

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

ABRAHIM BUSH ABRAHIM MANAGO,

Petitioner,

v.

CRYSTAL CARTER, *et al.*,

Respondents.

Case No. 5:25-cv-03183-JWL

PETITIONER'S REPLY IN SUPPORT
OF PETITION FOR WRIT
OF HABEAS CORPUS

INTRODUCTION¹

“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Yet Respondents’ response (Dkt. 12) falls far short of justifying the prolonged and ongoing deprivation of Mr. Manago’s liberty. The only evidence Respondents offer is a declaration that admits they have had “no success” in removing him to a third country and cannot even name a single country to which he might ever be removed. Dkt. 12-1 at ¶¶ 18-19.

Respondents’ response makes clear that there is no significant likelihood of removal in the reasonably foreseeable future, and therefore Mr. Manago’s petition should be granted.

ARGUMENT

I. Respondents have failed to provide evidence to rebut Mr. Manago’s showing that his removal is not significantly likely in the reasonably foreseeable future.

Resolution of this case is governed by two words from *Zadvydas*: “significant” and

¹ The Court’s Order of September 3, 2025 (Dkt. 5) required Mr. Manago to admit or deny under oath all factual allegations contained in the response. However, since there are no factual issues in dispute, and because of the extreme difficulty in communicating with Mr. Manago long-distance in detention, especially given that he understands only Sudanese Arabic, Petitioner respectfully requests that counsel’s verification pursuant to 28 U.S.C. § 2242 be deemed sufficient in this case.

“reasonably.” Once a petitioner shows that “there is no *significant* likelihood of removal in the *reasonably* foreseeable future,” the Government must produce evidence to rebut that showing. *Zadvydas*, 533 U.S. at 701 (emphasis added). Significantly, “as the period of prior post-removal confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.*

The only evidence offered by Respondents is a declaration from Bradley W. McNary, a deportation officer, who states that, “Since the Immigration Judge’s order, DHS has attempted to remove Petitioner to four alternative countries, including to Chad, Egypt, Saudi Arabia and South Sudan, with no success.” Dkt. 12-1 at ¶ 18. Notably, the declaration is entirely vague as to time – it is impossible to know from this statement, for example, whether ICE made these requests in February when the IJ’s order became final, in which case it is entirely plausible that ICE has made no real effort in the past seven months to remove Mr. Manago. The declarant also states that, “ICE will continue its efforts to identify alternative countries to which Petitioner can be removed,” which is another way of saying that ICE has no idea where it might send Mr. Manago, or when. *Id.* at ¶ 19. “[I]f [ICE] has no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future.” *Palma v. Gillis*, 2020 WL 4880158 (S.D. Miss. July 7, 2020), at *3 (citing *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019)).

Three district court decisions from the past week, all involving petitioners like Mr. Manago who were granted withholding of removal and then detained for more than six months, are on point here and weigh in favor of granting Mr. Manago’s petition.

In *Iakubov v. Figueroa*, 25-cv-3187, 2025 WL 2731355 (D. Ariz. Sept. 25, 2025), the petitioner had been granted withholding of removal to Tajikistan and Russia and filed a petition

under *Zadvydas*, alleging that he had been detained more than six months after his removal order became final. *Jakubov v. Figueroa*, 2025 WL 2640218 (D. Ariz. Sept. 15, 2025), at *1. The respondents in that case stated that “ICE sent requests for assistance to the Consulate Generals of Uzbekistan, Kyrgyzstan, and Hungary in April 2025, but has not received a response from any of those countries.” *Jakubov*, 2025 WL 2731355, at *1. Thus, mirroring the apparent circumstances in the present case, the respondents in *Jakubov* had done nothing in the five months preceding the filing of the petition toward effectuating the petitioner’s removal. The court held that, “Based on this response, respondents have not rebutted petitioner’s showing there is no significant likelihood of removal in the reasonably foreseeable future. The court therefore grants the petition ... and directs petitioner be released from custody immediately.” *Id.* If anything, Mr. Manago’s case is even stronger – the three countries in *Jakubov* had not yet responded; here, all four countries have definitively refused to accept him. Dkt. 12-1 at ¶ 18.

Similarly, in *Ambrosi v. Warden, Folkston ICE Processing Ctr.*, 2025 WL 2772500 (S.D. Ga. Sept. 29, 2025), the petitioner was granted withholding of removal to his native Ecuador and had been detained for more than six months after his removal order became final. *Id.* at *1. In that case, as here, ICE admitted that it “does not have an expected timeline for [the petitioner’s] removal to a third country.” *Id.* The court held that the petitioner was not required to show that “removal to a third country is impossible, only that [he] meets the *Zadvydas* standard, namely that [he] has shown that he has been in post-removal proceedings for longer than the presumptively reasonable six-month period and that his removal to a third country is not significantly likely to happen in the foreseeable future.” *Id.* In ordering his release, the court noted that, analogous to this case, “DHS has not identified a country to which [the petitioner] may be deported.” *Id.*

