

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Aleksandr Snetkov,

Petitioner,

v.

Kristi Noem et al.,

Respondents-Defendants.

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Case No. 5:25-cv-01261-FB

Reply In Support of Petitioner’s Writ of Habeas Corpus

Petitioner timely submits this reply to Respondents’ Response, ECF No. 8, per this Court’s Order of December 17, 2025. ECF No. 4.

Respondents’ filings contain new facts confirming that Mr. Snetkov’s ongoing detention is unlawful. Respondents provide a declaration stating for the first time that in 2007, the government of Moldova “issued a letter stating SNETKOV did not hold Moldovan citizenship and could not be issued travel or identification documents.” ECF No. 8-1 at 3. Respondents likewise provide information confirming that Mr. Snetkov has been detained under 8 U.S.C. §1231(a) (post-final removal order) for a combined period of over 7.5 months. *Id.* at 2-3. Respondents’ filing also confirms that Respondents failed to seek a new travel document until after this Court ordered Respondents to respond to the instant petition. *Id.* Respondents do not substantially address Mr. Snetkov’s argument that his order of supervision (“OSUP”) revocation was unlawful, nor do they deny that the officer who arrested him on

November 17 told him it was because he is a “criminal” who “needs to be locked up.” ECF No. 1, at ¶ 33.

Respondents incorrectly argue that *Zadvydas* creates a bright-line rule allowing post-final removal order detention for six months even where the detainee is stateless and the designated country of removal has refused to issue travel documents. The cases they cite to support the assertion that there is a significant likelihood Mr. Snetkov will be removed to Moldova in the reasonably foreseeable future are all easily distinguishable because of the Moldovan government’s refusal to grant a travel document in the past and Respondents’ two prior failed attempts to deport him there. Additionally, Mr. Snetkov’s Deportation Officer informed the undersigned in a December 22 phone call that there were no changed circumstances leading to ICE’s decision to revoke Mr. Snetkov’s OSUP, which both shows that the revocation was unlawful and also that there is no likelihood Moldova will reverse its years-long policy of refusing to grant admission to non-Moldovan citizens like Petitioner. *See* Exh. B. The Court should therefore grant the petition and order Mr. Snetkov’s immediate release.¹

¹ Respondents claim some of Mr. Snetkov’s claims are “non-habeas claims” but fail to specify which claims are non-habeas. Each claim here is a habeas claim. “When one is confined by the government and seeks ‘release from custody,’ the proper vehicle is a habeas petition.” *Ndudzi v. Castro*, No. 20-cv-0492-JKP, 2020 WL 3317107, at *4 (W.D. Tex. June 18, 2020) (quoting *Carson v. Johnson*, 112 F.3d 818, 820 (5th Cir. 1997)).

1. *Zadvydas* Does Not Create a Bright-Line Rule that Post-Removal Order Detention Is Always Lawful for Six Months; Even if it Did, Mr. Snetkov Has Been Detained for Over Six Months Combined.

Respondents claim that in order to prevail under *Zadvydas*, Mr. Snetkov must show “he has been detained in post-removal-order detention for six months or longer.” Not so. In *Clark v. Martinez* the Supreme court clarified that “*Zadvydas* did not hold that the statute authorizes detention until it approaches constitutional limits; it held that. . . the statute should be read. . . to authorize detention only for a period consistent with the purpose of effectuating removal.” 543 U.S. 371, 384 (2005). District courts in the Fifth Circuit have correctly applied this rule. “This six-month presumption is not a bright line, however, and *Zadvydas* did not automatically authorize all detention until it reaches constitutional limits . . . Rather, habeas courts have the duty to ask whether detention has ‘exceed[ed] a period reasonably necessary to secure removal.’” *Ali v. Dep’t of Homeland Sec.*, 451 F. Supp. 3d 703, 707 (S.D. Tex. 2020) (quoting *Zadvydas*, 533 U.S. at 699-700). “Whereas the *Zadvydas* Court established a presumption that detention that exceeded six months would be unconstitutional, it did not require a detainee to remain in detention for six months or to prove that the detention was of an indefinite duration before a habeas court could find that the detention is unconstitutional.” *Id.* at 708. *See also Cesar v. Achim*, 542 F. Supp. 2d 897, 903 (E.D. Wis. 2008) (“Nothing about [the *Zadvydas*] scheme supports the conclusion drawn by many courts that the presumptive legality of detention within the first six months is irrebuttable.”); *Munoz-Saucedo v. Pittman*, 789 F. Supp. 3d 387, 395 (D.N.J. 2025) (“Although the Supreme Court established a

