TRAVERSE REPLY IN SUPPORT OF CASE NO. 25-3168-JWL
PETITION OF WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241

PRO SE

Name: Ivan Alejandro Ibarra Moreno
Alien Registration No: [redacted]
Pro se Petitioner-Detained
Detention Center: FCI-Leavenworth
Address: P.O. Box 1000
Leavenworth, KS 66048

PRO SE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

Name: Ivan Alejandro Ibarra Moreno,
Petitioner,

v.

C. CARTER, WARDEN, FCI - LEAVENWORTH

KRISTI NOEM , SECRETARY
DEPARTMENT OF HOMELAND SECURITY ;

PETE FLORES, COMMISSIONER, CUSTOMS AND BORDER PROTECTION;

RICARDO WONG, FIELD OFFICE DIRECTOR ,
ICE ERO CHICAGO

RESPONDENTS ,

Case No. 25-3168-JWL

RESPONSE TO RESPONDENTS REPLY/ SHOW OF CAUSE

-Petitioner, Ivan Alejandro Ibarra Moreno (PRO SE) presents this traverse to Respondents Reply/ Show of Cause-

The petitioner wants to start this reply by stating that as of the date of this response, the Respondents have not came to a conclusion in regards to the Petitioner's 180 Day Post Order Custody Review. The Petitioner has not been served with any documentation that provides and update in regards to his POCR nor have the Respondents provided an answer in regards to his administrative release. The Petitioner's Detention has not been "Continued" but the petitioner still remains in custody.

-When continuing a detention, there are some factors to be considered. These factors are:
1. Detained individual's flight risk
2. Any danger the individual may pose to the community
3. Any threat to National Security
4. Whether there is Significantly Likelihood of Removal in the Reasonably Foreseeable Future (QUOTE from "DECALARATION OF DEPORTATION OFFICER EMILIA SKIERKOWSKA" PAGE 3 OF 5, SECTION #16)

In the Petitioner's case, the Respondents decided to "Continue Detention" on April 26th, 2025 for the following reason:

*-Ice is working on identifying alternative countries for possible removal.

Today, the Petitioner believes that there is NO significantly likelihood of removal in the reasonable foreseeable future.

---

1. RESPONDENTS STATE: "PETITIONER HAS NOT SHOWN THAT REMOVAL IS UNLIKELY"

The Petitioner shows that his removal is UNLIKELY in the REASONABLY FORSEEABLE FUTURE with the following facts:

-Under ZADVYDAS courts have found that there is no significant likelihood of removal and granted relief where:
1. No country will accept the petitioner
2. The Petitioner's country of Origin refuses to issue travel documents
3. There is no response from a country designated for removal or a significant delay in receiving a response
4. ICE fails to take action to secure travel documents for a prolonged period

POINT 1: "NO COUNTRY WILL ACCEPT THE PETITIONER"

The Petitioner has a higher probability of getting denied by an "Alternative Country" due to the fact that the Petitioner has been convicted of a "Aggravated Felony" for a Drug Offense. Most of the countries outside of the U.S have a similar procedure in reviewing a person's status when they are requesting asylum in their country. One main reason that would negatively affect the Petitioner or get denial from that "Third country" or "Alternative Country" is being convicted of a serious crime. The term "Aggravated Felony" is used in the U.S but other countries have laws that classify having a

serious crime as an equivalent offense to their own Laws.

Respondents stated (On PAGE 3 of 10, Paragraph 3. Also continued on PAGE 4 of 10, paragraph 1 in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "Since the January 2025 order of the Immigration Court became final, DHS has attempted to remove Petitioner to alternative countries with no success, including Canada, Spain, and Chile. Id., 21.;ECF 1-2, page. 6."

CANADA: Some individuals are automatically ineligible to claim asylum in Canada for specific reasons, which are determined during a initial eligibility screening. In Canada, having a criminal record, including what the U.S calls a "Aggravated Felony" can make a person criminally inadmissible, which is a major fact against getting accepted by this country, let alone getting approved for asylum. Canadian Law does not use the term "aggravated felony," but instead assesses foreign convictions based on their equivalent offense under Canadian Law.

SPAIN: Asylum in Spain can be denied for several reasons, including (1) Providing an untruthful or contradictory story, (2) Having a Criminal Record, (3) Being considered a Danger to National Security, (4) Applying from a "Safe" Third Country, (5) Making an application one month after arrival. Additionally, claims may be rejected if they do not establish a well founded fear of prosecution or serious harm, or if the applicant falls under exclusion criteria. Having a "Aggravated Felony" or a serious felony conviction can significantly harm and negatively affect an asylum application in Spain, and in many cases, it can be an EXPLICIT REASON FOR DENIAL. The "aggravated felony" terminology is specific to the U.S Immigration Law, but Spanish Law contains similar "exclusion clauses" for individuals who have committed serious crimes.

