IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
Abilene Division

Reza Yaghoubi Yeganeh,	)	
Petitioner,	)	
	)	Civ. Action No. 1:25-cv-121-H
v.	)	
Warden, Bluebonnet Detention Facility, *et al.*	)	
Respondents.	)	

REPLY MEMORANDUM IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner was ordered removed from the United States to Iran in late 2014. Well-established Supreme Court caselaw prevents the government from detaining an individual for more than 180 days after a final order of removal, absent a significant likelihood of removal in the reasonably foreseeable future. *Zadvydas v. Davis*, 533 U.S. 678 (2001). Respondents released Petitioner from detention in early 2015 precisely because they correctly determined that there was no significant likelihood of removal in the reasonably foreseeable future.

Ten years later, Respondents decided to rearrest Petitioner and throw him into a jail, without any articulable reason to believe that Iran was now willing to accept him for removal. After arresting Petitioner, they waited four months before even *asking* the government of Iran to issue travel documents; that request is still pending, with no way to know whether Iran will answer (if at all) in "ten days, ten months, or ten years." *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019). To the extent that Iran has responded to the request, that response was negative.

In sum, nothing has changed with regards to Respondents' *ability* to remove Petitioner in the reasonably foreseeable future; the only thing that has changed is that Respondents now have a

greater *desire* to do so. This does not re-set the 180-day *Zadvydas* clock. Respondents have not demonstrated a significant likelihood of removal in the reasonably foreseeable future, and the writ of habeas corpus should issue.

Procedural History

Petitioner was ordered removed from the United States to his native Iran on December 9, 2014. Dkt. 8 at 37. Pursuant to 8 U.S.C. § 1231(a)(1)(A), the government was required to attempt to remove him during the following 90-day removal period. But the government was not able to do so; accordingly, the day after the 90-day removal period expired, Respondents released Petitioner from detention on an Order of Supervision. Dkt. No. 1-2 at 1 ("Because the agency has not effected your deportation or removal during the period prescribed by law, it is ordered that you be placed under supervision and permitted to be at large under the following conditions . . . ."); Dkt. No. 8 at 3 ¶ 5 ("On or about March 10, 2015, YEGANEH was released from ICE custody under an order of supervision because ERO was unable to remove him to Iran at that time.").

On March 18, 2025, Respondents re-detained Petitioner, *id.* at ¶ 6; he has been detained at the Bluebonnet Detention Center in Anson, Tex. ever since (161 days as of the date of filing this pleading, or a total of 252 days including his initial 91-day detention). Dkt. No. 1-3.

On June 18, 2016, Respondents conducted a file review of Petitioner's custody (not a personal interview). *See* Dkt. No. 8 at 46 ("Decision to Continue Detention"). Respondents decided not to release Petitioner for two reasons: "You have been deemed a threat to public safety";[1] and "Your removal is expected to be effectuated within the reasonable foreseeable future." This latter statement was untrue, because at the time the file custody review took place, the ICE office

[1] In this litigation, Respondents are not arguing "threat to public safety" as a reason to deny Petitioner a writ of habeas corpus. *See generally* Dkt. No. 7.

detaining Petitioner had not yet even sent a travel document request to ICE Headquarters; they would not do so for another month thereafter. See Dkt. No. 8 at 4 ¶¶ 10.

Respondents did not even *request* travel documentation from the government of Iran until July 22, 2025—126 days after they re-detained Petitioner. Dkt. No. 8 at 4 ¶ 12.[2] In other words, Petitioner spent a full four months locked up in a jail for no reason whatsoever, without Respondents making any attempt to remove him from the United States. Over a month after making the request, Respondents have yet to receive a response from the government of Iran, nor can Respondents provide this Court with any estimate of when or even whether such a response might come. *Id.* Meanwhile, Petitioner's health has significantly deteriorated in detention, and he now requires a wheelchair to get around. Dkt. Nos. 1-4, 1-5, 1-6, 1-7; *see also* Ex. A hereto (Affidavit of Reza Yaghoubi Yeganeh) at ¶¶ 9-10.

