Case No. 25-3262-JWL

FILED
JAN 14 2026
Clerk, U.S. District Court
By: _____ Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

RIMON KAZZOO,
Petitioner, Pro Se,

V.

CRYSTAL CARTER, WENDLER,
TODD LYONS, PAM BONDI,
and ALEJANDRO MAYORKAS,
Respondents,

TRAVERSE TO RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner respectfully submits this Traverse in response to Respondents' Return. Respondents' argument mischaracterizes both factual posture of this case and governing law. Properly understood, Petitioner's continued detention is unconstitutional and unlawful under Zadvydas v. Davis, the Fifth Amendment and longstanding civil-detention principles.

Petitioner, Rimon Kazzoo, has been continuously detained since May 21, 2025, post-removal-order, for a period exceeding one hundred and eighty (180) days. Crystal Carter, Warden at FCI Leavenworth and his immediate custodian is located in this district (Kansas). The Writ of Habeas Corpus is brought under 28 U.S.C. § 2241 challenging the lawfulness of continued detention post-removal-order. Respondents' Return fails to rebut Petitioner's showing that his continued detention violates 8 U.S.C. § 1231(a)(6) as interpreted by Zadvydas v. Davis, 533 U.S. 678 (2001), and violates substantive due process. Instead, the government relies on speculative future removal, failed third-country negotiations, pending removal efforts, and the detention being "slightly" longer than six-months.

Because Respondents cannot demonstrate a significant likelihood of removal in the reasonably foreseeable future, the Court should order Petitioner's immediate release under appropriate supervision.

II. DETENTION SLIGHTLY BEYOND SIX MONTHS STILL TRIGGERS ZADVYDAS PROTECTIONS

A. Respondents' Assertion: "slightly longer than the six months after his detention under § 1231(a)(6) began." This Argument Misunderstands The Six-Month Presumption.

The six-month period is not a safe harbor for the government; it is a trigger point for heightened scrutiny. Zadvydas does not require a substantial excess over 180 days. This argument misunderstands the Supreme Court's framework. Zadvydas establishes six month as the point at which detention becomes presumptively unreasonable, not a minimum grace period during which constitutional concerns are suspended: "After six months, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." 533 U.S. at 701.

Once the six-month threshold is crossed, the burden shifts to the government to show that removal is significantly likely in the reasonably foreseeable future. There is no requirement that detention exceed six months by a particular margin before constitutional scrutiny applies. As of writing of this response, it has been:

237 days since the Honorable IJ's Order of Removal was entered
207 days since the expiration of the appeal period

Both of which places the time of filling of this petition well beyond the 180 days benchmark set by Zadvydas. Allowing DHS to delay habeas review by manipulating procedural timelines would eviscerate the constitutional safeguard recognized in Zadvydas. "Detention becomes unreasonable when removal is no longer practically attainable, regardless of how diligently ICE claims to be working." Hernandez v. Lynch, 216 WL 7116611, at *5 (D. Mass. Dec 6, 2016).

B. The Government's Argument Would Nullify Presumption

If accepted, Respondents' logic would create an ever-moving goalpost:

1) "slightly longer than the six months after his detention" is not enough to trigger Zadvydas.
2) "one month longer than the presumptively lawful six-month period" is not enough to shift the burden.
3) 237 days since the Honorable IJ Order of Removal was entered is not enough to trigger Zadvydas.
4) 207 days since the expiration of the appeal period is also not enough to shift the burden.

Such an approach would transform the Zadvydas presumption into an illusory protection, contrary to Supreme Court's intent. Courts routinely recognize that even brief periods beyond six months are sufficient to trigger the burden shift when government cannot show concrete progress toward removal. Courts have ordered release even where detention exceeded six months by only a short period. See:

Lema v INS, 341 F.3d 853, 856 (9th Cir. 2003)
Said v. Gonzales, 488 F.3d 668, 672 (5th Cir. 2007)

C. The Government Has Failed To Show Removal Is Likely In The Reasonably Foreseeable Future

Even assuming arguendo that detention slightly beyond 180 days require additional scrutiny, Respondents have failed to meet its burden. Speculative or conclusory assertions are insufficient.