six-month period of presumptively reasonable detention, it did not preclude a detainee from challenging the reasonableness of his detention before such time.”); *Medina v. Noem*, 794 F. Supp. 3d 365, 375 (D. Md. 2025) (“The reasoning in *Zadvydas* suggests that before the six-month period expires, the burdens of production and persuasion remain with a person who has been detained, to establish that removal is not reasonably foreseeable.”); *Ziaei v. Ortiz*, No. 1:25-cv-01111-MLG-KBM, ECF No. 22 (D.N.M. Dec 15, 2025). Respondents cite several cases referring to the general presumption that detention is presumptively lawful under § 1231(a)(6) for six months, but none of these cases involved a petitioner who had already been denied travel documents by the designated country of removal.²

Even if the Court agreed with Respondents that a challenge is not ripe if a petitioner has not been detained for six months, that argument would not help Respondents here. Mr. Snetkov has been detained for over six months and counting, because the three periods of his post-final removal order detention must be combined in the aggregate. *See Villanueva v. Tate*, No. 25-cv-03364, 2025 WL 2774610 at *10

² *Chance v. Napolitano*, 453 F. App'x 535, 2011 WL 6260210 (5th Cir. Dec. 15, 2011), and *Agyei-Kodie v. Holder*, 418 F. App'x 317, 2011 WL 891071 (5th Cir. Mar. 15, 2011), are one-page, unpublished cases involving pro-se petitioners that make no reference to any argument that the petitioners had been declined travel documents during previous detentions. The petitioners in *Gutierrez-Soto v. Sessions*, 317 F. Supp. 3d 917 (W.D. Tex. 2018), did not challenge their detention under *Zadvydas* and had not been denied travel documents by Mexico. In *Kasangaki v. Barr*, 2019 WL 13221026 (W.D. Tex. July 31, 2019), the Kenyan government had granted a travel document to the Kenyan petitioner, and so the detention was lawful under the six-month presumption outlined in *Zadvydas*. In *Linares v. Collins*, 1:25-CV-00584-RP-DH, ECF No. 14 (W.D. Tex. Aug. 12, 2025), the detention was caused by the petitioner's delays.

(S.D. Tex. Sept. 26, 2025) (quoting *Chen v. Holder*, No. 14-cv-2530, 2015 WL 13236636, at *2 (W.D. La. Nov. 20, 2015) (“Surely, under the reasoning of *Zadvydas*, a series of releases and re-detentions by the government, while technically not in violation of the presumptively reasonable jurisprudential six month removal period, in essence results in an indefinite period of detention, albeit executed in successive six months intervals.”) (cleaned up)).

According to the declaration of Celestina Pena, ECF No. 8-1, Mr. Snetkov’s removal order became final on January 18, 2007. He was detained from that date to June 5, 2007, when he was released on OSUP for the first time, for a total of 4.5 months. *Id.* at 2. Then, he was re-detained by ICE on March 5, 2008, and released on OSUP again on May 8, 2008, another two months. *Id.* at 3. He has been detained for over a month since his third re-detention on November 17, 2025. Combined, he has been detained for a total of 7.5 months.³ As a result, the government’s argument that Mr. Snetkov cannot challenge his detention until he has been detained for six months is not only erroneous but also irrelevant.

³ Mr. Snetkov does not possess the documentation establishing the exact dates and length of time he was previously detained by ICE, and his memory of these dates is not exact. Based on his recollection, he believed that his first detention took place on or about 2005 or 2006 and lasted for six months and that his second detention took place on or about 2006 or 2007 and lasted three months. ECF No. 1 at ¶24. As a result, the Petition for a Writ of Habeas Corpus stated that Mr. Snetkov had been detained for 9 months. *Id.* Petitioner does not contest that the Pena Declaration states the correct dates and lengths of his prior detentions.

2. Respondents Have Failed to Show a Significant Likelihood that Mr. Snetkov Will Be Removed in the Reasonably Foreseeable Future.