Petitioner filed his Petition for Writ of Habeas Corpus on July 21, 2025. Dkt. No. 1. On July 22, 2025, this Court found good cause to order Respondents to show cause, and ordered that an answer be filed by August 12, 2025, showing why the petition should not be granted. Dkt. No. 3. Respondents timely filed their Response in Opposition to Petition for Writ of Habeas Corpus, Dkt. No. 7, along with an Appendix in support thereof, Dkt. No. 8. The Appendix did not contain any records or original documents pertaining to Respondents' attempts to remove Petitioner to Iran, just a declaration from an ICE Deportation Officer. *Id.* at 2-4. The Appendix furthermore did not contain any explanation—much less any evidence—in support of the Deportation Officer's

[2] This four-month delay was not attributable to ICE Headquarters, which cleared the travel document request within a day; it is entirely attributable to the local ICE office, which inexplicably waited 118 days, nearly three months, to even send a travel document request to ICE Headquarters after arresting and detaining Petitioner. *See* Dkt. No. 8 at 3-4 ¶¶ 6-12.

conclusory and self-serving statement that "there is now a likelihood of removal to Iran" or any reason why "ICE believed that he could be removed to Iran." *Id.* at 3 ¶ 7.

Argument

I. This habeas corpus petition, filed over ten years after the order of removal, is not premature.

Respondents contend that this habeas corpus petition was filed prematurely, because "Petitioner has not been detained beyond the six-month post-order period. Petitioner has only been in custody since March." Dkt. No. 7 at 7. But Petitioner was ordered removed in late 2014, and the six-month post-order period expired in early 2015. Respondents provide no authority or explanation for why their re-arrest of Petitioner acts to reset the clock on that 180-day period, and neither the statute, 8 U.S.C. § 1231(a)(6), nor *Zadvydas* so provide.[3] *See Alam v. Nielsen*, 312 F. Supp. 3d 574, 581-82 (S.D. Tex. 2018) (rejecting the argument that the Section 1231(a)(1)(A) removal period is restarted when an Order of Supervision is revoked for the purposes of removal). This is especially true here, where (1) the government already determined that it could not remove Petitioner in 2015; (2) the government presents this Court with no facts or evidence from which to draw the conclusion that their inability to remove Petitioner has changed in any way since 2015; and (3) at the time the government re-arrested Petitioner, it had not even started trying to remove Petitioner, and indeed would not start trying to do so for another four months thereafter.

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[3] Under Respondents' view of the 180-day clock, if the government releases a noncitizen from custody after 181 days on a finding that he cannot be removed, then re-arrests him the following morning, the holding of *Zadvydas* does not allow him to file a habeas corpus petition until he spends *another* 181 days in detention. This is obviously and apparently absurd. Here, although a full ten years elapsed between the release and the re-arrest, there is no functional difference, because the government has shown no change over that decade with respect to Iran's unwillingness to accept U.S. deportees.

The basic responsibility of the habeas court is to "ask whether the detention in question exceeds a period reasonably necessary to secure removal." *Zadvydas*, 533 U.S. at 699. In so doing, the habeas court "should measure reasonableness primarily in terms of the statute's basic purpose, namely, assuring the alien's presence at the moment of removal. Thus, if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute." *Id.* at 699-700. Under *Zadvydas*, after 180 days have elapsed since the start of the removal period, even just one additional day of post-removal-period detention could be found unreasonable if not justifiable by the statute's basic purpose of assuring the noncitizen's presence at the moment of removal. *See also Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025), citing *Nguyen v. Hyde*, No. 25-cv-11470, 2025 WL 1725791 (D. Mass. June 20, 2025) (finding *Zadvydas* 6-month period not reset where alien is "re-detained" after having been on supervised release and that respondents failed to meet their burden to show a substantial likelihood of removal is now reasonably foreseeable), and *Tadros v. Noem*, No. 25-cv-4108, 2025 WL 1678501 (D.N.J. June 13, 2025) (finding 6-month period had long lapsed while petitioner was on supervised release and placing the burden on the government to show removal is now likely in the reasonably foreseeable future).

In any event, Petitioner has now been detained for well over 180 days after the entry of his removal order (91 days in 2014-15, plus 161 days in 2025, for a total of 252 days). Even under Respondents' reading of *Zadvydas*, Petitioner has now punched enough holes on the punchcard to seek judicial review of his detention. *See Bah v. Cangemi*, 489 F. Supp. 2d 905, 918 (D. Minn. 2007) (describing the "'unencumbered-time' approach").

For the foregoing reasons, Respondents' citations to cases including *Agyei-Kodie v. Holder*, 418 F. App'x 317 (5th Cir. 2011) are inapposite, and this habeas petition was not filed prematurely.

II. Petitioner has shown good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.

Under *Zadvydas*, once the six-month post-removal period has elapsed, a noncitizen bears the initial burden of production to show "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future[.]" 533 U.S. at 702. What constitutes the reasonably foreseeable future is a shrinking window of time: "for detention to remain reasonable, 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.