CHILE: Under strict legal reforms in Chile, asylum seekers can be automatically denied or found ineligible for asylum for procedural reasons or for failing the initial admissibility screening. Broader asylum protections under international law may be disregarded for those entering irregularly. Having a CRIMINAL RECORD, particularly for a serious offense, can significantly impact and application for asylum or residency. While specific rules for asylum are determined on a case-by-case basis, Chile's overall immigration policy takes criminal history very seriously. In particular, having a serious criminal record including what might be considered a "aggravated felony" in some countries, can negatively affect an asylum application.

These Alternative countries that have been requested on the Petitioner's behalf have not approved the petitioner and have not accepted to receive the Petitioner in their country because of their extensive immigration laws and procedures. Again, the major reason for delay is the Petitioner's criminal history. Ice also does not have the authority to obligate an alternative country to accept the Petitioner. The decision is entirely up to the requested country. Additionally, the Petitioner wants to point out that the Respondents chose to request "Alternative Countries" with similar immigration laws. These laws are the reason why the petitioner has not been accepted. It is not impossible to get acceptance but the Petitioner is not challenging his deportation, He is challenging the "Prolonged" detention since his removal is not within the 6 month "reasonable" timeframe under ZADVYDAS.

POINT 2: "THE PETITIONER'S COUNTRY OF ORIGIN REFUSES TO ISSUE A TRAVEL DOCUMENT"

In the Petitioner's case, the country of origin can issue a travel document but the petitioner cannot de deported back to MEXICO (COUNTRY OF ORIGIN) because the Petitioner was granted "Deferral of Removal under CAT" by an Immigration Judge on January 27, 2025. Respondents claim that they can ask the Immigration Court to remove the Petitioner's protection by filing a motion but they would need clear and convincing evidence to make an appropriate showing that the circumstances have changed in Mexico (Country of Origin). As of today, the circumstances have not

changed. The reason for the granted "Deferral of Removal under CAT" are still ongoing in Mexico. Therefore, the Petitioner has to remain with his granted protection and travel documents to the country of origin (MEXICO) will not be issued.

*Petitioner points out that Respondents believe that the Petitioner thinks his removal is not going to be conducted only to Mexico. The Petitioner understands that his Final Order of Removal was to Mexico but after his granted protection, other alternative countries have to be requested. Again, Petitioner is not challenging his deportation, only his prolonged detention. *

POINT 3: "THERE IS NO RESPONSE FROM A COUNTRY DESIGNATED FOR REMOVAL OR A SIGNIFICANT DELAY IN RECEIVING A RESPONSE"

-Respondents have failed to follow statutory requirements.

Under 8 U.S.C SS1231(c)(2)(ii), if the designated country or countries fail to respond withing 30 days of inquiry, the Attorney General may disregard the designation and attempt removal to another country. Respondents had months to pursue alternative options but have failed to act. Respondents claim that they have requested alternative countries but have FAILED to receive a secured travel document within the "REASONABLE" 6 months the Supreme Court considers enough to effectuate removal. Respondents also failed to mention which additional countries were requested besides the 3 that they already attempted but failed to secure.

**Respondents stated (On PAGE 1 of 10, paragraph 2, also continued on PAGE 2 of 10, paragraph one in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "Respondents have and continue to act diligently by attempting to remove petitioner to countries other than Mexico. Those efforts have not yet been successful, but Respondents continue to their efforts to identify alternative countries to which Petitioner can be removed."

** Again *Respondents stated (On PAGE 3 of 10, Paragraph 3. Also continued on PAGE 4 of 10, paragraph 1 in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "Since the January 2025 order of the Immigration Court became final, DHS has attempted to remove Petitioner to alternative countries with no success, including Canada, Spain, and Chile. Id., 21.;ECF 1-2, page. 6."

*Again Respondents stated (On PAGE 5 of 10, Paragraph 1, in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "no country has accepted him yet. True, attempts to remove Petitioner to third countries have not yet been successful, but ICE is continuing to identify such countries for removal and has attempted removal to three other countries" Citation modified.

Here, Respondents show that they have failed at their attempts to receive a response from any of the already requested alternative countries. They also failed to mention if any other countries were requested after already given the previous "three" countries (CANADA, SPAIN, CHILE) enough time to provide an answer for possible travel documents. There is also no statement that provides a limit to how many countries will be requested on Petitioner's behalf.

