

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

SOLOMON AYOR, A# [REDACTED]
*by and through his next friend, Chinwe
Irene Ayor*

Petitioner,

Vs.

Civil Action No. 4:25-cv-06030

WARDEN, HOUSTON CONTRACT
DETENTION FACILITY, et al.,

Respondents.

**PETITIONER'S REPLY IN OPPOSITION TO RESPONDENTS' RESPONSE
AND MOTION FOR SUMMARY JUDGMENT**

Petitioner Solomon Ayor, by and through his Next Friend, Chinwe Irene Ayor, respectfully submits this Reply in opposition to Respondents' Response and Motion for Summary Judgment.

I. RESPONDENTS MISSTATE THE SCOPE OF § 1231 DETENTION AUTHORITY

Respondents argue that because Mr. Ayor is subject to a final order of removal, his detention is automatically authorized under 8 U.S.C. § 1231. That position overstates the statute and ignores controlling Supreme Court precedent regarding the Fifth Amendment.

The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. Freedom from imprisonment lies at the heart of the liberty protected by this Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). To avoid a conflict with the Fifth Amendment, the Supreme Court has interpreted § 1231 to authorize

detention only as long as it bears a reasonable relationship to its purpose, effectuating removal. *Id.* at 690–99. It does not permit indefinite detention untethered from a realistic prospect of removal.

Here, Respondents’ own evidence shows that detention is not currently effectuating removal. Officer Moss concedes that ICE lacks the documents necessary to remove Mr. Ayor and is merely “checking” whether a travel document request exists. (Officer Moss Decl., Ex. 3 ¶ 45).

II. RESPONDENTS HAVE NOT SHOWN THAT REMOVAL IS REASONABLY FORESEEABLE

Despite being ordered to show cause, Respondents have produced no evidence that Mr. Ayor’s removal is imminent or reasonably foreseeable.

Officer Moss admits that:

- **ICE has failed for years:** In 2012, ICE made multiple attempts to contact the Nigerian Consulate, resulting in “no answer” or a refusal to assist. (Ex. 3 ¶¶ 23–30).
- **ICE is starting from scratch:** As recently as January 2, 2026, the Docket Officer was still “reaching out... to see **if** any travel document request has been submitted.” (Ex. 3 ¶ 45).
- **No Travel Document exists:** The Declaration contains no confirmation that a travel document has been issued or that Nigeria has agreed to issue one.

Respondents rely instead on generalized assurances that ICE is “working” with the Nigerian consulate. But Officer Moss provides no timeline, no commitment from Nigerian authorities, and no indication that removal will occur in the reasonably foreseeable future. Nothing in the record suggests that Respondents’ removal posture today is materially different from their posture in 2012, when removal likewise proved impossible.

Petitioner has met his initial burden under *Zadvydas* by demonstrating prolonged government failure and the absence of any concrete removal plan; the burden therefore shifts to Respondents to rebut that showing with evidence, not assurances. Under *Zadvydas*, speculative assurances are insufficient. Where removal is not reasonably foreseeable, continued detention violates due process. 533 U.S. at 701.

III. THE SIX-MONTH ZADVYDAS PRESUMPTION DID NOT RESTART

Respondents contend that the six-month “presumption of reasonableness” under *Zadvydas* restarted when Mr. Ayor was re-detained in November 2025. This argument is legally flawed and has been explicitly rejected by this District.

Just days ago, in *Pham v. Bondi*, Civil Action No. H-25-5765 (S.D. Tex. Jan. 9, 2026), Judge Hittner held that such a theory “has no basis in either the statutes, the regulations, or *Zadvydas* itself.” (*Pham*, Dkt. 12 at 21). The Court cautioned that such a practice risks converting discretionary detention into successive periods of potentially indefinite confinement. (*Id.* at 22).

Mr. Ayor’s order became final in 2012. The Government utilized its statutory removal period then, released him, and he complied for 13 years. To allow a “reset” now would render *Zadvydas* meaningless.

IV. RE-DETENTION AFTER THIRTEEN YEARS OF COMPLIANCE VIOLATES FIFTH AMENDMENT DUE PROCESS RIGHTS

Mr. Ayor’s re-detention was not prompted by any violation of supervision or criminal conduct. Officer Moss confirms that Mr. Ayor complied with supervision requirements. (Ex. 3 ¶ 38).

By revoking Petitioner’s release without the procedural safeguards mandated by 8 C.F.R. § 241.13 and § 241.4(l), specifically, written notice of the revocation and an opportunity to be heard, Respondents have violated his fundamental Fifth Amendment right to procedural due process.

Recent decisions in this District have ordered release of similarly situated petitioners on these exact grounds. See, e.g., *Le v. Bondi*, Civil Action No. 4:25-cv-06179 (S.D. Tex. Jan. 7, 2026); *Nguyen v. Bondi*, Civil Action No. 4:25-cv-05827 (S.D. Tex. Dec. 19, 2025); *Pham v. Bondi*, Civil Action No. H-25-5765 (S.D. Tex. Jan. 9, 2026); and *Salgar v. Noem*, Civil Action No. 4:25-cv-04797 (S.D. Tex. Nov. 14, 2025).

