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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 R  K 

12 Petitioner,

13
14 vs.

15 JEREMY CASEY, in his official
capacity as Warden of the Imperial
16 Regional Detention Facility; et al.,

17 Respondents.
18

Case No. 25cv1926 DMS DEB

**RETURN IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS
CORPUS**

19 **INTRODUCTION**

20 Petitioner seeks release from ICE custody because, he alleges, his resettlement to a
21 third country is not significantly likely in the reasonably foreseeable future. In 2005,
22 Petitioner became subject to a final, executable order of removal, which means he has no
23 right to remain in the United States. Although, he may not be repatriated to Iran, he may
24 be resettled in a third country, and the Supreme Court has held that detention is
25 presumptively reasonable for six months to effectuate removal. Here, Petitioner has been
26 re-detained for only two months under ICE's new resettlement policy, and he has not
27 presented any evidence to rebut the presumption of reasonableness or to prove that his
28 removal is not significantly likely in the reasonably foreseeable future.

STATEMENT OF FACTS

Petitioner is a native and citizen of Iran who immigrated to the United States in 1976. ECF No. 1 (Pet.), para. 10.

On June 22, 2001, Petitioner was convicted of driving with a suspended license in violation of California Vehicle Code section 14601.1, for which he was placed on three years of probation.

In 2004, Petitioner was convicted of conspiracy to distribute ecstasy and sentenced to 84 months in prison and 36 months of supervised release. *See* ECF No. 2-2, para. 4; ECF No. 10 (sealed lodged proposed rap sheet); *United States v. Dibaje et al.*, 02-cv-0060 (N.D. Tex.).

In 2005, Petitioner was ordered removed from the United States to Iran and was ultimately granted country-specific relief from repatriation under the Convention against Torture. ECF No. 2-2 at 11-12.

In 2008, ICE released Petitioner from custody on an Order of Supervision. ECF No. 2-2, para. 8.

In 2011, Petitioner was arrested and convicted of misdemeanor obstructing a public officer and sentenced to two days in jail. *See* ECF No. 10.

In 2013, Petitioner was arrested on several charges, including obstructing an officer and hit-and-run, and he was convicted of DUI and sentenced to 20 days in jail. *Id.*

In 2016, Petitioner was convicted of possession for sale of a controlled substance and sentenced to 28 days in jail and three years of probation. *Id.*

In 2024, Petitioner was arrested for domestic violence, and the case was dismissed on May 14, 2025, due to delay. *Id.*

On January 20, 2025, the President issued Executive Order (EO) 14165, *Securing Our Borders*, 90 Fed. Reg. 8467 (Jan. 20, 2025). On February 18, 2025, based on EO 14165, ICE issued a directive encouraging the increased use of third-country resettlements against individuals granted CAT protection and other forms of country-specific relief from repatriation. ECF No. 12-1 at 7-8.

1 On July 10, 2025, based on the administration's new resettlement policy, ICE in Los
2 Angeles revoked Petitioner's Order of Supervision and re-detained him pursuant to a
3 warrant of removal, *id.* at 9-10, providing him with a Notice of Revocation of Release,
4 which stated that the revocation was "based on a review of [his] immigration and criminal
5 history" and that he must cooperate with ICE's efforts to remove him. ECF No. 2-1 at 11.
6 At that time, Petitioner was interviewed, with his attorney present. *See* ECF No. 21.

7 Petitioner was transferred to the Imperial Regional Detention Facility where he is
8 under the docket control of Deportation Officer Adrian Gonzalez. Officer Gonzalez
9 informed the undersigned that he has met with Petitioner to obtain information for travel
10 document requests to foreign governments and that he explained the entire process to
11 Petitioner, which includes custody reviews pursuant to 8 C.F.R. § 241.1(l)(3). Officer
12 Gonzalez also assured Petitioner that ICE is not attempting to repatriate him to Iran. *See*
13 *also* ECF No. 21.

14 Efforts to obtain travel documents for Petitioner's resettlement in a third country are
15 within the control of ICE Headquarters in Washington, D.C. On August 17, 2025, local
16 ICE Enforcement and Removal Operations (ERO) confirmed with ERO HQ that efforts
17 remain pending.

18 ARGUMENT

19 A. Petitioner is Lawfully Detained

20 Authority to detain noncitizens who are subject to a final order of removal is governed
21 by 8 U.S.C. § 1231(a). *See* 8 U.S.C. § 1231(a)(2) (the Attorney General "shall detain" the
22 alien during the 90-day removal period). "If the alien does not leave or is not removed within
23 the removal period, the alien, pending removal, shall be subject to supervision under
24 regulations prescribed by the Attorney General." 8 U.S.C. §§ 1231(a)(1)(A), 1231(a)(3).
25 *See also* 8 U.S.C. § 1231(a)(6); *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001).

