



in with specifics if that option is selected—have been left blank. *See* Dkt. 28-1. And Respondents refused Petitioner’s repeated, good faith attempts to engage in discussion regarding conditions of release, which might have allowed the Parties to present the Court agreed-upon conditions.<sup>1</sup>

To protect against further undue delay caused by Respondents, the Court should promptly issue an order requiring Respondents to release Petitioner from custody subject to “reasonable” or “appropriate” terms of supervision under 8 U.S.C. § 1231(a)(3), without incorporating specific terms into the order. *See, e.g., Barka v. Mattos*, 2:25-cv-01781-GMN-MDC, 2025 WL 3723998, at \*8 (D. Nev. Dec. 23, 2025) (granting petition for writ of habeas corpus under *Zadvydas* and ordering that “Petitioner must be released immediately under reasonable terms of supervisions as set forth in 8 U.S.C. § 1231(a)(3)” and that “[d]etermining reasonable terms of supervision shall not in any way impede the immediate release of Petitioner”); *Bunnell v. Noem*, No. 2:25-cv-02259-GMN-EJY, 2025 WL 3707588, at \*9 (D. Nev. Dec. 22, 2025) (granting motion for TRO under *Zadvydas* and ordering same relief as in *Barka* with respect to terms of supervision); *Salazar-Martinez v. Lyons*, No. 2:25-cv-00961-KG-KBM, 2025 WL 3204807, at \*3 (D.N.M. Nov. 17, 2025) (granting petition for habeas corpus under *Zadvydas* and ordering release “under reasonable terms of supervision set forth in 8 U.S.C. § 1231(a)(3)”; *Gomez v. Mattos*, No. 2:25-cv-00975-GMN-BNW, 2025 WL 3101994, at \*7 (D. Nev. Nov. 6, 2025) (granting petition for writ of habeas corpus under *Zadvydas* and ordering same relief as in *Barka* and *Bunnell* with respect to terms of

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<sup>1</sup> Following the issuance of the Court’s Order to Respond at about 2:30 p.m. on Monday, January 5, 2025, Petitioner’s counsel emailed Respondents’ counsel at about 4:30 p.m. to propose a call the following day. Having not heard back, Petitioner’s counsel emailed again on Tuesday, January 6, 2025 at 4:40 p.m. Petitioner’s counsel learned from Respondents’ counsel soon after that Respondents’ counsel had informed Respondents of the Court’s order but had not yet heard back from Respondents. Petitioner’s counsel did not receive any substantive response until 5:05 p.m. on Wednesday, January 7, 2025, when Respondents’ counsel conveyed a proposal that “all of the conditions contained in the Form I-220B be imposed.” Petitioner’s counsel conferred with Respondents’ counsel, conveyed concerns about that proposal, including that the sample I-220B includes incomplete blanks, and tried to reach agreement on a modified proposal. Respondents did not authorize Respondents’ counsel to provide any further answer before filing their Response at 11:14 p.m. *See also* Dkt. 26, Petitioner’s Submission Regarding Appropriate Habeas Remedy, at 1 n.1 (detailing Petitioner’s earlier attempts to confer regarding conditions of supervision).

supervision); *Vashkanyan v. Janecka*, No. 5:25-cv-01475-MRA-AS, 2025 WL 3050081, at \*5 (C.D. Cal. July 18, 2025) (granting petition for writ of habeas corpus under *Zadvydas* and ordering that “Respondents shall **immediately** release petitioner on reasonable terms of supervision pursuant to 28 U.S.C. § 1231(a)(3), (6)”) (emphasis in original); *see also Zadvydas v. Davis*, 533 U.S. 678, 690, 700 (2001) (interpreting 8 U.S.C. § 1231(a) to only permit restraints on liberty that “bear[] a reasonable relation” to the nonpunitive purposes of the statute and providing that immigration authorities may impose terms of supervision that are “appropriate in the circumstances” following the grant of a habeas petition under *Zadvydas*). Under the meanings of “reasonable” or “appropriate,” such an order would necessarily bar Respondents from imposing retaliatory or punitive terms of release that are not reasonably related the statute’s lawful non-punitive purposes. *See Zadvydas*, 533 U.S. at 690, 700. This approach would leave Respondents flexibility regarding the precise terms of supervision while also providing a pathway for Petitioner to seek relief from the Court if Respondents attempted to impose unlawfully punitive or retaliatory conditions.

Should the Court instead decide to include specific terms of supervision in an order requiring Petitioner’s release, the Court should refrain from adopting two conditions included as options in the Form I-220B attached to the Respondents’ submission. *Cf.* 28-1.

The Court should decline to order the eighth optional condition, concerning enrollment in an electronic monitoring program referred to as “Alternatives to Detention,” because Respondents have not even attempted to explain why it is appropriate or necessary here. In particular, Respondents have failed to show why other conditions requiring Petitioner’s in-person appearance at a given time and place upon any request by ICE and advance reporting to ICE before any change

of residence or employment would not adequately protect Respondents' interest in being able to locate Petitioner if conditions change such that his removal becomes reasonably foreseeable.

The Court should likewise decline to order the fourth optional condition, barring travel outside a certain area without pre-approval by ICE, because Respondents have failed to explain why this condition is necessary. Further, evidence provided with this submission shows that ICE often refuses to communicate with or respond to individuals living in Maine under Orders of Supervision, making it effectively impossible for them to obtain approval for travel. Second Brennan Decl. at ¶ 5. If the Court does adopt a version of this condition, Petitioner proposes (a) that the geographic area specified should be the ICE Boston Field Office's Area of Responsibility, comprised of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut; and (b) that a proviso should be added specifying that if Petitioner provides ICE notice of proposed travel at least fourteen days before the date of departure, and ICE does not deny the request before the date of departure, ICE's failure to deny the request will be construed as approval.

For the reasons set forth above, the Court should promptly issue an order requiring Petitioner's release subject to "reasonable" or "appropriate" terms of supervision under 8 U.S.C. § 1231(a)(3), without specifying specific terms of supervision. In the alternative, the Court should issue an order requiring Petitioner's release on specific conditions but with the limitations proposed above. *See supra* at 3–4.

Respectfully submitted this 8th day of January, 2026.

Petitioner,

By and through his Counsel,

/s/ Max I. Brooks

Max I. Brooks

Carol J. Garvan

Anahita Sotoohi

AMERICAN CIVIL LIBERTIES UNION

OF MAINE FOUNDATION

P.O. Box 7860

Portland, ME 04112

(207) 774-5444

[mbrooks@aclumaine.org](mailto:mbrooks@aclumaine.org)

[cgarvan@aclumaine.org](mailto:cgarvan@aclumaine.org)

[asotoohi@aclumaine.org](mailto:asotoohi@aclumaine.org)

*Counsel for Petitioner*

**CERTIFICATE OF SERVICE**

I hereby certify that on the date below, I electronically filed the foregoing document, Petitioner's Reply Regarding the Court's Order to Respond, via the Court's CM/ECF system.

Signed this 8th day of January, 2026,

/s/ Max Isak Brooks  
Max Isak Brooks  
AMERICAN CIVIL LIBERTIES UNION  
OF MAINE FOUNDATION  
P.O. Box 7860  
Portland, ME 04112  
(207) 619-6230  
[mbrooks@aclumaine.org](mailto:mbrooks@aclumaine.org)