Under Zadvydas, the Government must provide specific, non-speculative evidence that removal is likely in the reasonably foreseeable future. General references to ongoing efforts pending communication, or theoretical cooperation does not satisfy this standard. Here, Respondent has offered no:

Travel document issuance timeline
Confirmation of acceptance by the receiving country
Scheduled removal date
Evidence resolving known barriers to removal

Furthermore, Respondents misstate the Zadvydas burden-shifting framework. Under Zadvydas, once detention exceeds six months:

1) Petitioner must provide "good reason to believe" removal is not reasonably foreseeable.
2) The burden then shifts to the Government to rebut that showing with evidence.

Here, Petitioner has met that burden by showing:

No country has accepted him
Removal to country of origin is barred by CAT
Third-country inquiries have produces no results
DHS has provided no timeline, assurance, or concrete progress

Lastly, the length of detention is not dispositive, the likelihood of removal is. Here, removal has affirmatively failed, and detention continues with no concrete destination, no timeline, and no meaningful prospect of success. Courts consistently reject the argument that it has been "slightly longer than six months" as irrelevant when practical removal barriers exist.

III. RESPONDENTS FAIL TO REBUT PETITIONER'S ZADVYDAS SHOWING

A. Failed Third-Country Removal Attempts Confirm, Rather Than Undermine Petitioner's Claim

Respondents argue that Petitioner's detention is lawful because they have unsuccessfully attempted removal to Mexico, Honduras, and El Salvador. This argument confirms that removal is not reasonably foreseeable. Courts consistently hold that unsuccessful third-country efforts do not justify continued detention.

Respondents' Assertion: "On or about May 27, 2025 DHS sent requests to obtain approval to remove Petitioner to Mexico, Honduras, and El Salvador. These requests have not been denied, but DHS is still waiting for a response."

Here, Petitioner was never notified of these countries, never given an opportunity to seek asylum or protection, and no country has accepted him despite the passage of more than six months since DHS has sent the request to the countries mentioned above. Respondents' reliance on pending unanswered diplomatic inquiries is insufficient as a matter of law to establish a significant likelihood of removal.

The Supreme Court rejected precisely this type of speculative reasoning in Zadvydas, holding:

"The likelihood of removal must be realistic, not merely theoretical." 533 U.S. at 702.

Courts consistently hold that waiting for responses without concrete evidence of acceptance does not make removal reasonably foreseeable. See: Ly v. Hansen, 351 F.3d 263, 271 (6th Cir. 2003) "The government cannot continue to detain an alien indefinitely merely because removal is theoretically possible." Abdel-Muhti v. Ashcroft, 314 F. Supp. 2d 418, 427 (M.D. Pa. 2004) "Pending negotiations with foreign governments, without more, do not justify continued detention."

Moreover, due process violations compound to unreasonableness of detention. DHS's failure to notify Petitioner of third country removal efforts or provide an opportunity to seek asylum violates: 8 C.F.R. § 208.30 (Credible fear and protection procedures) Fifth Amendment procedural due process, which requires notice and an opportunity to be heard.

As the ninth Circuit held: "The government may not bypass asylum procedures by quietly pursuing third-country removal." See Nadarajah v. Gonzales, 443 F.3d 1069, 1081 (9th Cir. 2006).

Finally, the passage of more than six months without acceptance by any country strongly supports a finding that removal is not reasonably foreseeable.

B. Non-responses After Many Months (More than 6 months) Confirms Non-Foreseeability

DHS admits that they have attempted Petitioner's removal to three third-countries: Mexico, Honduras, and El Salvador without any success due to the irresponsiveness of the selected countries. Courts treat such prolonged silence as evidence against foreseeability. In Kumar v. Gonzales, 439 F. Supp. 2d 256, 570 (W.D. Tex. 2006): "Where multiple countries have failed to response or declined acceptance, the likelihood of removal becomes speculative at best." And in Rajigah v. Conway, 268 F. Supp. 2d 159,165 (E.D.N.Y. 2003): "Silence from foreign governments after months of inquiry weighs heavily against the government's position." After numerous countries, multiple months, and multiple failures, DHS cannot argue removal remains reasonably foreseeable.

