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 TO RESPONDENTS'
RESPONSE DETAINING THIRD-COUNTRY REMOVAL EFFORTS

Petitioner was ordered removed to Iran in late 2014. 91 days thereafter, Petitioner was released on an Order of Supervision pursuant to 8 U.S.C. § 1231(a)(3), because Respondents determined at that time that they could not remove him from the United States. Over a decade later, Respondents then re-detained him on March 18, 2025, with the intention of carrying out the removal order. 196 days have elapsed since Petitioner was re-arrested, with Petitioner detained throughout. Meanwhile, Petitioner's health has significantly deteriorated in detention, and he now requires a wheelchair to get around.

Since more than 180 days have elapsed (indeed, 287 days including the initial 91-day period after the 2014 removal order), therefore pursuant to *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), Petitioner is now entitled to a presumption in his favor. "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. And 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." *Id.*

Petitioner explained in his reply memorandum why he meets his initial burden of production to show "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future[.]" *See* Dkt. No. 9 at 6-9. Respondents have now conceded what was clear all along since this action was filed: they cannot deport him to Iran, since that hostile country refuses to issue travel documents. Dkt. Nos. 14, 16.[1] Accordingly, to meet their burden to provide "evidence sufficient to rebut the [Petitioner's] showing" of no significant likelihood of removal in the reasonably foreseeable future, Respondents submit a declaration from an ICE officer, which states, in relevant part:

> Iran's denial of travel documents for Yaghoubi Yeganeh occurred less that three weeks ago. Once ICE received word of the denial, I promptly sent Yaghoubi Yeganeh's case to the State Department. It is primarily the State Department that works with countries to accept third-country nationals. That is a process that does take some time. I am not aware of a third country's acceptance of Yaghoubi Yeganeh at this time, but the State Department, DHS, and ICE are working together on this removal.

Dkt. No. 16 at p.7 ¶ 4. In other words, the government presently has no plan whatsoever to remove Petitioner, but they have sent the case to the people in Washington, D.C. whose job it would be to come up with a plan.

This sparse information does not meet Respondents' burden to provide evidence sufficient to rebut the Petitioner's showing, as it does not articulate any reason to believe that any *particular* third country would be willing to accept an Iranian deportee with a felony conviction. Respondents do not even state *whether* they have asked any particular third-country to accept Petitioner, much less which country or countries. Nor do Respondents make a meaningful legal argument that this

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[1] The government of Iran took only 50 days—from July 22 to September 10, 2025—to deny the travel document request. The bulk of Petitioner's 196-day detention is attributable to the fact that for the first four months of Petitioner's detention, Respondents did *nothing at all* to attempt to remove him, to Iran or anywhere else. *See* Dkt. No. 8 at 4 ¶ 12.

evidence meets the legal standard: they cite no case in which a District Court held that the mere *intention* to remove a noncitizen to a third country constituted "evidence sufficient to rebut" a petitioner's showing under *Zadvydas*. Indeed, boiled down to its essence, Respondents' argument is that the mere *existence* of a government program of third-country removal is sufficient to defeat a *Zadvydas* claim. This cannot be correct.

As the Southern District of Texas recently held:

> [T]he Scroggins declaration demonstrates that during the 8-year period since [the petitioner] was ordered removed, the government's efforts to remove him—sparse and sporadic as they may have been—have been unsuccessful. The declaration contains no information tending to show that circumstances have changed to the point that [the petitioner's] removal is now reasonably foreseeable when it was not before. Further, any efforts to remove [the petitioner] to a third country would likely be delayed by proceedings contesting his removal to the third country finally identified. . . . The Court is mindful that the government has the right to enforce [the petitioner's] Order of Removal. But the government may not detain [the petitioner] for an indefinite and undetermined period of time while it tries to effect that removal when the circumstances are such that his removal is not reasonably likely in the foreseeable future. Such an action violates the Due Process Clause, as explained in *Zadvydas*. The government points to no evidence showing that disputed issues of fact exist material to this determination.

Villanueva Herrera v. Tate, 2025 WL 2774610, at *10 (S.D. Tex. Sept. 26, 2025), citing, *inter alia*, *Zavvar v. Scott*, 2025 WL 2592543, at *8 (D. Md. Sept. 8, 2025). The *Zavvar* case is instructive: where the government could not remove a noncitizen to his native Iran, it designated two other countries for third-country removal, Australia and Romania, seemingly at random. *Id.* at *7. The court held that "[t]he lack of any sign that Australia or Romania is actively considering accepting Zavvar further demonstrates that removal is not likely in the foreseeable future." *Id.* The case at bar is significantly *less* advanced towards removal than *Zavvar*: here, the government has not even *identified* any countries of removal, much less sent requests to those countries. *See also Tadros v. Noem*, 2025 WL 1678501, at *3 (D.N.J. June 13, 2025) ("Respondents' sole statement that 'ICE has been making efforts to facilitate Petitioner's removal to a country other than Egypt' is

insufficient to rebut the presumption established by Tadros."); *Escalante v. Noem*, 2025 WL 2206113, at *4 (E.D. Tex. Aug. 2, 2025) ("Thus far, Respondents have only made conclusory statements that they are taking steps to remove Petitioner to Mexico or perhaps Canada. A remote possibility of an eventual removal is not analogous to a significant likelihood that removal will occur in the reasonably foreseeable future." (Internal citations omitted.)); *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.").

Finally, releasing Petitioner from detention does not prevent the government from continuing to work to identify a third-country for removal. Petitioner must be released on an Order of Supervision, 8 U.S.C. § 1231(a)(3), under which the government can keep track of his whereabouts, and which the government can revoke on prior notice if they find a third-country willing to accept him, 8 U.S.C. § 241.4(*l*)(2)(iii).

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).

Respectfully submitted,

Date: September 30, 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: September 30, 2025

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