Respondents' filing acknowledges that the Moldovan government has already declared that Mr. Snetkov is not a Moldovan citizen. *Id.* Supervisor Pena declares: "On May 16, 2007, the Embassy of Moldova issued a letter stating SNETKOV did not hold Moldovan citizenship and could not be issued travel or identification documents." *Id.* Despite this, Supervisor Pena incorrectly and improperly refers to Mr. Snetkov as a "citizen of Moldova." *Id.* at 1. Supervisor Pena's declaration contains no information indicating that there has been any change in the Moldovan government's policy regarding Mr. Snetkov, and Deportation Officer Gonzales expressly denied that ICE had any reason to believe the Moldovan Embassy would reverse its prior refusal when the undersigned inquired on December 22. *See* Exh. B.

Respondents argue that "a lack of visible progress in the removal process" is not sufficient to establish a lack of significant likelihood of removal and that Mr. Snetkov "has not shown any good reason to believe that removal is unlikely." *See* ECF No. 8 at 5-6. But Respondents' own filing acknowledges that Mr. Snetkov has provided much more than a "lack of visible progress" on the part of the Moldovan Embassy. The embassy has already stated Mr. Snetkov is not a citizen and that it will not grant him travel documents. The next year Respondents tried and failed to procure a travel document for the second time in 2008. ECF No. 8-1 at 3. The Pena Declaration contains no assertion that the government of Moldova is now more likely to reverse its prior determination that Mr. Snetkov is not a citizen and that it will not accept him. Respondents assert that Moldova accepted 14 deportees in Fiscal

Year 2024, ECF No. 8 at 6, but they have not provided any evidence that any of those individuals were non-Moldovan citizens like Mr. Snetkov. The fact that Moldova accepts those it has acknowledged are its own citizens has zero bearing on the likelihood that it would accept Mr. Snetkov, to whom it has twice before refused to issue travel documents after concluding he “does not hold Moldovan citizenship.” ECF No. 8-1 at 3.

Respondents cite a series of cases that are distinguishable for this very reason. *Ali v. Johnson*, No. 3:21– CV–00050-M, 2021 WL 4897659, at *1 (N.D. Tex. Sept. 24, 2021), involved an Indian for whom the Indian consulate *had previously verified* his Indian citizenship. *Gonzalez v. Bureau of Immigr. & Customs Enf’t*, No. CIV.A. 1:03-CV-178-C, 2004 WL 839654, at *2 (N.D. Tex. Apr. 20, 2004) likewise involved a Haitian for whom “a travel document . . . had previously been obtained from Haitian authorities.” *Idowu v. Ridge*, No. 3:03-CV-1293-R, 2003 WL 21805198, at *2-4 (N.D. Tex. Aug. 4, 2003) involved a Nigerian for whom travel documents had likewise been procured by the Nigerian government. In *Nagib v. Gonzales*, No. 3:06-CV-0294-G, 2006 WL 1499682, at *2 (N.D. Tex. May 31, 2006), the Sudanese government informed the petitioner’s deportation officer “that his travel document request was still pending.” In *Boroky v. Holder*, No. 3:14-CV-2040-L-BK, 2014 WL 6809180 (N.D. Tex. Dec. 3, 2014) the petitioner had withheld information from ICE about his Iraqi citizenship and had refused to cooperate with ICE’s efforts to secure travel documents from that country. In *Thanh v. Johnson*, No. EP-15-CV-403-PRM, 2016 WL 5171779, at *4 (W.D. Tex. Mar. 11, 2016) the Vietnamese consulate had never refused to grant

travel documents to the petitioner in the past and had not previously stated the petitioner was not a citizen of that country. In *Linares*, ECF No. 14, at *15-16, Judge Pitman held that a petitioner cannot win release based on a lack of likelihood of removal in the reasonably foreseeable future based solely on a pending BIA appeal, because the appeal delay was the petitioner's doing and he had not shown the delay was "due to anything other than ordinary litigation processes."⁴

Here, by contrast, Moldova stated in 2007 that Mr. Snetkov is not a citizen and they would not accept him. Respondents then tried to remove him to Moldova again in 2008, but the consulate refused to provide travel documents a second time. ECF No. 8-1, at 3. Supervisor Pena provides no indication that the Moldovan government will change its longstanding position vis-à-vis non-Moldovan citizens like Mr. Snetkov, and Officer Gonzales told the undersigned that ICE has not had contact with the embassy and that "the only reason they brought him in was to try again." Exh. B. They did not, in fact, "try again" for well over a month after Mr. Snetkov was detained on November 17, 2025, and only made the new travel document request on December 22, after Mr. Snetkov filed this petition and after the Court set a briefing schedule. ECF No. 8-1 at 3. Respondents clearly have no likelihood of removing Mr. Snetkov to Moldova.