In *Salgar*, Judge Bennett ordered immediate release where the petitioner had been on supervision for thirteen years, holding that ICE violated due process by failing to provide notice or an informal interview prior to revocation. (*Salgar*, Dkt. 11 at 4–5). Similarly, Mr.

Ayor has received no prompt interview, no notice of reasons, and no opportunity to contest his re-detention.

V. RESPONDENTS MISCHARACTERIZE PETITIONER'S EQUITIES

Officer Moss does not contend that Mr. Ayor has ever attempted to abscond, evade ICE, or interfere with removal during thirteen years of supervision. (Ex. 3 ¶ 38). These undisputed facts further undermine Respondents' claim that detention is necessary to effectuate removal.

VI. THE GOVERNMENT'S DECLARATION IS FACTUALLY UNRELIABLE

Respondents' Motion relies entirely on the Declaration of Officer Moss (Exhibit 3). However, this Declaration contains glaring factual and procedural errors indicating it was not based on a careful, individualized review.

1. **Impossible Execution Date:** Most critically, the Declaration is executed on "**January 23, 2026**", a date nearly three weeks *after* the Motion for Summary Judgment was filed on January 6, 2026. (Ex. 3 at 7). A motion cannot rely on a sworn statement that did not exist at the time of filing. This facial defect renders the declaration legally incompetent under Fed. R. Civ. P. 56(c)(4) and strongly suggests it is a boilerplate template containing unverified data.
2. **Wrong Date and Gender:** Officer Moss swears under oath that Petitioner's removal order "became administratively final on **April 25, 2001**" and refers to Mr. Ayor as "**Her.**" (Ex. 3 ¶ 5). This is factually impossible, as the Respondents' own exhibits show Mr. Ayor did not even enter the United States until 2011. (Ex. 1).
3. **Mischaracterization of Availability:** Officer Moss implies Mr. Ayor was hiding on January 2, 2026, stating he "could not be found in dorm." (Ex. 3 ¶ 44). **In reality, Mr. Ayor was at authorized outdoor recess during normal hours.**
4. **Disputed Smuggling Allegation:** Officer Moss asserts that Mr. Ayor admitted to paying a smuggler \$30,000. (Ex. 3 ¶ 7). Petitioner disputes this allegation. The Immigration Judge's detailed factual findings (Ex. 1) contain no reference to such an admission.

Because Exhibit 3 is demonstrably inaccurate, chronologically impossible, and appears to be a boilerplate template derived from an unrelated case, it fails to meet the evidentiary standards of Fed. R. Civ. P. 56(c)(4) and should be disregarded.

VII. CONCLUSION

Respondents have shown only that Mr. Ayor has an old removal order. They have not shown that removal is imminent, foreseeable, or realistically achievable. Recent decisions in *Pham*, *Le*, *Nguyen*, and *Salgar* confirm that continued detention under these circumstances violates the Fifth Amendment Due Process Clause.

Petitioner does not ask this Court to foreclose removal if it becomes reasonably foreseeable; he asks only that detention cease until Respondents can demonstrate that removal is actually achievable. Petitioner explicitly consents to a release order containing the same safeguards this District applied in *Pham v. Bondi*. Specifically, Petitioner requests that:

1. He be released immediately under his prior conditions of supervision; and
2. Respondents be authorized to re-detain him **only if** they notify him that valid travel documents have been obtained, and **no more than seven (7) days before** a scheduled removal date.

In the alternative, if the Court is not prepared to order immediate release, Petitioner respectfully requests that the Court deny summary judgment and order an individualized bond hearing where Petitioner may be heard on the issues of flight risk and danger.

This approach balances the government's interest in ultimate removal with the Petitioner's due process right to be free from arbitrary, indefinite detention.

Respectfully submitted,



Chinwe Irene Ayor
Wife and Next Friend of Solomon Ayor Pro Se



Dated: January 12, 2026

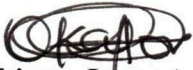
CERTIFICATE OF SERVICE

I certify that on January 12, 2026, I served a true and correct copy of the foregoing Petitioner's Reply in Opposition To Respondents' Response And Motion For Summary Judgment upon the following parties by the methods indicated below:

VIA ELECTRONIC MAIL AND U.S. MAIL:

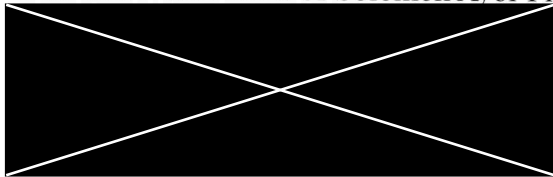
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(Attorney for Respondents)

Respectfully submitted,



Chinwe Irene Ayor

Wife and Next Friend of Solomon Ayor Pro Se



Dated: January 12, 2026