

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JHONATAN HERNANDEZ-PEREZ,)	
)	
Petitioner,)	
v.)	Case No. CIV-25-1081-J
)	
U.S. IMMIGRATION AND CUSTOMS)	
ENFORCEMENT et al.,)	
)	
Respondents.)	

SUPPLEMENTAL REPORT AND RECOMMENDATION

Petitioner, proceeding pro se, filed a petition for habeas corpus under 28 U.S.C. § 2241, challenging his detention by United States Immigration and Customs Enforcement (ICE) officials after he was granted deferral of removal. Doc. 1.¹ After the Court referred the matter, the undersigned entered a Report and Recommendation recommending that the Court conditionally grant habeas corpus relief to Petitioner after a forty-five (45) day deferral period so that Respondents could provide the Court with additional information on the removal efforts. Doc. 18. Specifically, the undersigned recommended the Court defer the grant of habeas corpus relief and (1) order Respondents to provide Petitioner a custody review determination and to provide notice to the Court

¹ Citations to a court document are to its electronic case filing designation and pagination. Except for capitalization, quotations are verbatim unless otherwise indicated.

and to Petitioner when Enforcement and Removal Operations (ERO) made the determination, (2) order Respondents to update the Court with the following information: (a) the dates inquiries were sent to each of the six countries identified, (b) the dates and contents of any responses received, (c) the dates and responses of any follow-up contacts made, (d) the expected response time, and (e) similar information about any contacts/inquiries made to any other countries, and (3) grant Petitioner habeas corpus relief if, after the Court received the information, it appeared there was still no significant likelihood of Petitioner's removal in the reasonably foreseeable future. *Id.* at 10-13.

After the Respondents lodged their objections, United States District Judge Bernard M. Jones noted the need for additional factual development to determine whether there was a significant likelihood of removal in the reasonably foreseeable future. Doc. 21. Judge Jones then re-referred this matter to the undersigned for further review and proceedings and for the preparation and submission of a Supplemental Report and Recommendation once the custody determination had been made and Respondents had provided additional facts. *Id.* at 2.

The undersigned then ordered Respondents to:

1. Provide notice to the Court and to Petitioner of the reviewing authority's final custody determination;

2. Update the Court on the following:
 - The dates inquiries were sent to each of the six countries Respondents had identified, the dates and contents of any responses received, the dates and responses of any follow-up contacts made, and expected response time;
 - Similar information about any contacts/inquiries made to any other countries (including dates; responses; follow-up information; and expected response time); and
3. Provide the Court with any further information necessary for the Court's determination.

Doc. 22. Respondents filed a "Notice Regarding Petitioner's Custody Determination and Removal" on December 19, 2025. Doc. 23.

As to his final custody determination, Respondents state that Dallas ERO's request to release Petitioner on an order of supervision (OOS) "was not approved" and "Petitioner was notified of his post-order custody review on October 9, 2025." Doc. 23, at 1 & Att. 1, at 3.

As to the dates of inquiries sent to the identified countries, Respondents state that "on January 3, 2025, a request for acceptance of Alien was submitted to the Dominican Republic consulate" and no response has been received. *Id.* at 1 & Att. 1, at 2. "On January 29, 2025, a request for acceptance of Alien was submitted to the Consulate of Chile," and two follow-ups were made on February 6 and February 13, 2025. *Id.* at 1-2 & Att. 1, at 2. The Consulate of Chile "provided a verbal declination for acceptance" on February 14, 2025. *Id.*

at 2 & Att. 1, at 2. Also on January 29, 2025, “a request for acceptance of Alien was submitted to the British Consulate General,” which was denied in writing on January 30, 2025. *Id.* On January 30, 2025, “a request for acceptance of Alien was submitted to the Consulate General of Spain,” which was denied in writing on February 7, 2025. *Id.* On March 8, 2025, “a request for acceptance of Alien was submitted to the Consulate General of El Salvador,” and a second request was made on March 27, 2025, and no response has been received. *Id.* On March 31, 2025, “a request for acceptance of Alien was submitted to the Consulate of Guatemala” and no response has been received. *Id.*

