

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

BAHAA HAMDI HAMED ARAMIN,)	
<i>Petitioner,</i>)	Case No. 26-cv-616-RBJ
v.)	REPLY TO RESPONDENTS'
JUAN BALTAZAR, <i>et al.</i> ,)	OPPOSITION TO PETITIONER'S
<i>Respondents.</i>)	PETITION FOR A WRIT OF HABEAS
)	CORPUS

On February 17, 2026, Petitioner Bahaa Hamdi Hamed Aramin filed a petition for a writ of habeas corpus on the basis that his immigration detention violates the Immigration and Nationality Act as well as his substantive and procedural due process rights. *See* ECF No. 1. Pursuant to the Court’s order to show cause, ECF No. 4, Respondents opposed to the petition on March 5, 2026. *Opp.*, ECF No. 12. Respondents, however, have failed to establish that the Court should not grant the habeas petition. 28 U.S.C. § 2243. Accordingly, this Court should grant Mr. Aramin’s habeas petition on each of the counts pled in the petition.

**Mr. Aramin’s Continued Detention Is Not Mandatory
And Is Both Unconstitutional and Contrary to Statute.**

Mr. Aramin’s order of removal became final on August 10, 2025, which was seven months ago. *Nissen Decl*, ECF No. 12-1, ¶ 18. The 90-day statutory removal period during which time detention was mandatory ended on November 8, 2025, over four months ago. Thus, Mr. Aramin’s detention is not mandatory at this time, and while permissive under 8 U.S.C. § 1231(a)(6), is unjustified, unlawful, and unconstitutional. In particular, Respondents have not justified Mr. Aramin’s detention, which they admit is not mandatory. Moreover, his continued detention is unconstitutional. Finally, this Court should order that any removal must comply with the statute.

A. Respondents have not justified Mr. Aramin's detention.

First, this Court should determine that Mr. Aramin's detention is not lawful. 8 U.S.C. § 1231(a)(2) requires detention for the first ninety days after a removal order. Once that removal period expires, post-order detention shifts to § 1231(a)(6), which is permissive. *See* 8 U.S.C. § 1231(a)(6) (providing that a noncitizen “*may* be detained beyond the removal period”) (emphasis added). But Respondents have provided no justification to continue to detain Mr. Aramin under that statute.

Respondents submit that Mr. Aramin's petition should be denied because his continued detention is authorized under 8 U.S.C. § 1231(a)(6). *Opp.* at 4-6. But Respondents have provided no reason for his detention at this point. Respondents' declaration states that an Immigration and Customs Enforcement (“ICE”) officer once determined that Mr. Aramin would be a flight risk if released. *See* Nissen Decl. at ¶ 23. But Respondents provide no explanation as to how he is a flight risk or what criteria he did not meet or why. Indeed, it is unclear how Mr. Aramin would be considered a flight risk, as he has been detained since he entered the United States and has complied with all orders and requests made of him while in detention. *See* 8 C.F.R. § 241.4(f)(7) (identifying “history of escapes, failures to appear for immigration or other proceedings, absence without leaving from any halfway house or sponsorship program, and other defaults” as factors to consider regarding flight risk); § 241.4(h)(3) requiring a district director to consider the factors in § 241.4(f) when considering release). Nor do Respondents explain how the procedural safeguards available are insufficient to mitigate against any vague concern.¹ *Id.*; *cf.* *Opp.* at 9 n.2.

¹ To be clear, the Court should order Mr. Bahaa's release without any conditions imposed by ICE because Respondents have not identified any need for such monitoring or conditions. Mr. Aramin's point here is that Respondents' insistence of flight risk is undercut by their own assertions that conditions are available. *See Cabrera Galdamez v. Mayorkas*, 2023 WL 1777310, at *7 (S.D.N.Y. Feb. 6, 2023) (noting that the government did not address “the value of existing procedural safeguards”).

Moreover, Respondents assert that a panel recently recommended Mr. Aramin remain in detention because he “had not satisfied the criteria for release under 8 C.F.R. § 241.4(c).” Nissen Decl. ¶ 26. However, § 241.4(c) does not contain any criteria for release, but instead provides who has authority to make custody determinations. Other provisions in § 241.4 do have criteria for release, but it is unclear what criteria (if any) were considered and which criteria were not met. Because Respondents have not justified Mr. Aramin’s continued detention, it is not lawful. 8 U.S.C. § 1231(a)(6); 8 C.F.R. § 241.4.