C. Petitioner Has Fully Cooperated Throughout Detention

Under § 1231(a)(1)(c), detention may be extended only if the noncitizen acts to prevent removal. When cooperation exists, continued detention is unlawful:

"Where an alien has cooperated fully and removal is not foreseeable, continued detention exceeds statutory authority." Rajigah v. Conway, 268 F. Supp 2d 159, 165 (E.D.N.Y. 2003)

The Petitioner believes that once the "detainee" shows facts indicating no realistic removal (over six months and no non-cooperation being the cause etc.), the Respondents must produce competent evidence of an available destination. The Petitioner believes that he has shown enough to trigger that burden.

Furthermore the Respondents insist on competent evidence of third-country removal by citing Zadvydas' standard: the detainee must provide "'good reason to believe' there is no significant likelihood of removal in the reasonably foreseeable future." The Petitioner believes that Zadvydas does not require the detainee to provide complete proof that no country exists. The Petitioner believes that length of detention (7 and half months post removal order's appeal period expired, as of writing of this Traverse), as well as his full cooperation (such as conducting interviews, and signing everything he has been asked to sign while in detention), demonstrate a lack of realistic removal path; not by mere speculation that removal is impossible, but showing that with his full cooperation and ICE's "diligent" efforts throughout that last several months, nothing viable has materialized. The Petitioner also believes that Respondents' failure to document any willingness or acceptance by a third country after more than six months is a meaningful evidentiary gap, making it appropriate to order release.

D. Continued Detention Serves No Legitimate Purpose

The Supreme Court made clear that once removal is no longer foreseeable, detention ceases to serve its civil purpose and becomes punitive. Zadvydas, 533 U.S. at 690. At this stage, supervision under conditions of release is the constitutionally required alternative.

IV. PETITIONER'S CLAIMS ARE DISTINCT AND INDEPENDENTLY COGNIZABLE

A. Respondents' Assertion: "Petitioner asserts five claims but they all boil down to one Zadvydas issue."

Petitioner believes that Respondents are mischaracterizing Petitioner's claims and improperly collapse distinct statutory and constitutional violations into a single analysis. Petitioner's claims include:

1) Statutory claim Under 8 U.S.C. § 1231(a) as interpreted by Zadvydas v. Davis
2) The Fifth Amendment Violation
3) The Purpose of detention (effecting removal) no longer exists
4) Constitutional and human rights concerns
5) No meaningful prospect of removal

Courts routinely recognize that Zadvydas does not displace independent constitutional claims. See: Diouf v. Napolitano, 634 F.3d 1081, 1091 (9th Cir. 2011) "Zadvydas establishes a statutory baseline, not a ceiling on constitutional challenges to prolonged detention."

V. PENDING REMOVAL EFFORTS DO NOT DEFEAT A ZADVYDAS CLAIM

A. Respondents Assert: "ICE has acted diligently and no country has declined to accept Petitioner." But The Absence of a Formal Rejection Does Not Equal a Significant Likelihood of Removal.

Respondents' claim that they have been "diligent" in seeking removal does not resolve the constitutional question. Zadvydas does not ask whether DHS is trying, it asks whether removal is significantly likely in the reasonably foreseeable future. "Good-faith efforts do not justify continued detention when there is no realistic prospect of removal." Zadvydas, 533 U.S. at 699. Where, as here, detention has exceeded more than Seven months and removal has not occurred, DHS bears the burden of producing concrete, non-speculative evidence that removal will occur soon. General assurances are insufficient.

As courts have repeatedly held:

"The government cannot rely on the mere absence of refusal to justify continued detention." Seretse-Khama v. Ashcroft, 215 F. Supp. 2d 37, 50 (D.D.C. 2002).

What matters is affirmative evidence of acceptance, not speculative hope. See:

Bah v. Cangemi, 489 F. Supp. 2d 905, 916 (D. Minn. 2007) "Speculation that removal might

occur someday is insufficient."

Diligence alone cannot overcome constitutional limits. The Supreme Court was explicit:

"The Governments' detention authority is not limitless, even when it acts in good faith." Zadvydas, 533 U.S. at 696.