*Respondents stated (On PAGE 5 of 10, Paragraph 2 in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "a 'mere delay' in obtaining travel documents 'does not trigger the inference that an individual will not be removed in the reasonably foreseeable future" citation

modified. They do not mention the reason for the delay and they do not establish an alternative country that caused this "mere delay" in obtaining a secured travel document. Therefore Respondents cannot seriously claim that the removal is in the reasonable foreseeable future. Speculation and conjecture are not sufficient to carry this burden.

;Balza, 2020 WL 6143643, at *5 (ordering release of petitioner and noting that "[a]fter more than a year of detention, Petitioner's removal need not necessarily be imminent, but it cannot be speculative") (internal quotation marks omitted). "[A] theoretical possibility of eventually being removed does not satisfy the government's burden once the removal period has expired and the petitioner establishes good reason to believe his removal is not significantly likely in the reasonably foreseeable future." Balza v. Barr, No. 6:20-CV-00866, 2020 WL 6143643, at *5(W.D. La. Sept. 17, 2020) (internal quotation marks and citation omitted). [I]f [ICE] has no idea of when it might reasonably expect Petitioner to be repatriated, a Court certainly cannot conclude that a removal is likely to occur-or even that it might occur-in the reasonably foreseeable future." Id at *5 (internal quotation marks and citation omitted).

EXAMPLE: Federal courts have granted release where similar practical barriers prevented removal: *Bah v Cangemi*, 489 F. Supp 2d 905, 91423(D.Minn.2007) (Holding that speculative assurances of future removal cannot justify detention)

POINT 4: " ICE FAILS TO TAKE ACTION TO SECURE TRAVEL DOCUMENTS FOR A PROLONGED PERIOD"

-Respondents have been unable to secure travel documents for the Petitioner within the "REASONABLE" 6 months the Supreme Court considers enough to effectuate removal as previously mentioned. *Respondents stated (On PAGE 3 of 10, Paragraph 3. Also continued on PAGE 4 of 10, paragraph 1 in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "Since the January 2025 order of the Immigration Court became final, DHS has attempted to remove Petitioner to alternative countries with no success, including Canada, Spain, and Chile. Id., 21.;ECF 1-2, page. 6."* Again as previously mentioned. The Immigration Judge Ordered the Petitioner removed on January 27, 2025, as of the date of this response, it has been 9 months since the Final Order of Removal and ICE has not yet secured travel documents, proving that the removal is no longer within the reasonable time mentioned in ZADVYDAS. For the detention to remain reasonable, as the period of prior post removal confinement grows, what counts as the "Reasonably Foreseeable Future" conversely would have to shrink. Failing to obtain travel documents suggests that officials were unable to effect Petitioner's removal.

See Gomez Barco v. Witte, No. 6:20-CV-00497, 2020 WL 7393786 (W.D. La. Dec. 16, 2020) (ordering release of a petitioner who was detained longer than six months because ICE had not been able to secure necessary travel documents, noting that the ICE officer's clearly has no factual basis for his 'belief' that there is no foreseeable impediment to Petitioner's removal or that her removal is imminent,"

In addition, the petitioner's removal consists of ICE having the obligation to identify an "Alternative Country" where the Petitioner will have the same terms and conditions as stated on his granted "Deferral of removal under CAT" status. Ice must find a country that will guarantee that the petitioner will no be tortured, deprived of his freedom, or will face any type of danger. The

designated country for removal must also guarantee that the Petitioner will not be removed and deported back to MEXICO while his "CAT" STATUS remains and his deportation to this country is suspended indefinitely. As of today, ICE has not found a country with these conditions withing the 6 months the courts considers reasonable to effectuate removal, therefore proving that travel documents have not been secured for a prolonged period.

When evaluating whether a Petitioner's detention has been unreasonably prolonged, "Two factors of particular importance are (1) The length of the detention and (2) The reason for the delay." Vasquez-Ramos v. Barr, No. 20-CV6206-FPG/ 2020 U.S. Dist. Lexis 266756, 2020 WL 13554810, at *4(W.D.N.Y June 26, 2020) In the Petitioner's case, the length of detention has now been 9 months after the Final Order of the Immigration Judge in January 27, 2025. The reason for delay is ICE using the excuse of "Continuing to their efforts to identify alternative countries to which Petitioner can be removed" but failing to secure the Petitioner's travel documents every single attempt.

