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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

IMRAN HOSSAIN
Petitioner
v.

Case No. I:25-cv-01710-JLT-SAB-HC

WARDEN OF THE GOLDEN STATE
ANNEX DETENTION FACILITY, et al.,
Respondents.

**PETITIONER'S TRAVERSE TO
RESPONDENT'S RETURN**

I. INTRODUCTION

1. Petitioner respectfully requests release from immigration detention because his continued confinement since January 16, 2025 violates the Due Process Clause of the Fifth Amendment.
2. On December 2, 2025, Petitioner filed a pro se petition for a writ of habeas corpus before this Court, challenging his continued detention following the entry of a final order of removal by an Immigration Judge on March 3, 2025.

- 1 3. On February 10, 2026, the Magistrate Judge issued findings and recommendations
2 concluding that Petitioner's detention had become prolonged and recommending that
3 Petitioner be provided an individualized bond hearing.
- 4 4. Respondents filed objections on February 24, 2026 opposing the Magistrate Judge's
5 recommendation. Respondents argue that because Petitioner was subject to expedited
6 removal proceedings and is considered an "applicant for admission," he is not entitled to
7 constitutional protection.
- 8 5. Contrary to Respondents' assertions, all persons within the United States are entitled to
9 constitutional protections. Moreover, as stated in the Magistrate Judge's
10 recommendation: "In *Rodriguez II*, to avoid constitutional concerns, the Ninth Circuit
11 held that mandatory detention under 1226(c) and 1225(b) is implicitly time-limited and
12 expires after six months. Thereafter, the government's authority to detain shifts to
13 1226(a), which requires a bond hearing governed by the procedural requirements set forth
14 in *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)."
- 15 6. This principle reflects the broader constitutional concern that immigration detention
16 cannot become prolonged without adequate process. Here, Petitioner has been detained
17 for a period in excess of one year, which violates the Due Process Clause of the Fifth
18 Amendment.
- 19 7. Thus, the only question before this Court is whether Petitioner's continued detention
20 following a final order of removal, which now exceeds one year, remains constitutionally
21 permissible.

II. STATEMENT OF FACTS

8. Petitioner Imran Hossian is a native and citizen of Bangladesh. On January 16, 2025, Petitioner entered the United States seeking asylum and was administered a credible fear interview. After an asylum officer determined that he had not established a credible fear, his case was referred to an Immigration Judge for review. On March 3, 2025, the Immigration Judge upheld the asylum officer's findings and entered a final order of removal.
9. Petitioner has remained in the custody of the Department of Homeland Security since January 16, 2025. On December 2, 2025, Petitioner filed a pro se petition for writ of a habeas corpus before this Court challenging his continued immigration detention.
10. On February 10, 2026, the Magistrate Judge issued findings and recommendations concluding that Petitioner's detention had become prolonged and recommending that Petitioner be provided an individualized bond hearing.
11. On February 24, 2026, Respondents filed objections to the Magistrate Judge's findings and recommendations.
12. Petitioner remains detained in immigration custody. As of the filing of this reply, Petitioner has been detained for approximately one year, one month, and twenty-two days.

III. STATUTORY FRAMEWORK GOVERNING POST-REMOVAL DETENTION

13. Immigration detention following a final order of removal is governed by 8 U.S.C. § 1231.
14. Once a removal order becomes final, the government has a ninety-day "removal period" in which it must effectuate removal. 8 U.S.C. § 1231(a)(1). During that ninety-day

1 removal period, detention is mandatory. § 1231(a)(2).

2 15. After the removal period expires, the statute permits the government to continue
3 detention of certain noncitizens or release them under supervision. § 1231(a)(6).

4 16. The Supreme Court interpreted § 1231(a)(6) in Zadvydas v. Davis, 533 U.S. 678 (2001),
5 to avoid serious constitutional concerns that would arise if the statute authorized
6 indefinite detention. The Court held that post-removal detention is limited to the period
7 reasonably necessary to effectuate removal. The Court explained that interpreting the
8 statute to permit indefinite detention would raise serious constitutional concerns because
9 the Due Process Clause protects individuals from arbitrary physical restraint. The Court
10 emphasized that “freedom from imprisonment—from government custody, detention, or
11 other forms of physical restraint—lies at the heart of the liberty that the Due Process
12 Clause protects.” Id. at 690.