VI. BAINS V. GARLAND IS DISTINGUISHABLE AND DOES NOT JUSTIFY CONTINUED DETENTION

A. Respondents Cite Bains v. Garland to argue continued detention is lawful, but Bain Is In Opposite.

In Bains, the Court emphasized specific concrete evidence of imminent removal, including active travel document issuance and clear timeline. That is absent here.

More importantly, Respondents do not allege flight risk or danger, which further undermines continued detention. As the Supreme Court noted:

"Preventive detention without a finding of danger or flight risk raises serious due process concerns."
Zadvydas, 533 U.S. at 690.

Courts routinely order release where no individualized justification exists. See:

Ngo v. INS, 192 F.3d 390, 398 (3d Cir. 1999)
Tijani v. Willis, 430 F.3d 1241, 1247 (9th Cir. 2005)

VII. SEARCHING FOR COUNTRIES OTHER THAN "MEXICO" IS LEGALLY IRRELEVANT

A. Respondents' Assert: "ICE has acted diligently by attempting to remove Petitioner to countries other than Mexico. See Supra SOF. Those efforts are still ongoing and ICE is continuing to look for alternative countries."

There is nothing legally significant about searching for countries other than "Mexico." What matters is whether any country will accept Petitioner within a reasonable time. Courts have consistently rejected the argument that open-ended searching justifies detention.

"Endless efforts to locate a country willing to accept the alien do not render detention reasonable." Kacanic v. Elwood, 2002 WL 31520362, at *6 (E.D. Pa. 2002)

If anything, the need to search indefinitely confirms the absence of a foreseeable removal.

B. CAT Protection For Iraq Makes Removal To Home Country Legally Impossible

Petitioner has relief under the Convention Against Torture (CAT) with respect to Iraq. Removal to his home country is therefore legally barred. Courts recognize that when removal to the country of origin is prohibited, the government bears a heightened burden to show realistic third-country removal; "When removal to the country of origin is barred, the likelihood of removal depend entirely on the willingness of a third country to accept the alien." Lema v. INS F.3d 853, 856 (9th Cir. 2003)

In addition, the Petitioner's removal order consists of ICE of having the obligation to identify an "alternative country" where Petitioner will have the same terms and conditions as stated on his "Withholding of Removal" status. ICE must find a country that will guarantee that the Petitioner will not be tortured, deprived of his freedom, or will not be removed and deported back to Iraq while his status remains and his deportation to his country is suspended indefinitely. As of today, ICE has not found a country with these conditions within the six-months (much longer than that as of writing of this Traverse) the courts consider reasonable to effectuate removal, therefore proving that travel documents have not been secured for a prolonged period.

Respondents have not identified any third country that has agreed to accept the Petitioner.

VIII. THE GOVERNMENT BEARS THE BURDEN AND HAS FAILED TO CARRY IT

A. Respondents Assert "Petitioner has not provided competent evidence." This Argument Improperly Reverses The Burden.

Once Petitioner made a prima facie showing, which he has, the burden is shifted to the Government. Respondents have failed to provide:

Any acceptance by a foreign country
Any travel document issuance
Any scheduled removal
Any timeline

As the Supreme Court held:

"Where the Government fails to rebut the showing, continued detention violates the statute." Zadvydas, 533 U.S. at 701.

IX. CONCLUTION: CONTINUED DETENTION IS UNLAWFUL

Case No. 25-3262-JWL

Petitioner's continued detention:

1) Serves no legitimate removal purpose
2) Violates § 1231(a)(6) as construed by Zadvydas
3) Violates the Fifth Amendment
4) Lacks any individualized justification

Accordingly, the Court should grant the Writ and order Petitioner's immediate release under appropriate conditions of supervision.

X. REQUEST FOR RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Petitioner immediate release from ICE custody under reasonable conditions of supervision;
3. Enjoin Respondents from continued detention absent concrete evidence of imminent removal;
4. Grant any further relief the Court deems just and proper.

XI. VERIFICATION

I RIMON KAZZOO, declare under penalty of perjury under the laws of the United States that I am the Petitioner in above-entitled action; that I have read the Traverse to Respondents' Response and know the contends, therefore; and that the same is true and correct to the best of my knowledge, information, and belief.

1-12-2026

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