

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

SOHEILIESTAHBANATI,
Behnaz

Petitioner,
v.

Pamela Jo Bondi,
Attorney General of the
United States of America,

Kristi Noem,
Secretary of the Department of
Homeland Security, (DHS),

Todd Lyons,
Acting Director,
United States Immigration and
Customs Enforcement (ICE),

Miguel Vergara,
Field Office Director,
San Antonio Field Office,
United States Immigration and
Customs Enforcement (ICE) and,

Warden of the
ERO Karnes County Immigration
Processing Center
Respondents.

Civil Action No. 5:26-CV-00154-FB

MOTION TO ENFORCE RELIEF

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Petitioner, Ms. Behnaz Soheiliestahbanati, respectfully moves this Court to enforce her constitutional protections, and expedite its ruling on her pending Petition for Writ of *Habeas Corpus*. Petitioner remains detained despite the absence of any significant likelihood of removal

in the reasonably foreseeable future. Her continued confinement violates the Fifth Amendment, 8 U.S.C. § 1231(a)(6), and controlling Supreme Court precedent, including *Zadvydas v. Davis*, 533 U.S. 678 (2001).

FACTS

1. On November 29, 2022, an Immigration Judge granted Petitioner withholding of removal under the Convention Against Torture (“CAT”), prohibiting her removal to Iran. Although Ecuador was designated as an alternative country of removal, the Government of Ecuador has expressly declined to accept Petitioner because she lacks lawful immigration status there.

2. Documentary proof of Ecuador’s refusal was submitted to ICE on June 27, 2025, and again on July 24, 2025. No third country has been identified as willing to accept her.

3. Petitioner’s Iranian passport is expired, and Iranian consulates are not issuing documentation or confirming nationality under current conditions. Thus, removal to Iran is legally barred, removal to Ecuador is factually impossible, and no alternative destination exists. The statutory removal period expired years ago.

4. Despite these realities, DHS re-detained Petitioner after she had fully complied with an Order of Supervision for more than three years. During that time, she reported as required, maintained a stable presence in the community, and incurred no criminal history or violations. There has been no material change in circumstances to justify her renewed confinement. The Government has not identified any realistic or practicable removal plan.

LEGAL ARGUMENT

The Supreme Court’s decision in *Zadvydas* strictly limits post-removal detention. The Court held that detention under § 1231(a)(6) is constitutionally limited to a period reasonably necessary to effectuate removal and that once a noncitizen demonstrates there is no significant

likelihood of removal in the reasonably foreseeable future, continued detention is unauthorized and unconstitutional. The Court emphasized that “freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty protected by the Due Process Clause.” *Id.* at 690. After six months of detention, once a detainee provides good reason to believe removal is not foreseeable, the burden shifts to the Government to rebut that showing with evidence, not speculation.

Here, the Government cannot meet that burden. Removal is legally foreclosed to Iran and affirmatively rejected by Ecuador. No ongoing negotiations with a third country have been identified. Diplomatic optimism or theoretical possibilities do not satisfy *Zadvydas*.

In a proactive effort to facilitate her removal and avoid prolonged detention, Petitioner and her family have independently contacted foreign diplomatic missions to determine whether any country would issue her travel documentation or otherwise permit her lawful entry. These efforts were undertaken in good faith to eliminate any barriers to removal and to mitigate the risk of indefinite detention. However, those efforts have been unsuccessful.

Specifically, as reflected in **Exhibit A**, email correspondence from the Embassy of Austria confirms that Petitioner is unable to obtain travel documents or secure lawful residency through Austria. Similarly, as shown in **Exhibit B**, correspondence from the Embassy of Switzerland confirms that Petitioner is unable to obtain travel documentation or legal residency from Switzerland. These communications underscore the practical impossibility of effectuating her removal to a third country and demonstrate that there is no significant likelihood of removal in the reasonably foreseeable future.