Finally, this Court dealt with a similar situation three days ago in *Vargas v. Noem*, 2025 WL 2770679 (D. Kan. Sept. 29, 2025). In *Vargas*, a Colombian native won deferral of removal to his home country under the Convention Against Torture and filed a habeas petition under *Zadvydas* about eight months after his removal order became final. *See id.* at *1. However, despite detaining the petitioner beyond the presumptively reasonable period established in *Zadvydas*, “officials have still not been able to remove him or even to schedule his removal.” *Id.* at *2. As this Court noted, the petitioner “may not presently be removed to his home country [...]; and thus, because he can only be removed to a third country that agrees to accept him, his removal may be considered more difficult. Moreover, petitioner notes that officials have not been able even to name for him any country to which an inquiry has been made or to which petitioner might possibly be removed.” *Id.* Although the circumstances in *Vargas* are arguably more egregious than those here, since in *Vargas* the respondents apparently made no inquiries to other countries in 2025, while here the respondents tried and failed to send Mr. Manago to four countries, the legal analysis should be the same. Just as in *Vargas*, the respondents here “have not been able to point to any specific fact that creates a significant likelihood that ... petitioner will nonetheless be removed in the reasonably foreseeable future.” *Id.* at *3.

The case relied upon by Respondents, *Masih v. Lowe*, 2024 WL 4374972 (M.D. Pa. Oct. 2, 2024), is distinguishable. In *Masih*, a Pakistani man ordered removed to Pakistan filed a *Zadvydas* claim after being detained for nine months. *Id.* at *1, 3. The court found he was not entitled to immediate release where “a travel document request packet was sent to the embassy of Pakistan,” “ICE [] followed up numerous times since the initial request,” and “[t]he embassy of Pakistan has regularly cooperated with ICE/ERO regarding the issuance of travel documents for removal.” *Id.* at *3. *Masih* was not a third-country case: ICE knew where it planned to send the petitioner and

was making regular, concerted efforts to send him there; in this case, by contrast, Respondents have no idea where they might send the petitioner, or when, and as such *Masih* is inapposite here.

In sum, there is no evidence here of a significant likelihood of removal in the reasonably foreseeable future; indeed, Respondents' response offers no basis for this Court to infer that Mr. Manago will *ever* be removed.

II. Even if the Court rejects Mr. Manago's *Zadvydas* claim, it should nonetheless order a meaningful custody review that comports with regulations.

In his Petition, Mr. Manago alleged that the 180-day custody review required by 8 C.F.R. § 241.4(k)(2)(ii) had not been done, and that even if the review had been done, his release would have been denied "based on boilerplate or pretextual reasons that do not comport with either the regulations or due process." Dkt. 1 at ¶¶ 52-53. Respondents' declaration indicates that the 180-day custody review was conducted on September 12, 2025, nine days after this case was filed, and that "a decision has been made to continue with his decision." Dkt. 12-1 at ¶ 17.

A copy of that decision is attached hereto as ECF No. 13-1. It states that Mr. Manago's detention will be continued beyond the 180-day mark because "Your acceptance to a third country is expected, and ICE has reason to believe there's a significant likelihood that your [*sic*] will occur in the reasonably foreseeable future." However, this assertion is belied by the declaration submitted by Respondents in this case, which shows that ICE has not even identified a country to which Mr. Manago might be removed. Courts have held under analogous circumstances that when ICE fails to follow its own custody-review procedures, habeas relief is available as a means of ordering it to comply with those procedures. *Misirbekov v. Venegas*, -- F. Supp. 3d --, 2025 WL 2451030 (S.D. Tex. Aug. 25, 2025), at *2 (conditionally granting habeas relief based on DHS's failure to follow custody review regulations); *Bonitto v. Bureau of Immig. & Customs Enforcement*, 547 F. Supp. 2d 747, 758 (S.D. Tex. 2008) (same). Thus, if the Court does not order Mr. Manago's immediate

release under *Zadvydas*, it should at least order Respondents to perform a meaningful custody review that assesses the factors outlined in 8 C.F.R. § 241.4(e) and to release Mr. Manago from detention if it cannot show that he is a danger to the community or a flight risk.

CONCLUSION

Because no one can say when, where, or even *if* Mr. Manago will be removed, this Court should order his immediate release.

Dated: October 2, 2025

Respectfully submitted,

/s/ James D. Jenkins
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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

Pursuant to 28 U.S.C. §2242, the undersigned verifies the statements made in the foregoing Reply in Support of Petition for Writ of Habeas Corpus on behalf of the Petitioner, Abraham Bush Abraham Manago.

Dated: October 2, 2025

/s/ James D. Jenkins
James D. Jenkins

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed via the Court's CM/ECF system this 2nd day of October, 2025, which sent notice to all parties receiving electronic notice.

/s/ James D. Jenkins
Attorney for Petitioner