

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

SAHAND YOUSEFINASRABADI,
a/k/a "SAHAND YOUSEFI NASRABADI,"

Petitioner,

v.

MARCELLO VILLEGAS, et al.,

Respondents.

Civil Action No. 1:26-CV-015-H

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

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I. Introduction

Petitioner is a native and citizen of Iran who was ordered removed on October 21, 2013. Thereafter, the Government was unable to effectuate his removal, and he was released from custody on an order of supervision. On June 23, 2025, Petitioner was re-detained by ICE pending his removal to Iran. Soon thereafter, ICE officials began actively working to effectuate Petitioner's removal to Iran, and in a meeting with ICE, the Interest Section of the Islamic Republic of Iran ("ISIRI") expressed interest in assisting with Petitioner's removal. After a request for travel documents was forwarded to the Iranian government, on February 9, 2026, Petitioner was interviewed by the ISIRI. Contrary to the Petition's assertions, Iran is accepting its citizens and removal flights to Iran are occurring. Accordingly, there is a significant likelihood of removal to Iran in the reasonably foreseeable future, and Petitioner's argument lacks merit that his continued detention is not constitutionally permissible under *Zadvydas* or is otherwise unlawful. The petition should be denied.

II. Background & Procedural History

Petitioner is a citizen and national of Iran who entered the United States as an immigrant on December 8, 2010. (App. at 002, 005). On August 22, 2012, Petitioner was charged with Aggravated Sexual Assault of a Child younger than 14 years of age by causing anal penetration. (App. at 002, 005). On December 8, 2013, Petitioner pled guilty to the lesser charge of Injury to a Child, Intentionally or Knowingly Causing Bodily Injury, a third-degree felony. (App. at 002, 005).

On October 11, 2013, Petitioner was placed into removal proceedings with a

Notice to Appear. (App. at 002, 005). Thereafter on October 21, 2013, Petitioner was ordered removed to Iran. (App. at 002, 008-009). Petitioner did not file an appeal with the Board of Immigration Appeals (“BIA”) or seek any type of asylum or CAT protection. After 98 days in ICE custody, Petitioner was released on an order of supervision. (App. at 002, 009).

On June 20, 2025, Petitioner filed a motion to reopen his immigration proceedings to reconsider the removal order. (App. at 016). On June 30, 2025, the immigration court denied the motion to reopen as untimely concluding that: 1) No errors occurred during the first hearing due to Petitioner’s purported inability to understand English, and the record was clear that Petitioner understood English and clearly expressed himself in English; 2) Petitioner was properly found removable for a crime involving moral turpitude and a for a crime of child abuse; and 3) The record from the original hearing was clear that Petitioner declined to apply for any relief from removal and expressed to the court that he no longer wanted to be in the United States. (App. at 016-018). Petitioner filed an appeal of the denial of his motion to reopen with the BIA on July 24, 2025.

On June 23, 2025, U.S. Immigration and Customs Enforcement (“ICE”) officials detained Petitioner. (App. at 010). On July 15, 2025, Petitioner then filed a Petition for Writ of Habeas Corpus alleging ICE’s non-compliance with federal regulations revoking his Order of Supervision and requesting notice and opportunity to contest removal to a third country. *See Nasrabadi v. Villegas, et al.*, 1:25-cv-00129-H, at Dkt. No. 1. On October 28, 2025, this Court denied that petition. *Id.* at Dkt. No. 16.

Petitioner has since filed a new petition—in the instant action—in which he argues that there is no significant likelihood of his removal to Iran in the reasonably foreseeable future. (*See* Dkt. No. 1.) But since Petitioner’s re-detention, immigration officers have been diligently working in good-faith to effectuate his removal by taking necessary steps to obtain travel-related documents and authorization from the Interest Section of the Islamic Republic of Iran (“ISIRI”). (App. at 003-004). On January 22, 2026, after ICE’s internal approvals for submission of travel documents and authorization, immigration officers submitted a travel document request to the ISIRI in Washington, D.C. (App. at 003). And very recently, on February 9, 2026, Petitioner was interviewed by the ISIRI. (App. at 003).