B. Mr. Aramin’s Continued Detention is Unconstitutional.

This Court should also grant the petition because Mr. Aramin’s continued detention is unconstitutional. In *Zadvydas v. Davis*, the Supreme Court held that a noncitizen may only be detained post-order under § 1231(a)(6) “for a period reasonably necessary to bring about that [individual’s] removal from the United States.” 533 U.S. 678, 689 (2001). And, critically, those detained for this purpose are nevertheless entitled to constitutional protections. *Hernandez-Carrera v. Carlson*, 547 F.3d 1237, 1252 (10th Cir. 2008). Thus, indefinite detention is unconstitutional. *Zadvydas*, 533 U.S. at 701. Addressing this issue, the Supreme Court in *Zadvydas* held that detention for up to six months after the issuance of a final order of removal is presumptively reasonable, but “[a]fter this 6-month period, once the [noncitizen] 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.*

Mr. Aramin has provided good reason to believe that his removal is not significantly likely to occur in the reasonably foreseeable future. *See Ahrach v. Baltazar*, 2025 WL 3227529, at *4 (D. Colo. Nov. 19, 2025). Mr. Aramin’s removal order became final in August 2025, but, as Respondents admit, ICE took no steps to effectuate that order during the 90-day removal period

and, in fact, did not even begin the process to seek Mr. Aramin's removal until more than one month after the 90-removal period expired. Nissen Decl. ¶ 24. And ICE has taken no other steps to remove him other than the one request made to the Consul General of Israel, a request made nearly three months ago. *Id.* at ¶¶ 24-25. See *Ahrach*, 2025 WL 3227529, at *4 (concluding that ICE's solicitation of acceptance from three countries months prior did not establish that removal would be likely in the reasonably foreseeable future and the burden thus shifted to the government to demonstrate that removal was likely); *Fadwa v. Lyons*, 2025 WL 3525026, at *5 (D. Colo. Dec. 9, 2025) (stating that "because Mr. Fadwa has been detained for almost four months after the presumptively reasonable timeframe ended, respondents must show that Mr. Fadwa's removal will likely occur in the very near future."). Thus, the Court should conclude that Respondents bear the burden in justifying that Mr. Aramin's detention is significantly likely to occur in the reasonably foreseeable future.

Respondents have not met that burden. Indeed, Respondents have explicitly stated that they are only seeking to remove Mr. Aramin to the Palestinian Territories through Israel; they have not sought to remove him to another country. Nissen Decl. at ¶¶ 24-25; Opp. at 10. However, there is no indication that removal to the Palestinian Territories is likely to occur at all, much less in the reasonably foreseeable future. Respondents' only assertion that removal is likely to occur is that ICE has successfully removed other noncitizens recently to the Palestinian Territories and that they have requested travel authorization. Opp. at 10. "At the risk of stating the obvious, a chance of removal within an unspecified period of time is not the same as a significant likelihood of removal in the reasonably foreseeable future." *Siguenza v. Moniz*, 2025 WL 2734704, at *3 (D. Mass. Sept. 25, 2025) (holding that the government's assertion that they were "in the process of working" with potential countries for removal and that "there was a chance that Petitioner would be removed to

one of these countries, but that they could not provide a specific timeframe for his removal” failed to establish a significant likelihood of removal in the reasonably foreseeable future) (internal quotations omitted). Without more—such as evidence to show that individuals who have been removed to the Palestinian Territories were similarly situated to Mr. Aramin, how long a request and coordination typically takes for a removal to the Palestinian Territories, or that the Israeli government has even acknowledged their request—Respondents’ statements are simply insufficient to demonstrate that removal is significantly likely to occur in the reasonably foreseeable future. *Id.*; *Fadwa*, 2025 WL 3525026 at *5 (noting that ICE had submitted a request for travel documents to Israel for removal to the Palestinian Territories on four occasions); *Pena-Gil v. Lyons*, 2025 WL 3268333, at *4 (D. Colo. Nov. 24, 2025) (concluding that “[u]nsubstantiated assertions that the government will pursue removal are insufficient to satisfy its burden.”). Efforts alone are insufficient; Respondents must show that “the government must actually make legitimate progress towards removal.” *Fadwa*, 2025 WL 3525026, at *5 (citing *Hassoun v. Sessions*, 2019 WL 78984, at *5 (W.D.N.Y. Jan. 2, 2019)). No such evidence exists in this case.