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1 Petitioner is subject to a final, executable order of removal, which means that he has
2 no right to remain in the United States. ICE has long-standing authority to remove
3 noncitizens and resettle them in third countries where removal to the country designated in
4 the final order is “impracticable, inadvisable, or impossible.” 8 U.S.C. § 1231(b)(2)(E)(vii);
5 *see also* 8 U.S.C. § 1231(b) (outlining framework for designation). Accordingly,
6 noncitizens like Petitioner, who have received protection against removal to the designated
7 country (either withholding of removal under 8 U.S.C. § 1231(b)(3) or CAT protection),
8 may be removed and resettled in third countries. *See* 8 U.S.C. § 1231(b)(2)(E)(i)-(vii).
9 Accordingly, if the Secretary of Homeland Security is unable to remove a noncitizen to a
10 country of designation or an alternative country in subparagraph (D), the Secretary may, in
11 her discretion, remove the noncitizen to any country listed in subparagraphs (E)(i) through
12 (E)(vi).

13 This case involves a re-detention twenty years after Petitioner’s removal order
14 became final and executable. Since the removal period defined by 8 U.S.C. § 1231(a)(2)
15 ended ninety days after the removal order became final, this case is governed by applicable
16 regulations and the Supreme Court’s ruling in *Zadvydas v. Davis*, 533 U.S. 678, 683 (2001).
17 *See* 8 C.F.R. § 241.4, *cited in* ECF No. 2-2 at 16 (Revocation of Order of Supervision); *see*
18 *also* 8 C.F.R. § 241.4(l)(2)(iii) (“Release may be revoked in the exercise of discretion when,
19 in the opinion of the revoking official . . . (iii) It is appropriate to enforce a removal order
20 or to commence removal proceedings against an alien. . .”).

21 The Supreme Court held that, after a removal order has become final, six months is
22 a “presumptively reasonable period of detention” to obtain travel documents and to
23 “assur[e] the alien’s presence at the moment of removal.” *Zadvydas v. Davis*, 533 U.S. at
24 683, 699. *See also Clark v. Martinez*, 543 U.S. 371, 377 (2005) (“[T]he presumptive period
25 during which the detention of an alien is reasonably necessary to effectuate his removal is
26 six months...”); *Lema v. INS*, 341 F.3d 853, 856 (9th Cir. 2003). *See also Zavvar v. Scott*,
27 No. CV 25-2104-TDC, 2025 WL 2592543, at *4 (D. Md. Sept. 8, 2025) (“*Zadvydas* appears
28 to have sought to balance the length of time a noncitizen would be held in detention against

1 the need to afford the Government some time immediately following the issuance of the
2 removal order to make and execute arrangements for removal.”).

3 As this Court noted, the presumption is rebuttable, and ICE’s position is that the
4 burden-shifting framework of *Zadvydas* does not commence until after the period of
5 presumptive reasonableness. As the Supreme Court stated: “This 6–month presumption, of
6 course, does not mean that every alien not removed must be released after six months. To
7 the contrary, an alien may be held in confinement until it has been determined that there is
8 no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701; *see*
9 *also Clark*, 543 U.S. at 377.

10 The Ninth Circuit has emphasized, “*Zadvydas* places the burden on the alien to show,
11 after a detention period of six months, that there is ‘good reason to believe that there is no
12 significant likelihood of removal in the reasonably foreseeable future.’” *Pelich v. INS*, 329
13 F. 3d 1057, 1059 (9th Cir. 2003) (quoting *Zadvydas*, 533 U.S. at 701); *see also Xi v. INS*,
14 298 F.3d 832, 840 (9th Cir. 2003). The alien must make such a showing to shift the burden
15 to the government. “After this 6-month period, once the alien provides good reason to
16 believe that there is no significant likelihood of removal in the reasonably foreseeable
17 future, the Government must respond with evidence sufficient to rebut that showing and
18 that the noncitizen has the initial burden of proving that removal is not significantly likely.”
19 *Zadvydas*, 533 U.S. at 701.

20 Here, Petitioner was re-detained for removal and resettlement only sixty-four days
21 ago. In recent, similar cases involving re-detention to effect resettlement, courts have
22 recognized that ICE has a presumptively reasonable period of six months to obtain travel
23 documents. *See Ghamelian v. Baker*, No. SAG-25-02106, 2025 WL 2049981, at *4 (D.
24 Md. July 22, 2025) (“The government is entitled to its six-month presumptive period before
25 Petitioner’s continued § 1231(a)(6) detention poses a constitutional issue”); *Guerra-Castro*
26 *v. Parra*, No. 25-cv-22487-GAYLES, 2025 WL 1984300, at *4 (S.D. Fla. July 17, 2025)
27 (“The Court finds that the Petition is premature because Petitioner has not been detained
28 for more than six months. Petitioner has been in detention since May 29, 2025; therefore,

