

1 TODD BLANCHE
Deputy Attorney General of the United States
2 SIGAL CHATTAH
First Assistant United States Attorney
3 District of Nevada
Nevada Bar Number 8264

4 CHRISTIAN R. RUIZ
Assistant United States Attorney
5 501 Las Vegas Blvd. So., Suite 1100
6 Las Vegas, Nevada 89101
Phone: (702) 388-6336
7 Fax: (702) 388-6787
Christian.Ruiz@usdoj.gov

8 *Attorneys for the Federal Respondents*

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10 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

11 MERVEN TOOY,
12
Petitioner,
13
v.

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

**Federal Respondents' Emergency
Motion for Reconsideration and to Stay
the Court's Release Order**

14 THE UNITED STATES OF AMERICA,
Kristi NOEM, in her Official Capacity,
15 Secretary of the Department of Homeland
Security; Pamela J. BONDI, in her Official
16 Capacity, Attorney General, Department of
Justice; Kerri Ann QUIHUIS, in her Official
17 Capacity, ICE Field Office Director,
Detention and Removal, Las Vegas, Nevada
18 (ICE Local); Michael BERNACKE, in his
Official Capacity, Field Office Director, Salt
19 Lake City Field Office, U.S. Immigration
and Customs Enforcement; Patrick J.
20 LECHLEITNER, in his Official Capacity,
Acting Director, Immigration & Customs
21 Enforcement; John MATTOS, in his Official
Capacity, Warden of Immigration Detention
22 Facility, Nevada Southern Detention Center,
23
Respondents.

24 **I. INTRODUCTION**

25 Federal Respondents respectfully move for reconsideration of the Court's order
26 directing Petitioner's release (ECF No. 27) and request a stay of that order pending
27 resolution of this motion. At the hearing, the Court emphasized that the purpose of the
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1 proceeding was to determine whether DHS possessed information demonstrating that
2 Petitioner's removal is reasonably foreseeable. Federal Respondents advised the Court that,
3 as the record then stood, no sworn or documentary evidence addressing foreseeability had
4 been submitted. Based on the absence of such evidence, the Court ordered Petitioner's
5 release. *See* ECF No. 27.

6 Federal Respondents can now provide documentary evidence that was not
7 previously available to undersigned counsel or the pertinent DHS official assigned to
8 handle this matter. *See e.g.*, Exhibit A, at 2–3 (showing that Petitioner will be removed by
9 “air” in January 2026, and that his destination is Paramaribo, Suriname). As explained
10 below, DHS has obtained a flight itinerary for Petitioner and removal is presently
11 scheduled for January. *Id.* This documentary evidence directly addresses the Court's stated
12 concern regarding foreseeability and undermines Petitioner's allegations regarding the
13 same. Reconsideration is appropriate under these circumstances, and a stay is necessary to
14 preserve the status quo while the Court evaluates this newly obtained evidence.

15 **II. PROCEDURAL BACKGROUND**

16 Petitioner filed a petition for habeas corpus under 28 U.S.C. § 2241 challenging
17 post-removal-order detention. At the hearing, Federal Respondents argued that under
18 *Zadvydas v. Davis*, 533 U.S. 678 (2001), Petitioner bears the initial burden—after six
19 months—of producing good reason to believe that removal is not reasonably foreseeable,
20 and that delay alone, including delay attributable to a judicial stay or logistical constraints,
21 does not satisfy that burden. Petitioner argued that Federal Respondents should not be
22 afforded any opportunity to supplement the record. The Court, however, emphasized that
23 the purpose of the hearing was to determine whether DHS possessed information
24 demonstrating that Petitioner's removal is reasonably foreseeable. As Federal Respondents
25 advised the Court, no such documentary evidence was available in the record or to
26 undersigned counsel at that time.

27 A district court has inherent authority to reconsider its orders where newly obtained
28 evidence warrants a different outcome or where reconsideration is necessary to prevent

1 manifest injustice. *See Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5 F.3d 1255,
2 1263 (9th Cir. 1993) (“Reconsideration is appropriate if the district court (1) is presented
3 with newly discovered evidence, (2) committed clear error or the initial decision was
4 manifestly unjust, or (3) if there is an intervening change in controlling law.”). That
5 standard is satisfied here.

