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9
10 UNITED STATES DISTRICT COURT
11 DISTRICT OF NEVADA

12 Mervin Tooy,
13 Petitioner,
14 v.
15 United States of America, et al.,
16 Respondents.

Case No. 2:25-cv-02286-CDS-BNW
Supplemental Reply

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1 **POINTS AND AUTHORITIES**

2 This supplemental reply is being filed to provide additional information to
3 the Court on two relevant matters: (1) Tooy's detention between February 26, 2025,
4 and May 5, 2025; and (2) the impact on flights in the Caribbean from the United
5 States military action in Venezuela on January 3, 2026.

6 **I. Tooy was officially in ICE custody between March 31, 2025, and**
7 **May 5, 2025.**

8 After receiving the Government's response and undersigned counsel's reply,
9 ECF Nos. 17, 21, Tooy called undersigned counsel and provided specific details
10 about his ICE detainer that establish how long he has been in ICE custody. It is
11 clear from the ICE detainer that Tooy has been in ICE custody since, at the very
12 least, March 31, 2025.

13 As discussed in the reply, on February 26, 2025, Tooy was sentenced to 30
14 days and given credit for time served. ECF No. 21 at 5. Although the judge ordered
15 him released, he remained at the Clark County Detention Center ("CCDC"). *Id.*

16 On or about March 27, 2025, ICE sent a detainer to CCDC. The detainer is
17 dated March 27, 2025. Tooy has a copy of this detainer and provided counsel with
18 the date of the detainer during the phone call. The Government did not provide this
19 detainer with its response. On information and belief, on March 31, 2025, U.S.
20 Marshals picked Tooy up from CCDC and took him to the City of Las Vegas
21 Detention Center on Stewart Avenue in Las Vegas. He was then held at that
22 detention center until ICE picked him up to take him to Pahrump on May 5, 2025.
23 This explains why the receipt for property dated May 5, 2025 (which was included
24 with the reply as exhibit 7, ECF No. 22-7) was issued by the Las Vegas Department
25 of Public Safety, which runs the city detention center.

26 Thus, Tooy has been in ICE custody since, at the very least, March 31, 2025,
27 when he was moved to the city jail pursuant to the ICE detainer. Based on this

1 date, the argument in the reply concerning the calculation of time he has been in
2 ICE custody, ECF No. 21 at 10, is correct. Tooy has been in ICE custody for over
3 nine months. And, even if the time during which the order of removal was
4 administratively stayed in the Ninth Circuit is not counted (just under three
5 months), he still has been in immigration custody for over six months since March
6 31, 2025. *See* ECF No. 21 at 11-12 (providing timeline of events).

7 Accordingly, Tooy has been in custody for longer than the six months of
8 presumptive reasonableness under *Zadvydas*.

9 **II. The military action in Venezuela that occurred on January 3,**
10 **2026, creates a tremendous amount of uncertainty as to whether**
11 **removal is reasonably foreseeable.**

12 With respect to whether deportation is reasonably foreseeable, the recent
13 military action in Venezuela on January 3, 2026, impacts deportations to Suriname.
14 The Federal Aviation Administration (“FAA”) temporarily closed airspace and
15 restricted travel in the eastern Caribbean on January 3 and 4, 2026, leading to the
16 cancellation of hundreds of flights.¹ As discussed in the reply, ECF No. 21 at 11,
17 flights to Suriname must go through the eastern Caribbean. While travel within the
18 Caribbean has resumed, military buildup in the Caribbean and potential further
19 military action there will likely continue to disrupt travel to this area, making
20 deportation flights to Suriname significantly less likely.

21 Accordingly, in addition to the reasons discussed in the reply, ECF No. 21,
22 the current uncertainty about the availability of flights through the Caribbean
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25 ¹ Gordon Ebanks et al., *Travelers Stranded in Caribbean as US Military*
26 *Operation Sends Airlines Scrambling to Add Flights*, CNN, Jan. 5, 2026, available
27 at <https://www.cnn.com/2026/01/04/us/caribbean-flights-cancelled-puerto-rico-aruba#:~:text=After%20Saturday's%20chaos%2C%20flights%20are,to%20help%20ease%20travel%20disruptions>.

1 means that deportation is not reasonably foreseeable. As a result, it is unreasonable
2 for the Government to continue to hold Tooy in custody.

3 **CONCLUSION**

4 For the reasons discussed in the reply and this supplemental reply, the
5 petition should be granted and Tooy should be released from custody.

6 Dated January 7, 2026.

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8 Respectfully submitted,

9 Rene L. Valladares
10 Federal Public Defender

11 */s/ Jonathan M. Kirshbaum*
12 Jonathan M. Kirshbaum
13 Assistant Federal Public Defender