---

2. RESPONDENTS STATE: "PETITIONER HAS NOT ESTABLISHED AN ENTITLEMENT TO A BOND HEARING OR OTHER CUMULATIVE PROCESS"

Respondents claim that there is no violation to any DUE PROCESS but the Petitioner claims otherwise. As of the date of this response, Respondents have failed to provide the Petitioner with a "Decision to Continue Detention" after his 180 Days in Custody (6 months reasonable time) meaning that there is no conclusion to his 180 Day Post Order Custody Review. Extensive procedures were also not followed in conducting this POCR or providing the Petitioner an answer on his administrative release.

Respondents also claim that the "Petitioner is not entitled to further process because he has and will continue to be eligible for POCRs" (PAGE 7 of 10, paragraph 2 in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE). Petitioner has not established entitlement to "BOND" because of his "Aggravated Felony" which disqualifies him of being entitled to a "BOND." Also, Petitioner understands that he is eligible for POCRs but Respondents have not followed their own extensive procedures in conducting the POCR after Petitioner's 180 days. Respondents have not provided an answer on petitioners 180 day POCR and it has been almost 90 days after the "reasonable 6 months." They stated that Petitioner qualifies for a POCR every 90 days but they have not provided a "CONTINUED DETENTION" or and answer on the POCR already conducted TWICE on the 180 day mark. The following POCR 90 days after the 6 months is 2 weeks away but Respondents still cannot come to a conclusion as of to why the Petitioner should have his detention "continued."

The Respondents interviewed the Petitioner 2 TIMES within a 2 Week timeframe on July 24, 2025 and again on August 5, 2025. Petitioner provided all necessary information, and all requested information by the Respondents. The first interview consisted of an ICE OFFICER providing the Petitioner with a Questionnaire that would support his POCR and possible release. The Second Interview consisted of a PHONE CALL that only lasted 3 minutes and was only asked 3 questions(which were also already answered on the questionnaire from the 1st interview).

When the Petitioner was served with the "Decision to Continue Detention", on that notice is provides information that allows you to understand how the next POCR will be conducted. The Respondents again did not follow their own extensive procedures. First, the notice states that "You will be sent a separate Notice to Alien of Interview for Review of Custody Status approximately 30 days before the interview is scheduled." Petitioner and his legal representative were not notified

about any of the 2 Interviews "Approximately 30 days prior to the scheduled interview date" conducted by ICE. Second, the primary interview(which consisted of answering questions without legal representation on a sheet of paper) was not conducted by the DEPORTATION OFFICER present, Petitioner was just provided the with the questionnaire and was not properly guided on how to proceed filling out the questionnaire. The ICE OFFICER only stated that the Petitioner's Deportation Officer sent him with that questionnaire to fill out. Therefore the interview was not in person. The secondary interview consisted of a 3 minute phone call and was not conducted "through video teleconference" again not being present or showing that it was being conducted by my deportation officer "EMILIA SKIERKOWSKA". Finally, Petitioner was not given the opportunity to have his legal representative that filed a G-28 form to be present or conferenced in on the phone call. At the end of the secondary interview, the officer did not come to a conclusion and stated that Petitioner's case would be transferred over to ICE HEADQUARTERS for "Further Review."

ICE Headquarters now has the Petitioner's case since AUGUST 5, 2025. as of October 9, 2025(Date of response) there has been no answer from ICE HEADQUARTERS in regards to Petitioner's 180 Day POCR. The Petitioner's legal representative also requested the Petitioner's administrative release at the time of his 180 day in custody detention, and as of today, there is also no answer to the request. ICE headquarters may take a long time to answer the Petitioner's request or come to a conclusion on his POCR. The custody review regulations do not provide any other administrative method of obtaining or appealing a custody review decision. Respondents have failed to make a decision in a timely manner. In light of the fundamental right to liberty at stake, the luck of any statutory requirement that a decision to be rendered in any particular time-frame whatsoever, and the resulting extreme prejudice to the Petitioner's liberty interest, the Petitioner should not be required to wait "indefinitely" for a ICE HEADQUARTE'S decision on his continued indefinite detention.

The Petitioner is also challenging the constitutionality of the procedures by which ICE reviews the Custody Status of aliens who cannot be removed within 6 Months, and whose removal is not significantly likely to occur in the "Reasonably Foreseeable Future."

Respondents state that count 1 and 2 are both covered by ZADVYDAS. The Petitioner believes that he has provided good reason to establish a ZADVYDAS claim. Again, proving that his removal is not in the reasonably foreseeable future for the reasons stated above. If count 1 and 2 are covered by ZADVYDAS, Petitioner has now rebutted the claim that there is no Due process violation. Substantive being that Respondents do not have accurate justification for the prolonged detention, and Procedural being that Respondents have failed to follow fair and consistent procedures established by the law of the U.S.

