Case no. 25-3266-JWL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

YOSEF PAULOS
Petitioner, Pro Se

v.

KRISTI NOEM, TODD LYONS,
CRYSTAL CARTER, BRADLEY MCNAIRY
and PAM BONDI,
Respondents.

PETITIONER'S TRAVERSE TO RESPONDENTS' OPPOSITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

Petitioner, Yosef Paulos, hereby submits this Traverse in response to the Respondents' opposition. Respondents admit they lack travel documents, admit they have failed to secure a workable flight route, and admit that previous attempts to remove Petitioner to Eritrea during his previous detention, and current detention have failed. Despite this, Respondents seek to continue Petitioner's indefinite detention based on nothing more than "speculative" efforts. Under the Supreme Court's holding in Zadvydas v. Davis, 533 U.S. 678 (2001), such detention is unconstitutional.

The Petitioner has been continuously detained since June 9th, 2025. As of the writing of this response (January 20, 2026), it has been about 225 days, a period exceeding well beyond the 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 travel document request attempts, pending removal routes, and renewed travel document requests.

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

II. HISTORY OF NON-REMOVABILITY AND PRIOR DETENTION

Under Zadvydas v. Davis, 533 U.S. 678 (2001), the Supreme Court established a "presumptively reasonable" detention period of six months. Once that period has passed, if the Petitioner 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." Id at 701.

Petitioner has been detained for over SEVEN and HALF months (225 days of the writing of this

Traverse), which is well beyond the 180-day threshold. Furthermore, this is Petitioner's second period of detention for the same purpose, following a previous failed attempt in 2018-2019. During that prior detention, which lasted approximately 90 days (post-removal), Respondents actively attempted to secure travel documents from the Eritrea and those efforts failed. Petitioner was subsequently released from custody because his removal was not significantly likely in the reasonably foreseeable future at that time. The "totality of the circumstances" demonstrate that the government's efforts have reached a dead end.

III. RESPONDENTS FAIL TO REBUT PETITIONER'S ZADVYDAS SHOWING

ARGUMENT A: Petitioner Has Met the Burden of Showing No Significant Likelihood of Removal

Respondents argue that the expiration of the six-month period is insufficient to meet Petitioner's burden. While Zadvydas does not mandate automatic release at six-months, it provides that once the 6-month period passes and alien provides "good reason to believe that there is no significant likelihood of removal in the reasonable foreseeable future, the government must respond with evidence sufficient to rebut that showing." Zadvydas, 533 U.S. at 701.

Petitioner has met this burden by highlighting the Government's consistent failure to obtain documents from Eritrea and Ethiopia. Respondents reliance on the "Form I-269" process is a procedural formality that does not equate to a substantive likelihood of departure when the receiving country have already demonstrated a pattern of non-compliance.

While Respondents cite Dusabe to claim a delay beyond six months is not "presumptively unreasonable," they mischaracterize the Zadvydas framework. The six month mark is the "presumptively reasonably" period of detention; once that passes, the court must look at the specific facts of the case. In this matter, the "delay" is not a singular event but a multi year failure. Continued detention without a "clear and present" end date violates the core holding of Zadvydas.

As stated above, in Zadvydas, the Supreme Court held that once an alien provides good reason to believe that there is "no significant likelihood of removal in the reasonable foreseeable future." the government must respond with evidence sufficient to rebut that showing. Id at 701. Respondents rely on the 6-month "presumptive period but ignore the fact that once a detention crossed the 6-month, the government's burden increases. As the Court noted:

"As the period of prior post removal confinement grows, what counts as the 'reasonably foreseeable future' conversely shrinks." Id at 701.

Petitioner has been detained since June 9, 2025 over seven and half months. During this time, the government has achieved nothing.

ARGUMENT B: PETITIONER IS EFFECTIVELY NOT RECOGNIZED BY ERITREA AND ETHIOPIA

Petitioner left the territory of what is now Eritrea at TWO months old, prior to its independence, during the civil war with Ethiopia. As a result:

1) Ethiopia has explicitly refused to issue a travel document (a fact Respondents failed to address)

2) Eritrea has failed to issue a travel document in the past
3) Eritrea has remained silent for over six months regarding the current travel document request

The Eritrean embassy on Dec 1st, 2025 and Dec 16, 2025 via phones calls made from FCI-Leavenworth confirmed directly to Petitioner that he is "not in their system." When a country refuses to recognize an individual as a citizen, removal is not merely delayed; it is impossible. See Rosales-Garcia v. Holland, 322 F3d 386 (6th Cir. 2003).

Respondents' response is notably silent regarding the failed attempt to remove Petitioner to Ethiopia. Petitioner previously alleged that his Deportation Officer ("DO") acknowledged to his fiancé that Ethiopia had denied his travel document request. By failing to address this in their Response, Respondents effectively concede that they have exhausted all viable third-country options.

The silence regarding Ethiopia, combined with lack of a document from Eritrea, leaves Petitioner in "stateless" limbo. As the court hold in Rosales-Garcia v. Holland, 322 F 3d 386 (6th Cir. 2003), the government cannot hold a person indefinitely just because no other country will take them.

ARGUMENT C: History Proves Removal is Not Likely

Respondents admit that in February 2019, Petitioner had to be released from custody because they could not obtain travel documents from Eritrea. This historical fact is dispositive.

When a country has documented history of refusing to issue documents, the government cannot claim removal in "likely" simply because they have sent a new request. Courts have held that "government's choices are not evidence of likelihood of removal." Seretse-Khama v. Ashcroft, 215 F. Supp. 2d 37, 49 (D.D.C. 2002). Because nothing in diplomatic relationship between the U.S. and Eritrea has changed since 2019, Respondents are essentially repeating a failed experiment at the expense of Petitioner's liberty.