Furthermore, the Supreme Court reaffirmed in *Clark v. Martinez*, 543 U.S. 371 (2005), that § 1231(a)(6) does not authorize indefinite detention and must be interpreted consistently to avoid

constitutional violations. Courts applying *Zadvydas* have repeatedly held that detention cannot continue where removal is remote, speculative, or dependent on uncertain diplomatic developments. Additionally, in *Prieto-Romero v. Clark*, 534 F.3d 1053 (9th Cir. 2008), the Court explained that detention is permissible only where removal is practically attainable and negotiations are meaningfully underway. As previously stated, there is no indication of negotiations which, combined with the fact that Ecuador and Iran can not legally receive Petitioner, indicates that removal is practically un-attainable

Furthermore, the Government now effectively requires Petitioner to obtain documentation from Iran—the very country to which she cannot be removed because of CAT protection. Her passport is expired, and Iranian authorities are not issuing documentation. The Fifth Amendment does not allow detention conditioned upon accomplishing something that is legally or practically impossible. Once removal is not realistically attainable, detention ceases to be administrative and becomes punitive. *Zadvydas* forbids such indefinite confinement.

To the extent Respondents rely on *Buenrostro-Mendez v. Bondi*, that decision does not alter the constitutional framework governing this case. *Buenrostro-Mendez* addressed statutory detention authority in a different procedural posture and did not overrule *Zadvydas*. Only the Supreme Court may do so. This case arises under § 1231(a)(6) post-removal detention directly governed by *Zadvydas*'s constitutional limitation on indefinite detention. District courts continue to recognize that constitutional due process protections operate independently of statutory interpretation. See, e.g., *Hernandez-Fernandez v. Lyons* (recognizing that noncitizens possess protected liberty interests notwithstanding statutory detention authority). *Buenrostro-Mendez* does not authorize indefinite detention where removal is legally barred and factually impossible.

Furthermore, in *Morrissey v. Brewer*, 408 U.S. 471 (1972), the Supreme Court recognized that individuals released under supervision have a constitutionally protected interest in their continued conditional freedom. That naturally applies to Petitioner because after more than three years of successful compliance under supervision, she developed a substantial interest in remaining at liberty. Petitioner's abrupt re-detention, absent criminal conduct, violations, or a viable removal plan, violates both substantive and procedural due process.

Lastly, this case presents a convergence of constitutional concerns: a CAT-protected individual who cannot be removed to her country of nationality; a designated alternative country that has expressly refused acceptance; expired travel documents from a country to which removal is barred; no third country identified; full compliance under supervision; no criminal history; and a removal period long since expired. Under *Zadvydas* and its progeny, detention under these circumstances is indefinite and unlawful. Each additional day of confinement inflicts irreparable constitutional injury. *Habeas corpus* exists precisely to prevent prolonged, unjustified detention where the Government cannot accomplish removal and cannot demonstrate a significant likelihood of doing so in the reasonably foreseeable future.

WHEREFORE, Petitioner respectfully requests that this Court reaffirm jurisdiction over this matter, order that Petitioner not be transferred outside this District while her *habeas* petition remains pending, immediately enforce her constitutional due process protections by ordering her release under appropriate conditions of supervision, or alternatively issue an Order to Show Cause requiring Respondents to file a substantive response within three (3) days identifying a lawful and practicable removal plan, declare that her continued detention violates the Fifth Amendment and 8 U.S.C. § 1231(a)(6), and grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: March 2, 2026

/s/ Ruby L. Powers

Ruby L. Powers

Texas Bar No. 24057581

Powers Law Group, P.C

1311 Enid Street Houston, Texas 77009

Tel. (713) 589-2085

Fax. (713) 589-3101

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Tab	Description
a.	Exhibit A: Email correspondence from the Embassy of Austria confirms that the Petitioner is unable to secure travel documents or legal residency from any country, underscoring the practical impossibility of removal.
b.	Exhibit B: Email correspondences from the Embassy of Switzerland confirms that the Petitioner is unable to secure travel documents or legal residency from any country, underscoring the practical impossibility of removal.