As a sidenote, the Petitioner wants to point out that Respondents stated (On PAGE 3 of 10, Paragraph 2, in the RESPONSE TO HABEAS PETITION AND ORDER TO SHOW CAUSE) that "A File Custody Review for Petitioner was conducted in NOVEMBER 2024. ecf 1, 2(16)". The Respondents are not accurately inputting the dates in the order that they happened. If the "file Custody Review" was provided in November 2024, the time difference between the "File custody Review" and the 90 DAY POCR would be 5 MONTHS, because the 90 DAY POCR was conducted on April 26, 2025. They are not taking importance into mentioning the correct timeframes of when this NOTICE for "File Custody Review" was provided. Which was not in "November 2024." The petitioner, at this point in time, had a different Deportation/Docket Officer by the name of "Liliana Rangel", and he recently was informed about a new Docket Officer "Emilia Skierkowska" being assigned to the Petitioner.

---

3. "RESPONDENTS BELEIVE THAT PETITIONER IS SIGNIFICANTLY LIKELY TO BE REMOVED IN THE REASONABLY FORESEEABLE FUTURE"

Again, ICE has not satisfied its burden of showing that the petitioner is significantly likely to be removed in the reasonable foreseeable future. The Petitioner has already been detained for 9 months. The Petitioner's period of detention exceeds the "6 month" reasonable period of detention authorized by ZADVYDAS. Although ICE states that they have made requests and tried to identify alternative countries including Canada, Spain, and Chile, the fact is that no country has accepted the Petitioner (as stated by Respondents) and no travel documents have been issued and secured to date. Respondents have also shown no evidence of their "Continued Efforts" to identify other alternative countries beside the ones already requested, proving that Petitioner has not been accepted by a alternative country and does not have a secured travel document. Therefore, there is no evidence of when, if ever, a travel document will be issued or if an alternative country will accept the Petitioner. ICE has not satisfied its burden and the Petitioner must be released. See Shefqet v. Ashcroft, No. 02 C 7737, 2003 WL 1964290, *5(W.D. Ill. Apr. 28, 2003) INS failed to carry burden of proof where no travel documents have been issued..." Citation modified

---

4. RESPONDENTS STATE: "HIS DETENTION FURTHER CONGRESS'S GOAL OF ENSURING HIS PRESENCE FOR REMOVAL"

-The Petitioner wants to remind this court that the Petitioner can be released under an Order of Supervision with conditions (Scheduled Reporting, Monitoring) to mitigate "Flight Risk", balancing government interests without violating Constitutional rights. The Petitioner, if released in the U.S, would also have to report to Federal Probation because Petitioner has 5 years of supervised released as stated in his sentencing guide, adding a secondary monitoring and reporting to the OSUP that would be on the conditions of release from immigration. With this being stated, the Petitioner wants to add that he has not given any reason for Respondents to speculate that the Petitioner would be a "Flight Risk" and wanting to "Ensure his presence at removal." While Respondents do have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify an indefinite detention of the petitioner. Petitioner's prolonged civil detention, which has lasted well beyond the end of the removal period, and which is likely to continue indefinitely, is no longer reasonably related to the purpose of ensuring his presence at removal.

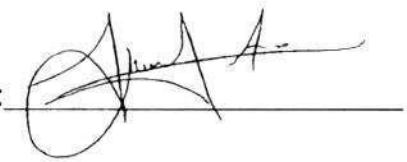
-CONCLUSION-

For the above mentioned reasons, Petitioner believes he has provided "Good Reason" to show that his removal is not in the "Reasonable Foreseeable Future" and has also provided facts that prove a Due process violation as mentioned on his Habeas Petition. Accordingly, Petitioner respectfully request that this Court GRANT his Writ of Habeas Corpus ordering Respondents to facilitate the immediate release of the Petitioner from their custody under appropriate supervision.

CERTIFICATE OF SERVICE FOR TRAVERSE REPLY FOR CASE NO. 25-3168-JWL

I Ivan Alejandro Ibarra Moreno certify that on the date of October 9, 2025 the foregoing was placed in the mail service provided by Leavenworth FCI.

RESPECTFULLY SUBMITTED

Signature: 

Name: Ivan Alejandro Ibarra Moreno
A- Number: [redacted]
Detention Center: FCI - Leavenworth
Address: P.O Box 1000
Leavenworth, KS 66048