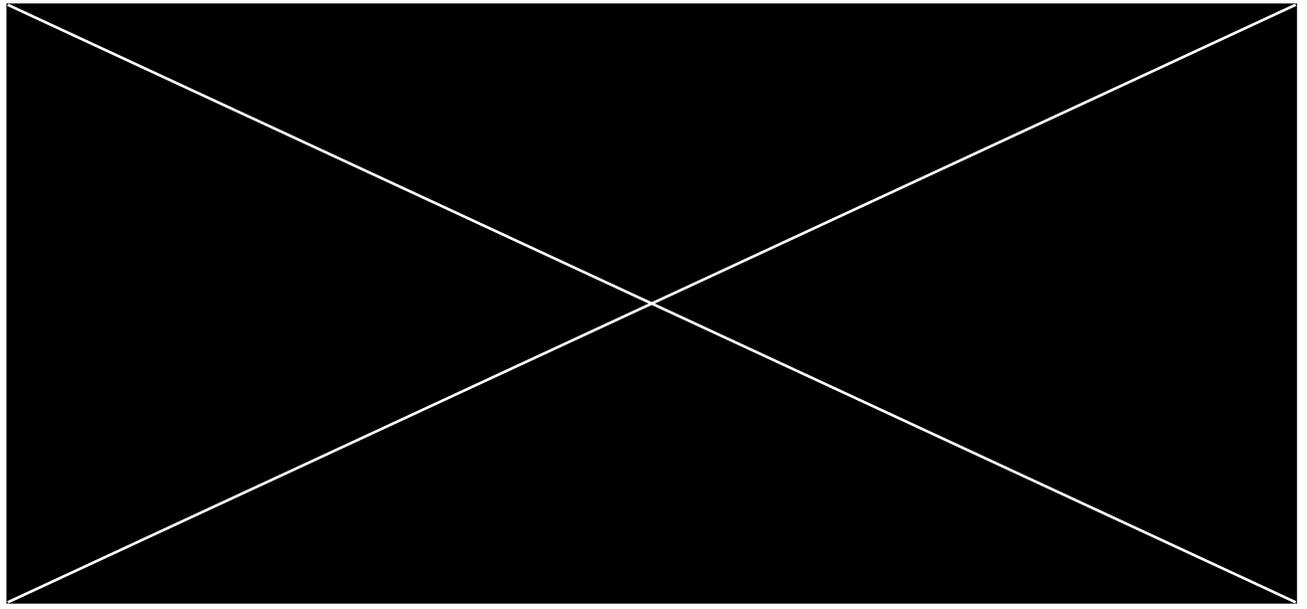
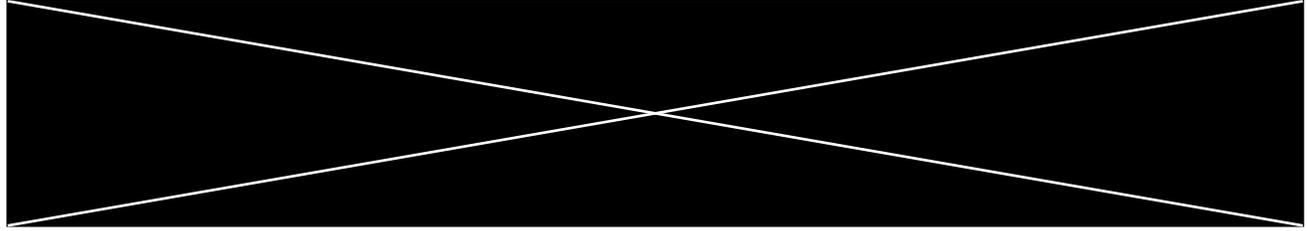
If and when respondents acquire actual proof that the execution of the removal order is reasonably likely, then they can take the petitioner back into custody.