This is not a case in which Petitioner relies solely on the mere passage of time with "a lack of visible progress," Dkt. No. 7 at 5. Petitioner has met his initial burden by providing his Order of Supervision, Dkt. No. 1-2, at 1, which demonstrates that as of March 10, 2025, the government found that it was unable to remove him from the United States. In addition, Petitioner here attaches (at Ex. B) his most recent Employment Authorization approval notice, dated February 6, 2025, with category "C18." C18 is the category for Order of Supervision, *see* 8 C.F.R. § 274a.12(c)(18). Pursuant to that regulation, "[a]n alien against whom a final order of deportation or removal exists and who is released on an order of supervision under the authority contained in section 241(a)(3) of the Act may be granted employment authorization in the discretion of the district director only if the alien cannot be removed due to the refusal of all countries designated by the alien or under section 241 of the Act to receive the alien, or because the removal of the alien is otherwise impracticable or contrary to the public interest." *See also* 8 U.S.C. § 1231(a)(7) (same). Accordingly, as recently as February 6 of this year,[4] the government still understood that there was no significant likelihood of removal in the reasonably foreseeable future. Nothing has changed

[4] The government also made this finding once more, on September 16, 2018. *See* Ex. B (C18 employment authorization card dated 07/16/18).

since that date.[5]

A significant recent development occurred on August 25, 2025, the day before this pleading was filed. Petitioner and an ICE officer followed up with the Iranian embassy. As Petitioner's niece[6] describes:

> Today, August 25, Reza informed me that at approximately 9:15 AM a guard advised him that he would be pulled at 9:45 for a consulate call. ICE had a detention center guard escort him to a private room, where they contacted the Iranian Embassy. During that call, Reza was instructed to request travel documents from the Iranian Embassy. A man named Mr. Sajadie stated that he was a representative of the Iranian Embassy. He inquired what official Iranian identification documents Reza possessed. Reza advised him he had no documents. Mr. Sajadie followed up inquiring how long he had been in the United States, and Reza responded over 30 years. Mr. Sajadie advised Reza "There are Afghans who speak Farsi better than you and I. I cannot give you documents to re-enter the country because you do not possess any documents from the Iranian government to verify your identity." The call ended by Mr. Sajadie wishing Reza a good day.

Ex. C at ¶ 3. This confirms that the Iranian document will not issue travel documents to Petitioner, thus eliminating any hope of a significant likelihood of removal within the reasonably foreseeable future.

Finally, the United States officially recognizes that Iran generally does not accept deportees from our country. *See* Executive Order, *Restricting the Entry of Foreign Nationals to Protect the United States from Foreign Terrorists and Other National Security and Public Safety Threats* (June

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[5] If anything, diplomatic relations between the United States and Iran have only worsened since February. *See* "Nations around the world react to U.S. strikes on Iran, with many calling for diplomacy," PBS News (June 22, 2025), *available at* https://www.pbs.org/newshour/world/nations-around-the-world-react-to-u-s-strikes-on-iran-with-many-calling-for-diplomacy (after the United States bombed nuclear facilities in Iran, quoting Iranian Foreign Minister Abbas Araghchi as saying that "the time for diplomacy was over and Iran had the right to defend itself.").

[6] The incident described in Ex. C took place the day before this pleading was filed, after Petitioner had already signed his affidavit. Arranging for an ICE detainee to sign an affidavit is a fairly laborious process of coordinating with the detention center, and cannot be accomplished on a same-day or next-day basis. Petitioner will supplement the record with his own affidavit as soon as he is able to do so.

4, 2025), at § 2(h)(i) (suspending the entry of Iranian nationals because "Iran . . . has historically failed to accept back its removable nationals.").[7] As the Fifth Circuit held in the *Zadvydas* case on remand from the Supreme Court, a "finding that Zadvydas will never be deported because there is no place to send him plainly and necessarily includes a finding that he will not be removed in the reasonably foreseeable future." *Zadvydas v. Davis*, 285 F.3d 398, 404 n.8 (5th Cir. 2002).