Respondents made zero efforts to remove Mr. Aramin during the mandatory removal period and they did not take a single step towards enforcing the removal order until more than four months after the issuance of the removal order. *See Rivero Busto v. Lyons*, 25-cv-3143, ECF No. 32 at 7 (D. Colo. Jan. 20, 2026) (noting that Respondents did not take any steps to remove Mr. Rivero until he had spent five months in custody). Respondents have not indicated that Israel has acknowledged (much less approved) their request for acceptance or travel documents, and while Respondents indicate that ICE has “successfully removed multiple Palestinians via arrival in Israel and escort through Israel to the Palestinian Territories,” Nissen Decl. ¶ 27, the number, scope, and

frequency of such removals is unknown. *See Kamyab v. Bondi*, 2025 WL 2917522, at *4 (W.D. Wash. Oct. 14, 2025) (concluding that vague statements that a country is processing interview requests and accepting return of its citizens to be insufficient to meet the Government's burden under *Zadvydas*). Furthermore, travel to Israel is only one step in the described process of returning to the Palestinian Territories. Respondents have not provided any details about how transfer would occur from Israel to the Palestinian Territories and why that is a viable option at this point, particularly considering recent military events in the region. *See Rivero Busto v. Lyons*, 25-cv-3143, ECF No. 32 at 6 (D. Colo. Jan. 20, 2026) ("Considering that Petitioner has been in custody for seven months, the Court would expect the removal process to be finished or nearly finished, not just beginning."); *Peña-Gil*, 2025 WL 3268333, at *4 (collecting cases); *Nguyen v. Scott*, -- F. Supp. 3d --, 2025 WL 2419288, * 16-17 (W.D. Wash. Aug. 21, 2025) (concluding that generalized comments that removal is likely are insufficient). Simply put, while Respondents have made one single request of Israel to aid in the removal of Mr. Aramin, Respondents have made no attempt at any actual arrangements and there is no reason to believe that this status quo will change in the near future. *See Momennia v. Bondi*, 2025 WL 3006045, at *2 (W.D. Okla. Oct. 27, 2025) (rejecting the government's assertion that the agencies were working on a third-country removal, concluding that "Respondents, however, have not identified any countries with which any level of progress has been made toward obtaining the country's acceptance of Petitioner."). Based on the record in this case, the Court should conclude that Respondents have not made the requisite showing and accordingly the Court should order Mr. Aramin's release from custody. *See Zadvydas*, 533 U.S. at 690.

C. Respondents Efforts to Remove Mr. Aramin Violate His Procedural Due Process Rights.

Regarding Mr. Aramin's claim that Respondents have failed to provide notice of his removal to a third country and have thereby deprived him of the opportunity to seek protection from such removal, Respondents assert that "Respondents have not identified a third country to which Petitioner may be removed" and, as such, this claim is "not yet ripe." Opp. at 10. Mr. Aramin takes Respondents at their word that they are not pursuing a third country for removal. However, that further undermines the unlikelihood of removal, as there has been no response from Israel in nearly three months and there is no indications when or whether Respondents may be able to arrange for Mr. Aramin's removal to the Palestinian Territories. In any event, Respondents admit that they must comply with 8 U.S.C. § 1231(b)(2) and provide notice of any third country removal. Opp. at 11; *see also Jama v. Immigration & Customs Enforcement*, 543 U.S. 335, 338 (2005); *D.V.D. v. U.S. Dep't of Homeland Sec.*, --- F. Supp. 3d ---, 2026 WL 521557, at *25q (D. Mass. Feb. 25, 2026). Mr. Aramin requests any order from this Court hold Respondents to that standard and direct that any third country removal can only take place after notice and an opportunity to raise any fear-based claims from that identified country.

CONCLUSION

For the foregoing reasons, the Court should grant relief and order that Mr. Aramin be released from custody and an order that he should not be re-detained absent compliance with both the statute and principles of procedural due process.

Dated: March 7, 2026

Respectfully submitted,

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