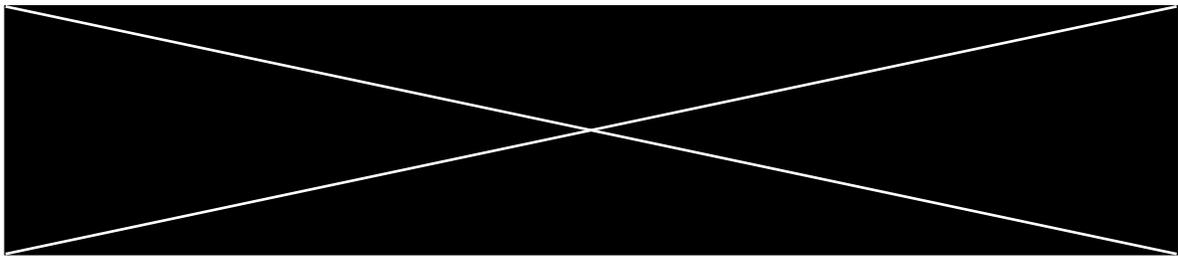
II. CRIMINAL RECORD DOESN'T JUSTIFY CURRENT DETENTION.

Respondents make the point that petitioner has acquired a criminal record which includes dishonesty and disregard of court orders, and so he can't be trusted to be present at the the moment of removal. That could be a valid argument, but respondents take it too far. First off, they've known about all these cases for a very long time and have not taken petitioner into custody until now, two days after American forces bombed Iran.

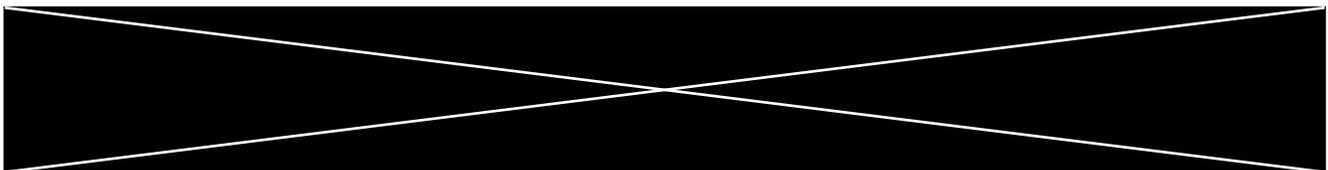
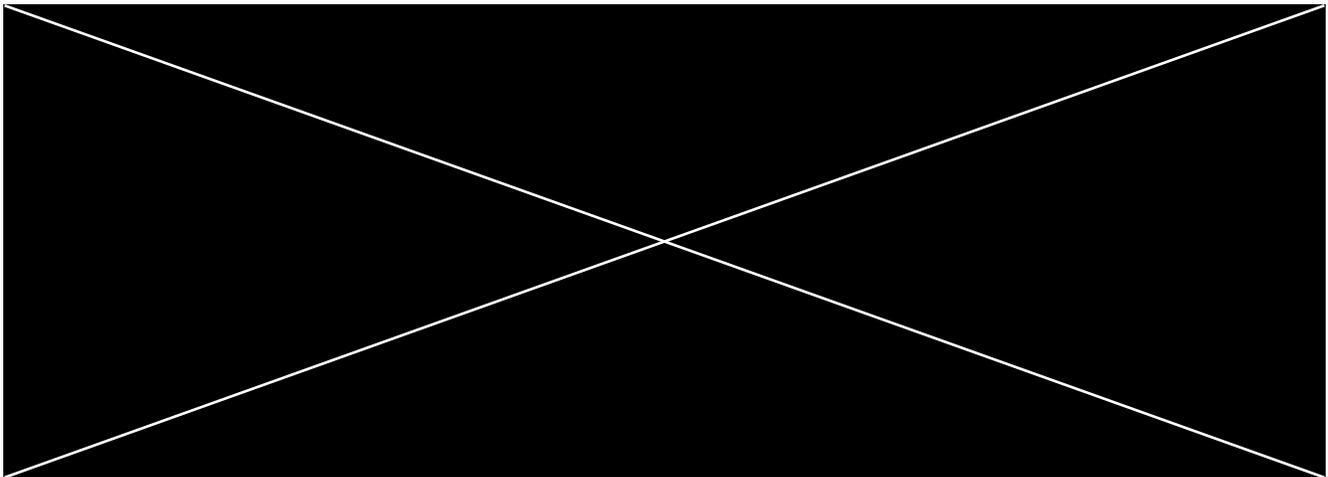
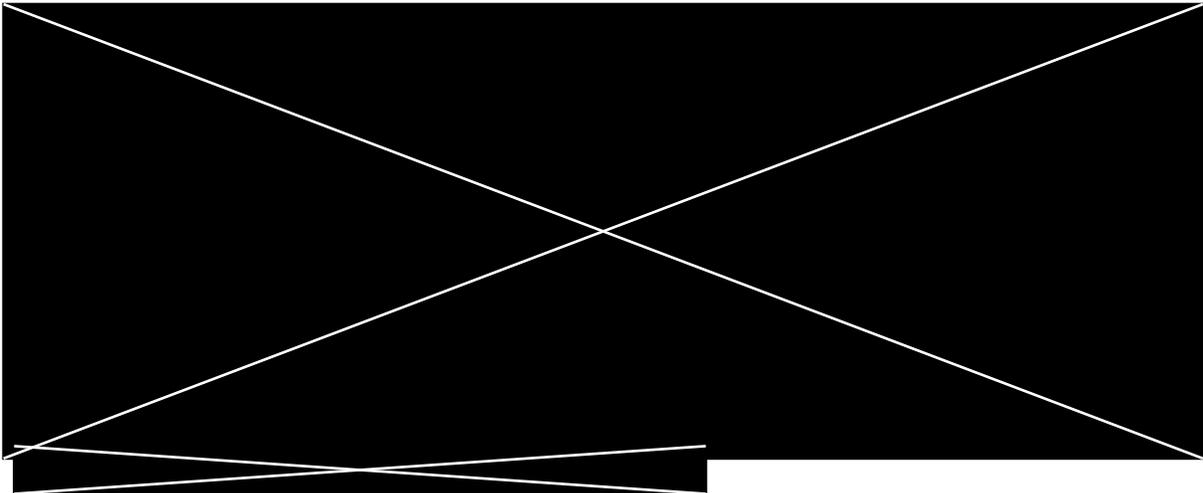
Next, respondents bring in unsupported material. On page 6 of their brief,