Since Petitioner has provided "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future"—and, indeed, Respondents themselves so found in 2015 and again in February 2025—this case is entirely different from the cases cited in Respondents' memorandum (Dkt. No. 7 at 5-7) where a habeas petitioner relied *solely* on the passage of time to argue that they had met their burden. None of the cases cited by Respondents involve a habeas petitioner whom the government had already determined that it could not remove, and for whom the country of removal had already stated that it would not provide travel documents. As the Fifth Circuit recognized, *Zadvydas* itself was a case in which "the Government had thrice failed to secure the transfer of an alien subject to a final order of removal, and could offer no promise of future success[.]" *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006). The facts here are the same: the government has failed over the course of ten years to remove Petitioner (finding at least three times that he "cannot be removed due to the refusal of all countries designated by the alien or under this section to receive the alien," 8 U.S.C. § 1231(a)(7)), and offers no promise or even suggestion of why it will be more successful now. *See also Singh*, 362 F. Supp. 3d at 101 ("[N]othing in the record suggests that DHS is now any closer to obtaining the necessary documents than it was when Singh first was taken into custody."); *Senor v. Barr*, 401 F.

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[7] *Available at* https://www.whitehouse.gov/presidential-actions/2025/06/restricting-the-entry-of-foreign-nationals-to-protect-the-united-states-from-foreign-terrorists-and-other-national-security-and-public-safety-threats/.

Supp. 3d 420, 431 (W.D.N.Y. 2019) ("The government has not given this Court any reason to believe that removal is significantly likely to occur in the reasonably foreseeable future. . . . So there is a real question about when—or even whether—that removal will occur."); *Agabada v. Ashcroft*, 2002 WL 1969660, at *1 (D. Mass. Aug. 22, 2002) ("The affidavit of the deportation officer supporting the motion to dismiss gives the court no assurance that removal will occur 'in the reasonably foreseeable future.' . . . . The respondent's submission gives the court no confidence as to when, or even whether, the petitioner will ever be repatriated.").

III. Respondents have failed to rebut (indeed, do not even attempt to rebut) Petitioner's showing.

Petitioner has, therefore, made a sufficient showing to shift the burden of proof onto Respondents under *Zadvydas*. *See also Escalante v. Noem*, No. 9:25-CV-00182-MJT, 2025 WL 2206113, at *3 (E.D. Tex. Aug. 2, 2025) (citing 8 C.F.R. § 241.4(b)(4) for the proposition that "upon revocation of supervised release, it is the Service's burden to show a significant likelihood that the alien may be removed.").

To be clear, Petitioner does not argue that Respondents must have travel documents in hand in order to re-detain him for removal. But Respondents must have some *articulable* reason, which they present to the court through evidence, to believe that Iran will issue such travel documents. Here, there is none. As the Fifth Circuit explained in the *Zadvydas* case on remand from the Supreme Court, a noncitizen with a final order of removal can be returned to immigration custody "upon a showing that. . . there has then become a substantial likelihood of removal in the reasonably foreseeable future[.]" *Zadvydas*, 285 F.3d at 404. Here, Respondents have made no such showing.

Ultimately, Respondents do not even attempt to argue that they have provided "evidence sufficient to rebut [the] showing" of no significant likelihood of removal in the reasonably

foreseeable future. *Zadvydas*, 533 U.S. at 701; *see also Singh*, 362 F. Supp. 3d at 101-102 ("Furthermore, despite this Court's explicit invitation, DHS has done nothing to rebut that showing. DHS has not produced anything from the Indian consulate providing even a possible timeline for obtaining travel documents or deportation."). Respondents' only defenses to this case are (1) that the petition was filed prematurely, and (2) that Petitioner has not met his initial burden of production. Therefore, if this Court finds that the petition was *not* filed prematurely and Petitioner *has* met his initial burden of production, Respondents have no remaining defense,[8] and the writ of habeas corpus should issue.

Conclusion

For the foregoing reasons, this Court should find that Petitioner's continued detention is not permitted by 8 U.S.C. § 1231(a)(6), issue a writ of habeas corpus, and order Petitioner's release on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3).

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[8] Respondents' affiant (but not Respondents' memorandum of law) briefly mentions that ICE "will likely explore the possibility of third-country removal" if Iran ultimately denies the pending request for travel documents. This argument is not raised in the brief, and therefore it is waived. *See Bridas S.A.P.I.C. v. Gov't of Turkmenistan*, 345 F.3d 347, 356 n.7 (5th Cir. 2003) ("Arguments that are insufficiently addressed in the body of the brief, however, are waived."). Nonetheless, this brief mention of the possibility of third-country removal does not suffice to create a significant likelihood of removal in the reasonably foreseeable future, in a case in which Respondents provide this Court with no articulable reason to believe that any *particular* third country would be willing to accept an Iranian deportee with a felony conviction.

Respectfully submitted, Date: August 26, 2025

//s//____________________

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Certificate of Service

I, Simon Sandoval-Moshenberg, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants.

Respectfully submitted, Date: August 26, 2025

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