6 **III. NEWLY OBTAINED DOCUMENTARY EVIDENCE ESTABLISHES**
7 **FORESEEABILITY OF REMOVAL**

8 The evidence submitted with this motion was not available to undersigned counsel
9 or to his pertinent contact at DHS prior to the hearing. The itinerary reflecting Petitioner’s
10 scheduled removal was obtained by DHS on January 8, 2026, (*see* Exhibit A, at 1) and
11 transmitted to undersigned counsel on that same day after the hearing had concluded.
12 Undersigned counsel received the itinerary at approximately 1:21 p.m. Pacific Time, only a
13 few minutes after it was received by his DHS contact. Accordingly, this evidence could not
14 have been presented at the hearing and is properly considered newly obtained for purposes
15 of reconsideration.

16 Federal Respondents submit a redacted copy of the itinerary with this motion. The
17 itinerary reflects that DHS has progressed beyond planning and has scheduled Petitioner’s
18 removal for January 2026. *See e.g.*, Exhibit A, at 2–3 (showing that Petitioner will be
19 removed by “air” in January 2026, and that his destination is Paramaribo, Suriname). The
20 redactions are limited to dates, times, locations, confirmation numbers, and other sensitive
21 information associated with the removal operation; the redacted information, however, is
22 not necessary to assess the foreseeability of Petitioner’s removal. The redactions were made
23 because public disclosure of those operational details would pose a risk to the security and
24 integrity of DHS law-enforcement operations. This risk is heightened in the current
25 environment, where immigration enforcement has become highly politicized and subject to
26 increased attention and interference. In fact, a sizable crowd—aimed at protesting DHS’s
27 operations—is currently assembling in downtown Las Vegas at the same time as
28 undersigned counsel prepares this motion. The Federal Respondents do not seek to

1 withhold the redacted information from the Court and stand ready to submit an unredacted
2 copy of the itinerary for in camera or sealed review should the Court wish to examine it.
3 However, disclosure of specific dates, locations, and other sensitive details of DHS's
4 removal operations would jeopardize its law enforcement capabilities at this time. Upon
5 information and belief, DHS has a longstanding practice of limiting dissemination of
6 sensitive operational details regarding removals for security reasons, and those same
7 considerations apply here.

8 The redacted itinerary directly addresses the concern identified by the Court at the
9 hearing and the deficiencies identified by Petitioner in the briefing and hearing—namely,
10 the absence of documentary support for Federal Respondents' representations regarding
11 foreseeability. Under *Zadvydas*, detention is unlawful only where there is “no significant
12 likelihood of removal in the reasonably foreseeable future.” *Zadvydas v. Davis*, 533 U.S. 678,
13 701 (2001). The itinerary demonstrates that removal is not speculative or remote, but
14 scheduled and actively underway.

15 Reconsideration is warranted to prevent manifest injustice. Absent reconsideration,
16 Petitioner will be released notwithstanding concrete documentary evidence—obtained only
17 after the hearing—that removal is scheduled and imminent. This is not a case involving
18 statelessness, refusal of repatriation, or indefinite detention without prospect of removal.
19 Rather, removal was delayed by procedural and logistical factors but remains available,
20 scheduled, executable, and reasonably foreseeable.

21 A stay of the release order is likewise warranted. Federal Respondents have
22 demonstrated a strong likelihood of success on reconsideration based on newly obtained
23 documentary evidence that was unavailable at the time of the hearing. Absent a stay, DHS
24 risks losing custody of Petitioner shortly before execution of a lawful removal, potentially
25 frustrating enforcement of a final order of removal. The balance of equities and the public
26 interest favor maintaining custody for a brief period to allow the Court to consider this
27 motion and to permit DHS to complete a removal that is already scheduled.

1 **IV. CONCLUSION**

2 For these reasons, Federal Respondents respectfully request that the Court stay the
3 release order pending resolution of this motion, reconsider the release order in light of the
4 newly submitted evidence, and deny the petition for habeas corpus.

5 Respectfully submitted this 8th day of January 2026.

6 SIGAL CHATTAH
7 First Assistant United States Attorney

8 /s/ Christian R. Ruiz
9 CHRISTIAN R. RUIZ
10 Assistant United States Attorney
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