1 his two-month detention is lawful under *Zadvydas*."); *Grigorian v. Bondi*, No. 25-CV-
2 22914-RAR, 2025 WL 1895479, at *8 (S.D. Fla. July 8, 2025) ("Because Grigorian has
3 been in custody for fifteen days, his detention does not violate the implicit six-month period
4 read into the post-removal-period detention statute under *Zadvydas*."). *Cf. Nhean v. Brott*,
5 No. CV 17-28 (PAM/FLN), 2017 WL 2437268, at *2 (D. Minn. May 2, 2017), *report and*
6 *recommendation adopted*, No. CV 17-28 (PAM/FLN), 2017 WL 2437246 (D. Minn. June
7 5, 2017) ("Nhean's 90-day removal period began to run on October 12, 2010, when his
8 removal order became final, and he was released after 91 days of custody to supervised
9 release on January 11, 2011. Nhean was transferred back into ICE custody on August 26,
10 2016. Nhean's detention was presumptively reasonable for an additional 90 days (six
11 months in total)"), *cited in Sied v. Nielsen*, No. 17-CV-06785-LB, 2018 WL 1876907, at
12 *6 (N.D. Cal. Apr. 19, 2018); *Farah v. INS*, No. Civ. 02-4725(DSD/RLE), 2003 WL
13 221809, at *5 (D. Minn. Jan. 29, 2013) (holding that when the government releases a
14 noncitizen and then revokes the release based on changed circumstances, "the revocation
15 would merely restart the 90-day removal period, not necessarily the presumptively
16 reasonable six-month detention period under *Zadvydas*").

17 Petitioner has not met his burden of rebutting the presumption of reasonableness,
18 and ICE's optimism about the likelihood of resettling Petitioner is based on a new policy
19 that has met with proven success. According to a recent CBS report: "At least a dozen
20 countries have already accepted or agreed to accept deportees from other nations since the
21 second Trump administration took office, and U.S. officials have been aggressively
22 courting other governments." CBS, *U.S. broadens search for deportation agreements,*
23 *striking deals with Honduras and Uganda, documents show*, Aug. 21, 2025,
24 <https://www.cbsnews.com/news/us-deportation-agreements-honduras-uganda/>; *see also*
25 CNN, *Rwanda agrees to take in up to 250 migrants deported from the US*, Aug. 5, 2025,
26 <https://www.cnn.com/2025/08/05/africa/us-rwanda-migrants-deal-intl>; Associated Press,
27 *Rwanda agrees to take deportees from the US after a previous migrant deal with the UK*
28 *collapsed*, Aug. 5, 2025, <https://apnews.com/article/trump-immigrants-deportees-rwanda->

1 us-bb5edea43bb470e76af3ecee5ddad10c (“Government spokesperson Makolo said the
2 agreement with the U.S. was Rwanda doing its part to help with international migration
3 issues because ‘our societal values are founded on reintegration and rehabilitation.’”); *see*
4 *also* Associated Press, *US completes deportation of 8 men to South Sudan after weeks of*
5 *legal wrangling*, July 5, 2025, [https://apnews.com/article/trump-south-sudan-djibouti-](https://apnews.com/article/trump-south-sudan-djibouti-deport-supreme-court-50f9162cff680b5c8729873e11d514e9)
6 [deport-supreme-court-50f9162cff680b5c8729873e11d514e9](https://apnews.com/article/trump-south-sudan-djibouti-deport-supreme-court-50f9162cff680b5c8729873e11d514e9) (“The immigrants from
7 Cuba, Laos, Mexico, Myanmar, Vietnam and South Sudan arrived in South Sudan on
8 Friday after a federal judge cleared the way for the Trump administration to relocate them
9 in a case that had gone to the Supreme Court.”).

10 The petition should be denied, because only two months have elapsed since
11 Petitioner’s re-detention, and Petitioner has presented no evidence that his detention is
12 unreasonable. Furthermore, the passage of time alone does not satisfy the burden to show
13 unlikelihood of removal. *See Owino v. Napolitano*, No. 07cv2267 WQH (POR), 2009 WL
14 4782385, at *6 (S.D. Cal. Dec. 9, 2009), *aff’d*, 386 F. App’x 638 (9th Cir. 2010) (“Whether
15 detention is indefinite is not a question of how long an alien has been held, but rather
16 whether the detention has an eventual endpoint—that is, whether alien is likely to be returned
17 to his home country at the end of his immigration proceedings.”). *See also Beckford v.*
18 *Lynch*, 168 F. Supp. 3d 533, 539-40 (W.D.N.Y. 2016) (“several cases decided within this
19 district have found the habeas petitioner’s assertion as to the unforeseeability of removal,
20 supported only by the mere passage of time, insufficient to meet the petitioner’s initial
21 burden to demonstrate no significant likelihood of removal under the Supreme Court’s
22 holding in *Zadvydas*.”).

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1 **CONCLUSION**

2 For the reasons stated above, the Court should deny the habeas petition.¹

3 DATED: September 12, 2025

ADAM GORDON

4 United States Attorney

5 *s/ Samuel W. Bettwy*

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8 Assistant U.S. Attorneys

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27 ¹ Based on previously briefing, it appears that Petitioner has abandoned his claims
28 concerning conditions of confinement, specifically his medical treatment, and he appears to
concede that he received adequate notice and opportunity to be heard concerning the
revocation of his order of supervision.