13 17. To avoid those constitutional concerns, the Court construed § 1231(a)(6) to contain an
14 implicit temporal limitation. Detention is presumptively reasonable for *six months*. After
15 that period, once a detainee provides good reason to believe that removal is not
16 reasonably foreseeable, the government must provide evidence sufficient to rebut that
17 showing. Id. at 701.

18 18. Thus, post-removal detention may last only for the period reasonably necessary to secure
19 removal and cannot become indefinite.

20 IV. ARGUMENT

21 A. The Magistrate Judge Correctly Concluded That Petitioner’s Detention Has Become 22 Constitutionally Prolonged

19. A district court reviewing a magistrate judge's findings and recommendations must conduct a de novo review of those portions to which objections are made. 28 U.S.C. § 636(b)(1).

20. Here, the Magistrate Judge correctly concluded that Petitioner's detention has become constitutionally prolonged.

21. Petitioner has been detained since January 16, 2025. His detention now exceeds one year. This period is more than double the six-month presumptive period recognized in Zadvydas. Despite the existence of a final removal order, the government has not effectuated Petitioner's removal. Respondents have not identified a definite time-line for removal nor presented evidence demonstrating that removal will occur in the reasonably foreseeable future.

22. Under Zadvydas, once detention extends beyond six months, a detainee need only provide good reason to believe that removal is not reasonably foreseeable. The burden then shifts to the government to rebut that showing with evidence demonstrating that removal remains reasonably foreseeable. Id at 701.

23. Here, Petitioner's detention has continued for more than one year without removal being carried out. The continued passage of time without removal strongly indicates that removal is not reasonably foreseeable.

24. Moreover, the duration of Petitioner's detention underscores the constitutional concerns identified in Zadvydas. The Supreme Court made clear that six months represents the point at which continued detention becomes presumptively unreasonable. Id. Detention extending well beyond that benchmark raises serious due process concerns.

25. Furthermore, immigration detention is civil in nature and justified only for limited regulatory purposes such as ensuring appearance at removal or protecting the community. Zadvydas, 533 U.S. at 690. When removal is not reasonably foreseeable, continued detention no longer advances those purposes.

26. Under these circumstances, the Magistrate Judge correctly concluded that Petitioner's prolonged detention raises serious constitutional concerns.

B. Zadvydas Applies Even to Individuals Classified as Applicants for Admission

27. Petitioner maintains that his continued detention for more than one year without removal violates the Due Process Clause of the Fifth Amendment. Respondents argue that Petitioner lacks constitutional protection because he is considered an "applicant for admission."

28. However, this is irrelevant given that Petitioner is currently subject to detention under § 1231(a)(6), as a non-citizen with a final removal order who has been detained for a period in excess of 90 days. In Clark v. Martinez, 543 U.S. 371 (2005), the Supreme Court held that the statutory interpretation adopted in Zadvydas applies equally to inadmissible noncitizens detained under § 1231(a)(6).

29. Because Congress used identical statutory language for all detainees covered by § 1231(a)(6), the six-month limitation recognized in Zadvydas applies equally to individuals classified as applicants for admission.

30. Furthermore, Respondents rely on Jennings v. Rodriguez, 583 U.S. 830 (2018). That reliance is misplaced. Jennings addressed whether certain immigration detention statutes require periodic bond hearings as a matter of statutory interpretation. The Supreme Court

1 rejected the Ninth Circuit’s statutory interpretation but expressly declined to decide the
2 constitutional question regarding prolonged detention.

3 31. Following Jennings, courts have continued to recognize that constitutional challenges to
4 prolonged immigration detention remain viable. See Rodriguez v. Marin, 909 F.3d 252,
5 256 (9th Cir. 2018) (noting “grave doubts that any statute that allows for arbitrary
6 prolonged detention without any process is constitutional”).

7 **V. IMMEDIATE RELEASE IS THE APPROPRIATE REMEDY**

8 32. The Magistrate Judge recommended a bond hearing, in lieu of immediate release, based
9 on Petitioner’s statement that “he had been informed that DHS intend[ed] to remove him
10 to a third country on [] February 20, 2026,” and that, based on this information, Petitioner
11 did not raise a claim that he is entitled to immediate release under Zadvydas . See
12 Magistrate Findings and Recommendations at footnote 5. However, since that time,
13 Petitioner has not been removed, thereby changing the posture of this case, namely that
14 there is in fact “no significant likelihood of removal in the reasonably foreseeable future.”
15 Id.