III. Argument and Authorities

A. Petitioner’s detention does not violate 8 U.S.C. § 1231(a)(6)

The government must ordinarily remove an alien within 90 days of the final order of removal or else release him subject to supervision. 8 U.S.C. § 1231(a)(1)(A). Moreover, § 1231(a)(6) provides that certain aliens who were ordered removed due to an aggravated felony and are a risk to the community “may be detained beyond the removal period.” The Supreme Court interpreted § 1231(a)(6) to determine how long the government may detain an alien pending removal under this Section. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). In interpreting § 1236(a)(6), the Supreme Court held that the government may not detain indefinitely aliens under this provision, because indefinite detention violates due process which requires “a criminal proceeding with adequate procedural protections.” *Id.* at 690, 699. Rather, “once removal is no longer reasonably

foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

As such, the Court held that six months was “presumptively reasonable period of detention.” *Id.* at 700–01. After the six-month period, the alien has the burden of providing “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. If the alien satisfies the burden, the burden shifts to the government to provide evidence to rebut the alien's showing. *Id.* The “alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

An alien can be re-detained on account of changed circumstances that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future. 8 C.F.R. § 241.13(i)(2). “This regulation gives the decision-making power primarily to ICE and not to this Court,” such that judicial review “is necessarily limited.” *Nguyen v. Noem*, 797 F. Supp. 3d 651, 666 (N.D. Tex. August 10, 2025). To prevail, the government need only establish “a significant likelihood that removal in the reasonably foreseeable future may occur,” rather than “be certain or immediate.” *Id.* (citing 8 C.F.R. § 241.13(i)(2)). As recently noted by this Court, there has been a “sea change” in how the Executive Branch is addressing previously unsuccessful removals, including third country removals, which were seldom utilized prior to January 20, 2025. *Surovtsev v. Noem*, No. 1:25-CV-160-H, 2025 WL 3264479, at *8 (N.D. Tex. Oct. 31, 2025).

In addition, and despite the petition’s allegations and publicly known hostilities between the two countries, removal flights to Iran are being conducted on commercial and chartered flights, including two chartered flights in just over the last two months.

(App. at 003). Moreover, the number of Iranian removed has increased nearly 400% in Fiscal Year 2025 from Fiscal Year 2024. (App. at 003).

Since Petitioner's re-detention on June 23, 2025, ICE officials have been diligently working with in effectuating his removal. Shortly thereafter, Iranian officials expressed an interest in assisting in Petitioner's removal. (App. at 003). Moreover, it is unclear that Petitioner has been acting in good-faith to obtain an Iranian passport, because he never submitted the documents necessary for the Iranian government to confirm his citizenship. (*Compare* Dkt. No. 1-3 and App. at 003). Regulations permit the Government to extend the removal period when the alien "fails or refuses to make timely application in good faith for travel or other documents" necessary to effectuate the alien's removal. 8 C.F.R. § 241.4(g)(ii). In his request for a passport, Petitioner failed to provide a birth certificate or passport necessary to confirm his Iranian citizenship. (*See* Dkt. No. 1-3). However, ICE officials obtained a copy of his expired Iranian passport, and on January 8, 2026, submitted an official request, along with a photocopy of his expired Iranian passport, to the Government of Iran's representatives in Washington, D.C. (App. at 003). One month later on February 9, 2026, Iranian officials interviewed Petitioner. (App. at 003).

As of the date of this filing, Petitioner has been in custody for seven months and twenty-two days. However, it is not unusual to hold aliens ordered removed for longer than the six-month period, so long as there is a "significant likelihood that removal in the reasonably foreseeable future may occur" even with uncooperative countries or aliens. 8 C.F.R. § 241.13(i)(2); *see also Tawfik v. Garland*, No. CV H-24-2823, 2024 WL

4534747, at *4 (S.D. Tex. Oct. 21, 2024) (denying habeas relief for an alien detained for 10 months and 14 days post-final order of removal, finding that the Government was making reasonably substantial efforts to remove him to Yemen, a historically uncooperative country for removals); *Salmon v. Bureau of Immigration and Customs Enforcement*, No. CV B-08-003, 2008 WL 11395491, at *1 (S.D. Tex. Apr. 29, 2008) (denying habeas relief for Jamaican alien detained 490 days post-final order of removal due to the alien's lack of cooperation in obtaining travel documents), *report and recommendation adopted*, No. CV B-08-003, 2008 WL 11395483 (S.D. Tex. June 17, 2008).

As discussed above, the Iranian government has demonstrated a willingness to facilitate Petitioner's removal. After ICE submitted a TDR with Petitioner's Iranian passport, thereby confirming his citizenship, Iranian authorities interviewed Petitioner approximately one month later. Although previous requests for travel documents were denied, this is consistent with the absence of a birth certificate or passport. The Iranian government's decision to interview Petitioner following verification of his citizenship, combined with a nearly 400% increase in removals to Iran and the Government's ongoing good-faith efforts, establishes that the Government is actively pursuing removal. Accordingly, the Government has met its burden to show that it is significantly likely Petitioner will be removed in the reasonably foreseeable future, and the Court should deny the petition.

B. Petitioner's detention does not violate the Fifth Amendment's Due Process Clause.

Petitioner's Second Claim appears closely related to the point raised in the first, and to the extent of overlap, Respondents re-assert their arguments and authorities discussed immediately above.

IV. Conclusion

For the reasons articulated herein the petition should be denied.

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Certificate of Service

On February 12, 2026, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Omar J. Famada
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