ARGUMENT D: The Government Failed "Route" Planning and Lack of Documentation

Respondents admit that as of November 5, 2025, the request remains "pending." And as of the filling of the Respondents' Response on January 8, 2026, "a travel document has not been received by ERO." Furthermore, Respondents admit that they attempted to schedule a travel without a travel document, but were blocked by layover countries.

This admission is critical. It proves:

1) DHS is not confident a travel document will ever be issued
2) DHS is attempting "Alternative" removal methods that have already failed due to international transit laws.

The government's statement that it is "waiting for a travel document or a workable route" is the definition of indefinite detention. In Lema v. INS, 341 F.3d 853 (9th Cir. 2003), the court emphasized that government must provide more than "mere hopes." Here, Respondents offer only a "wait and see" approach, which Zadvydas expressly forbids.

ARGUMENT E: Revocation of Supervision Without a Basis for Removal

Respondents state Petitioner's supervision was revoked on June 9, 2025. However, they offer no evidence that a travel document was "imminent" at that time. To the contrary, their own timeline shows they didn't even contact "RIO" until July 2025.

Detaining a person for removal when the government has no travel document and un-confirmed flights is "punitive" and violates Due Process.

ARGUMENT F: The Absence Of a Timeline Renders Detention Indefinite

Respondents claim detention is not indefinite. Yet, they cannot provide a date, a flight, or even a confirmed commitment from any foreign government to accept Petitioner. Respondents' own internal records reveal the impossibility of the current plan: they initially considered removal without a travel document but abandoned the plan because transit countries would not allow Petitioner to pass.

Furthermore, the recommendations for release from Petitioner's own DO, Bradley McNairy and ICE Agent Aaron J. Wendler, following his October 22, 2025 interview serves as admission that continued detention serves no legitimate governmental purpose. If the officers tasked with the removal conclude that release is appropriate, the government's legal argument for "foreseeability" is fundamentally undermined.

ARGUMENT G: The "Alternative options" Cited By DHS Are Illusory

Respondents suggest they are looking at "other options," such as removal without a travel document. However:

Logistical impossibility: DHS admits removal without a document is virtually impossible as layover countries will not permit transit.

No Change in Circumstances: Nothing has changed since failed 2018-2019, or current attempts to suggest that Eritrea or any transit country will suddenly cooperate now. The "foreseeability" of removal must be bared on more than "administrative hope." Hasan v. DHS, 503 F.3d 391 (5th Cir. 2007).

ARGUMENT H: 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 seven and half months and no non-cooperation being the cause and etc.), the Respondents must produce competent evidence of a destination. The Petitioner believes that he has shown enough to trigger that burden.

IV. THE DUE PROCESS VIOLATION IS EVIDENT

Respondents argue that Petitioner cannot show a viable Zadvydas claim. This is circular reasoning. Petitioner's Due Process claim is rooted in the fact that his liberty or statutory goal. "Freedom from imprisonment from government custody, detention, or other forms of physical restraint lies at the heart of the liberty that [the Due Process] Clause protects." Zadvydas, 533 U.S. at 690. Because removal is not foreseeable, the justification for detention has evaporated.

V. PETITIONER'S STATUS AS A LAWFUL PERMANENT RESIDENT ENTITLES HIM TO FULL FIFTH AMENDMENT PROTECTION

Respondents reliance on Esahaqzada (Case No. 25-3145-JWL) is misplaced. In that case, the court dealt with an "inadmissible" alien. Petitioner however, entered the United States legally as a refugee in 1985 and was a lawful Permanent Resident (LPR).

The Supreme Court has long held that "once an alien gains admission to our country and begins to develop the ties that go with permanent residence, his constitutional status changes accordingly." Landon v. Plasencia, 459 U.S. 21, 32 (1982). Unlike inadmissible aliens at the border, Petitioner has a vested interest in his liberty that cannot be stripped away by an indefinite administrative hold. His claim is not merely "statutory" but constitutional.

VI. THE REASONABLENESS OF DELAY MUST BE VIEWED IN THE CONTEXT OF TOTALITY OF REMOVAL EFFORTS

Respondents cite Dusabe v. Jones to argue that "mere delay" in obtaining travel documents does not trigger an inference that removal is not foreseeable. However, Respondents ignore the cumulative history of this case. DHS has not only failed to secure a travel document during the current seven-and-half months detention period, but they failed to do so during the prior detention in 2018-2019.

A "bureaucratic delay" ceases to be "mere" and becomes "indefinite" when it repeats across multiple years and multiple detention stints. As the Supreme Court noted in Zadvydas, "the longer the custody, the greater the procedural safeguards that may be required. 533 U.S. at 701. When a country repeatedly refuses to issue documents over a span of years, the "reality of bureaucratic delays" shifts from a temporary huddle to permanent barrier. Furthermore, Respondents omit their failures to obtain documents from Ethiopia.

VII. REQUEST FOR RELIEF

The government is engaged in a "merry-go-round" of failed removal attempts. Having failed in 2018-2019, and failing again now across multiple nations, there is no "significant likelihood" of removal. Petitioner's liberty interest now outweighs the government's diminishing intent in a removal that cannot be executed.

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

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Petitioner's 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.

VIII. VERIFICATION

I Yosef Paulos, declare under penalty of perjury under the laws of the United States that I am the Petitioner in the above-entitled action; that I have read the foregoing 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.

Yosef Paulos 01-20-26

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