16 33. Thus, although the Magistrate Judge did not address whether Petitioner was entitled to
17 immediate release pursuant to Zadvydas because the issue was not initially raised by
18 Petitioner, circumstances have now changed such that Petitioner must raise the issue of
19 immediate release due to the fact that removal is not reasonably foreseeable in the future.

20 34. The Supreme Court explained in Zadvydas that it found nothing in the history of the
21 immigration detention statutes demonstrating a congressional intent to authorize
22 indefinite, perhaps permanent, detention. Interpreting the statute to avoid a serious
23

1 constitutional threat, the Court held that “once removal is no longer reasonably
2 foreseeable, continued detention is no longer authorized by statute.” 533 U.S. at 699

3 35. The Supreme Court further explained that federal courts, through habeas corpus, have the
4 authority to determine whether detention exceeds the period reasonably necessary to
5 secure removal. See 28 U.S.C. § 2241(c)(3) (granting courts authority to determine
6 whether detention is “in violation of the Constitution or laws of the United States”). In
7 doing so, courts carry out what the Supreme Court has described as the “historic purpose
8 of the writ,” namely “to relieve detention by executive authorities without judicial trial.”
9 (Quoting Brown v. Allen, 344 U.S. 443, 533 (1953) (Jackson, J., concurring in result).

10 36. Thus, the appropriate remedy under such circumstances is immediate release when
11 detention is no longer authorized by statute. As the Court explained in Zadvydas, a statute
12 permitting indefinite detention would raise serious constitutional concerns because such
13 detention could become permanent.

14 37. Here, Petitioner has been detained for more than one year following the entry of a final
15 order of removal. Respondents have not demonstrated that removal is reasonably
16 foreseeable in the near future, and the delay in Petitioner’s removal is not attributable to
17 any non-compliance on his behalf.

18 38. Because Petitioner’s continued detention exceeds the period reasonably necessary to
19 effectuate removal, further detention cannot be justified under the statute as interpreted in
20 Zadvydas. Under these circumstances, release under appropriate supervision is the
21 remedy contemplated by the Supreme Court. See Preiser v. Rodriguez, 411 U.S. 475, 484
22 (1973) (explaining that “the essence of habeas corpus is an attack by a person in custody

upon the legality of that custody, and that the traditional function of the writ is to secure release from illegal custody”).

VI. CONCLUSION

39. Petitioner has remained in immigration detention for more than one year following the issuance of a final order of removal. The government has not been able to effectuate his removal. Furthermore, removal is not reasonably foreseeable in the future. Respondents have made numerous unsuccessful attempts to effectuate his removal over a fourteen-month period from the country. His continued detention at this juncture would not serve the regulatory purpose necessary to accomplish removal.
40. Moreover, in Zadvydas, the Supreme Court held that immigration detention is civil and justified only for limited regulatory purposes, such as ensuring appearance for removal or protecting the community. The government has not met this burden to justify continued detention. Petitioner has no criminal history, and Respondents have not alleged that he poses a danger to the community or flight risk. Where there is no evidence supporting those concerns, continued detention cannot be justified based on speculation alone.
41. Petitioner further notes serious concerns regarding the impartiality of Immigration Judges who, on a nationwide level, have systematically denied bond for persons such as Petitioner who are new arrivals to the United States, often finding that such individuals pose a flight risk without engaging in an individualized analysis.
42. For these reasons, Petitioner respectfully requests that the Court grant the petition for writ

1 of habeas corpus and order Petitioner's immediate release under appropriate supervision.

2 43. In the alternative, if a bond hearing is ordered, Petitioner respectfully requests that the
3 Court order a status conference to discuss whether Petitioner was provided a bond hearing
4 that complied with due process, namely whether Respondents met their burden of proof
5 and whether the Immigration Judge engaged in a meaningful analysis of the facts of
6 Petitioner's particular case.

7 Dated: March 10, 2026

Respectfully Submitted,

8 /s/ Theodora E. Adoghe

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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2026, I electronically filed the foregoing
Petitioner's Traverse to Respondent's Return with the Clerk of the Court using the CM/ECF
system. I further certify that the CM/ECF system will send notification of such filing to
all counsel of record.

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