

FILED

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United States District Court

For The Western District of Oklahoma

JOAN KANE, CLERK  
U.S. DIST. COURT, WESTERN DIST. OKLA.  
BY DEPUTY

Jhonatan Hernandez-Perez,  
Petitioner

Case No. CIV-25-1081-J

v.

Pamela Bondi, Attorney  
General; Scarlet Grant,  
Warden of CCF; et al.,  
Respondents

Petitioner's Reply to  
Respondents' Response  
to The Order To Show  
Cause

INTRODUCTION

Petitioner, Jhonatan Hernandez-Perez, filed a Petition for Writ of Habeas Corpus on September 18, 2025 alleging that he is being detained in violation of law. On October 2, 2025, the court issued an order to show Cause ordering respondents to state true cause of petitioners detention by October 16, 2025. Respondents then filed their response in opposition to the habeas petition on October 16, 2025, explaining, in their view, why petitioner is lawfully detained. See ECF Nos. 14, 14-1, 14-2, 14-3, 14-4. Notwithstanding Respondents' contentions, a preponderance of the evidence demonstrates that petitioner is being held in violation of the laws or Constitution of the United States. Consequently, the Court must order petitioner's immediate release.

## Procedural and factual history

Hernandez-Perez incorporates by reference the facts alleged in his habeas corpus petition and his memorandum in support of his petition. See petitioner's memorandum in support of his petition page 4. The declarations submitted by Respondents confirm the truth of petitioner's allegations. See McGettrick's declaration, ECF No. 14-5. For example, Mr. George McGettrick clearly confirms that "ERO has been diligently pursuing removal of Hernandez-Perez to a third Country. ERO has made requests to the Consulates of Great Britain, Spain, Chile, El Salvador, Guatemala, the Dominican Republic. EACH REQUEST WAS EITHER DENIED or RECEIVED NO RESPONSE. The declaration by (Mr. McGettrick) indicates that no third Country has yet been identified that is likely to accept Petitioner for removal.

## Argument

Respondents argue Hernandez-Perez's petition should be dismissed because: (1) Hernandez-Perez failed to establish a prima facie claim for relief Under Zadvydas; and (2) Petitioner failed to name Petitioner's Custodian.

Petitioner's detention has become unreasonably indefinite and his release is required under the framework set forth by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001).

Under 8 U.S.C. § 1226, the Attorney General may arrest and detain an alien pending a determination of whether the alien is to be removed from the United States. Detention during this "pre-removal period" is considered definite because it terminates upon the immigration court's removal decision. *Id.* at 529.

Upon the entry of a final removal order, the matter enters the "removal period," and the statutory authority for detention shifts to 8 U.S.C. § 1231...

After an order of removal becomes administratively final, the Attorney General "shall detain the alien" during the 90-day removal period established under 8 U.S.C. § 1231 (a)(2). See *Zadvydas v. Davis*, 533 U.S. 678, 683, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001) and *Morales-Fernandez v. INS*, 418 F.3d 1116, 1123 (10th Cir. 2005). Generally, the government is required to remove the alien held in its custody within the 90-day removal period. See 8 U.S.C. § 1231 (a)(1)(A)-(B)

While the government may detain an "inadmissible" or criminal alien beyond the statutory removal period, see 8 USC § 1231(a)(6), [the government may not detain such an alien indefinitely]. *Zadvydas*, 533 U.S. at 699. Instead, the detention of an alien subject to a final Order of removal for [up to six months] is presumptively reasonable in view of the time required to accomplish removal. *Id.* at 701. Beyond that period, if the alien shows that there is "no significant likelihood of removal in the reasonably foreseeable future, [the Government must respond with evidence] sufficient to rebut that showing." *Id.* Furthermore, as the period of detention grows, "what counts as the 'reasonably foreseeable future' conversely would have to [shrink]." *Id.* while the respondents may argue the six-month presumption does not mean that every alien must be released after that time, but rather an alien may be detained "until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

~~— However by its own Confession~~

See *Anyimv v. Dept of Homeland Sec.*, 2017 U.S. Dist. Lexis 7066, 2017 WL 193180, at \*2 (D. Kan. Jan. 18, 2017). (*Longstrum, J.*); see also *Kali Ku v. United States Immigration and Customs Enforcement*, 2024 U.S. Dist. Lexis 212052, 2024 WL 4854523, at \*3 (D. Kan. Nov. 21, 2024). (*Longstrum, J.*)