respondents say petitioner has been convicted of





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III. PETITIONER HAS FILED A MOTION TO REOPEN WITH BIA.

Respondents say that the petitioner is stalling on filing his motion to reopen the order of removal. This might be a valid point except that on September 15, 2025, the petitioner filed with the Board of Immigration Appeals a motion to reopen his previous order of removal together with a motion to stay removal, and supporting documents and exhibits. See Declaration of Michael T. Purcell (attached).

IV. THIRD COUNTRY REMOVAL IS RIPE FOR ADJUDICATION.

As to the ripeness doctrine, its “basic rationale is to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements over administrative policies, and also to protect the agencies from judicial interference until an administrative decision has been formalized and its effects felt in a concrete way by the challenging parties.” *Abbott Laboratories v. Gardner*, 387 U.S. 136, 149 (1967).

Here, the respondents have claimed, in officer Hammer's declaration (¶15) on July 1, 2025 that were “assessing the case for potential third country removal.” Now, according to the declaration of officer Rodriguez (¶4), “ICE is not currently assessing or pursuing third country removal.”

The question as to whether a case is ripe for adjudication cannot depend on the whim of a party opponent. It is clear that third country deportation is the respondents'

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backup plan should efforts to deport him to Iran fail. That is consistent with the recent practice of the respondents.¹

Indeed, it appears that in the case of at least two countries, the plan seems to be to deport people to those countries, who will then deport the people to their country of origin.²

Under these circumstances, the question of third country deportations is ripe for adjudication.

Dated this 15th day of September 2025

/s/ Michael T. Purcell

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1 See NYT, “Inside the Global Deal-Making Behind Trump’s Mass Deportations – The administration is pushing nations around the world, including ones at war, to take people expelled by the U.S. government who are not citizens of those countries” (June 25, 2025); NYT, “Lawsuit Accuses Trump Officials of More Wrongful Deportations – Plaintiffs accused the Trump administration of using so-called third-country deportations to violate court-ordered protections for migrants, echoing the case of Kilmar Armando Abrego Garcia.” (Sept 13, 2025); Scripps News, “US deportations to African nations escalate amid concerns over due process – Human rights and legal advocates argue this expedited deportation process may result in individuals being sent to countries deemed unsafe, potentially violating international law.” (Sept 3, 2025).

2 See NYT, “African Nation Says It Will Repatriate Migrants Deported by U.S. – The Trump administration sent five deportees to Eswatini, an African kingdom, saying that their own countries would not take them. But Eswatini says it will send them home.” (July 16, 2025); CNN, “Immigrants deported from US to Ghana are sent home, where lawyers say some could face torture.” (Sept 15, 2025).