⁴ The remaining cases Respondents cite to support their claim that Mr. Snetkov "has not shown any reason to believe that removal is unlikely" are coronavirus-related challenges to conditions of confinement. See *Nogales v. Dept. of Homeland Sec.*, No. 21-10236, 2022 WL 851738 (5th Cir. Mar. 22, 2022); *Rice v. Gonzalez*, 985 F.3d 1069, 1070 (5th Cir. 2021); *Akbar v. Barr*, SA-20-CV-01132-FB, 2021 WL 1345530 (W.D. Tex. Mar. 5, 2021).

3. ICE Violated Mr. Snetkov's Procedural Due Process Rights by Revoking His OSUP, and the Appropriate Remedy is Release.

ICE violated Mr. Snetkov's procedural due process rights by revoking his OSUP without reason and without providing him an opportunity to respond. The appropriate remedy is release.

Respondents assert that “[e]ven if the Court were to find a procedural due process violation here, the remedy is substitute process,” citing *Mohammad v. Lynch*, No. EP-16-CV-28-PRM, 2016 WL 8674354, at *6 n.6 (W.D. Tex. May 24, 2016). ECF No. 8 at 7. First, *Mohammad v. Lynch* entailed a challenge to delayed ninety-day and 180-day custody reviews which the government ultimately did conduct. Therefore, the court held in the footnote to which Respondents cite, “his injury has already been redressed.” *Id.* Here, the injury is ongoing and is the proximate cause for Mr. Snetkov's unlawful detention. Had Respondents followed their own regulations or listened to Mr. Snetkov's efforts to explain that Moldova had refused to grant him travel documents in the past, his Fifth Amendment rights would never have been violated. The remedy for unlawful detention is release, as courts outside this district have consistently held. *See* ECF No. 2 at 4-5.

“[T]he Court has flexibility in fashioning a habeas remedy[.]” *Trejo v. Warden of ERO El Paso East Montana*, --- F. Supp. 3d. ----, 2025 WL 2992187, at *11 (W.D. Tex. Oct. 24, 2025). *Trejo* involved a petitioner who, like Mr. Snetkov, challenged his re-detention on *Zadvydas* and due process grounds based on the OSUP regulations. The *Trejo* Court found that the petitioners' removal was not significantly likely and that the government violated the OSUP regulations. *Id.* In fashioning a remedy, the

Court ordered either release or a bond hearing at which the government bore the burden of proof. *Id.* Notably, the Court's *Zadvydas* ruling was based on the fact that the governments to whom the respondents submitted travel document requests had simply not responded for several months. *Id.*, at *6. Here, Moldova has affirmatively refused to issue travel documents for Mr. Snetkov several times in the past and has confirmed that he is not a Moldovan citizen. As such, the conclusion that Moldova will not issue Mr. Snetkov travel documents is on even firmer footing than the conclusion that the countries in *Trejo* would either sit on the requests indefinitely or eventually refuse. In such circumstances, the normal *Zadvydas* remedy of release is more appropriate than the regulatory remedy of a bond hearing and the Court should order Mr. Snetkov's immediate release.

CONCLUSION

For the foregoing reasons, the Court should grant the petition and order Mr. Snetkov's immediate release.

Dated: December 29, 2025

/s/Rebecca Webber
Rebecca Webber
Tex. Bar No. 24060805
WEBBER LAW
4228 Threadgill St.
Austin, TX 78723
Tel: (512) 537-8833
Fax: (202) 333-6470
rebecca@rebweblaw.com

Respectfully Submitted,

/s/ Eric Lee
Eric Lee*
Mich. Bar No. P80058
/s/ Christopher Godshall-Bennett
Christopher Godshall-Bennett*
D.C. Bar No. 1780920
LEE & GODSHALL-BENNETT LLP
Tel: (202) 949-2526
Fax: (202) 333-6470
eric@leegodshallbennett.com
chris@leegodshallbennett.com

**Pro Hac Vice* applications pending