(quoting and applying this standard from Anyimu);  
Madej v. Garland, 2023 U.S. Dist. Lexis 16294, 2023  
WL 1396195, at \*1-3 (D. Kan. Jan. 31, 2023) (Lungstrum, J.)  
(Same); Vargas v. Norem, 2025 U.S. Dist. LEXIS 191612,  
2025 WL 2770679, at \*2-3 (D. Kan. Sept. 29, 2025).  
(Lungstrum, J.) (Same).

Although Hernandez-Perez was ordered removed  
to Mexico, his Deferral of Removal under CAT  
precluded the government from removing Hernandez-Perez  
to Mexico. Unless it finds a suitable third country  
for removal. Here [Respondents have failed to send  
the petitioner to a third country], by its "own Admission"  
See Declaration of ICE Agent (George McGettrick)  
which says: "... #5 ERO has been diligently  
pursuing removal of Hernandez-Perez to a third country.  
ERO has made request to the Consulate of Great  
Britain, Spain, Chile, El Salvador, Guatemala and The  
Dominican Republic. Each request was either DENIED  
or received NO Response."

This "CLEARLY" indicates that the Government  
since January 2nd of 2025 up to now (Almost 10 months  
later) since the final order of removal, CANNOT and is  
UNABLE, to find a "third or second world country or  
a few first world countries (ENGLAND, SPAIN...)",  
to effectuate the removal of the petitioner. Respondents  
are not clear of how many other countries have been  
tried!

(This is Factual not Speculative) see Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007), also see Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)

The Government utterly fails to demonstrate to the court why Hernandez-Perez's removal is significantly likely in the reasonably foreseeable future. There is no concrete fact or travel document for petitioner's removal in the reasonably foreseeable future. Petitioner is encouraged to facilitate in the removal process, but the sole responsibility falls on the respondent to accomplish the task with out "blaming the petitioner" or "other Countries" of its failure to procure the necessary travel documents.

Therefore, Petitioner's detention is unlawful in excess of statutory and regulatory authority, and is unconstitutional.

On Respondents argument to petitioner not mentioning the proper custodian. The honorable Judge would consider the fact that the Notion of Justice stands above everything in life where the justice and liberty of a human can be sacrificed due to a misspell or not mentioning a name. I find it impossible for the honorable judge to entertain the Respondents demand for dismissal of the petition.

Respondents States "Petitioner Sues "ICE", Rather than his immediate Custodian referring to Warden Scarlet Grant from Cimarron Correctional Facility. Even though Petitioner did but mistakenly put all the Respondents on the Order to Show Cause instead of on the Writ of habeas Corpus Petition, Regardless the Respondents (ICE) is Contracting the Warden to keep possession of petitioners body at Cimarron Correctional Facility. The Warden does not have authority to keep or release the petitioner without ICE's demand. Therefore ICE is the immediate and real Custodian who has the petitioners Custody.

Moreover, while it is not petitioners burden to demonstrate No Significant Likelihood of Removal in the Reasonably Foreseeable Future ("NSLRRFF") due to the fact that the declaration from Mr. McGettrick demonstrates "NSLRRFF" by admitting that no third Country has yet been identified that is likely to accept petitioner for removal. Thus, even if the government were right that Petitioner bears the burden of demonstrating "NSLRRFF", he has done so through the McGettricks declaration.

Prayer for Relief

wherefore the petitioner respectfully pray for an order of this Honorable Court to Grant the petition for writ of habeas Corpus and Order petitioners immediate release.

Respectfully submitted this 27th day of October, 2025.

Jhonatan Hernandez-Perez

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Core Civic Cimarron Correctional Facility  
3200 S Kings Hwy  
Cushing, OK 74023

Certificate of service

I Jhonatan Hernandez-Perez duly sworn and said that on 27th day of October, 2025, I served the attached documents by U.S. Mail to Assistant U.S. Attorney, Sarah A. McMurray's office located at 210 Park Avenue, Suite 400, Oklahoma City, OK 73102, I further say the not under penalty of perjury.

Jhonatan Hernandez-Perez