As to further information, the Dallas ERO office contacted ERO “Headquarters” on July 30, 2025, October 21, 2025, and November 25, 2025, about updates on a third country for removal, and no updates were available. *Id.* at 2 & Att. 1, at 3.²

Based on this information, the undersigned finds as follows:

1. Petitioner’s custody review order was final as of October 9, 2025. *Id.* at 1 & Att. 1, at 3.
2. Three countries have not responded to the requests for acceptance of Petitioner and three countries have denied acceptance. *Id.* at 1-2 & Att. 1, at 2.

² Respondents also provide that the “State Department is . . . working with ERO on Petitioner’s removal” but admit that “ERO does not have information as to the steps taken by the United States Department of State to effectuate Petitioner’s removal to a third country.” Doc. 23, at 2.

3. Respondents submitted the most recent request for acceptance nearly nine months ago. *Id.* at 2 & Att. 1, at 2.
4. No updates on the removal efforts are available either from ERO Headquarters or the State Department. *Id.* at 2 & Att. 2, at 3.
5. Respondents have kept Petitioner in detention much longer than six months after his removal order was final on January 2, 2025. *See* Doc. 18, at 3-5, 7, 9.

As the undersigned found in the previous Report and Recommendation, Petitioner has provided good reason to believe there is no significant likelihood of his removal in the reasonably foreseeable future. *See id.* at 10 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)). And despite the Court giving them more time to remove Petitioner, Respondents have not rebutted Petitioner's showing with evidence that his removal is likely to occur in the reasonably foreseeable future. *See Zadvydas*, 533 U.S. at 701. In fact, they "have not identified any countries with which any level of progress has been made toward obtaining the country's acceptance of Petitioner." *Momennia v. Bondi*, No. CIV-25-1067-J, 2025 WL 3006045, at *1 (W.D. Okla. Oct. 27, 2025).

Because Petitioner's "removal is no longer reasonably foreseeable, [his] continued detention is no longer authorized by statute." *Zadvydas*, 533 U.S. at 699. So the Court should grant habeas corpus relief and order Petitioner's release under the terms and conditions set forth in the previous OOS. *See* Doc. 2, Ex. 3; Doc. 14, Ex. 5; Doc. 18, at 4.

Recommendation and notice of right to object.

For the reasons set forth above, the undersigned recommends the Court grant habeas corpus relief and order Respondents to release Petitioner from detention under an OOS.

The undersigned advises the parties of their right to file an objection to this Supplemental Report and Recommendation with the Clerk of this Court by December 30, 2025,³ in accordance with 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. The undersigned further advises the parties that failure to make timely objections to this Supplemental Report and Recommendation waives the right to appellate review of both factual and legal questions contained herein. *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991). This Supplemental Report and Recommendation disposes of the issues referred to the undersigned Magistrate Judge in the captioned matter.

³ Given the expedited nature of these proceedings, the undersigned has reduced the typical objection time to this Report and Recommendation to seven days. See Fed. R. Civ. P. 72(b)(2) advisory committee's note to 1983 addition (noting that rule establishing 14-day response time "does not extend to habeas corpus petitions, which are covered by the specific rules relating to proceedings under Sections 2254 and 2255 of Title 28."); see also *Whitmore v. Parker*, 484 F. App'x 227, 231, 231 n.2 (10th Cir. 2012) ("The Rules Governing § 2254 Cases may be applied discretionarily to habeas petitions under § 2241" and "while the Federal Rules of Civil Procedure may be applied in habeas proceedings, they need not be in every instance – particularly where strict application would undermine the habeas review process.").

ENTERED this 23rd day of December, 2025.



SUZANNE MITCHELL
UNITED STATES MAGISTRATE JUDGE