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10 **UNITED STATES DISTRICT COURT**  
11 **SOUTHERN DISTRICT OF CALIFORNIA**

12 **AWET KIBROM MICHAEL,**  
13 **Petitioner,**

14 **v.**

15 **MARKWAYNE MULLIN, Secretary of**  
16 **the Department of Homeland Security,**  
17 **TODD BLANCHE, Acting Attorney**  
18 **General, TODD M. LYONS, Acting**  
19 **Director, Immigration and Customs**  
**Enforcement, JESUS ROCHA, Acting**  
**Field Office Director, San Diego Field**  
**Office, CHRISTOPHER LAROSE,**  
**Warden at Otay Mesa Detention Center,**

20 **Respondents.**

Civil Case No.: 26-cv-2867-JLS-JLB

**Traverse in**  
**Support of**  
**Petition for Writ of**  
**Habeas Corpus**

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**INTRODUCTION**

Awet Kibrom Michael was born in Eritrea and entered the United States in 2024 to seek asylum on the basis of his Pentecostal religious beliefs. An immigration judge disagreed and ordered him removed on December 15, 2025. Mr. Michael did not appeal but has since sought relief under *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Respondents’ only argument is that Mr. Michael’s claim is “not ripe for review” because his order of removal did not become final until January 14, 2026. ECF 4 at 1. But even assuming this is correct, Respondents do not claim that they have done any more than request a travel document, which is insufficient to show a significant likelihood of removal in the reasonably foreseeable future. At a minimum, this Court should continue Mr. Michael’s case until July 14, 2026, to determine whether Respondents have a travel document when the six-month removal period expires.

**ARGUMENT**

In their Response in Opposition to Mr. Michael’s amended habeas petition, Respondents do not include a declaration from a deportation officer stating that they have obtained a travel document. *See* ECF 4. Instead, they merely offer vague platitudes, stating that ICE has “requested a travel document for Eritrea and is determining whether Petitioner can be alternatively removed to Greece.” ECF 4 at 1. *See also* ECF 4 at 2 (“Respondents have been working on acquiring the necessary travel document in order to effectuate Petitioner’s removal to Eritrea.”); ECF 4 at 3 (“ICE is determining whether Petitioner can return to Greece”).

This is insufficient. First, Respondents never state whether they “requested a travel document for Eritrea” from their own ICE headquarters or from Eritrea. Thus, it is entirely possible that Respondents have not even made a formal request to Eritrea for a travel document. Respondents appear to have done even less in regards to removal to Greece, stating that they are still “determining whether” to

1 do so. Accordingly, nothing suggests that Respondents will be able to deport  
2 Mr. Michael within the six-month period.

3       Importantly, good faith efforts to secure a travel document do not  
4 themselves satisfy *Zadvydas*. In fact, the petitioner in *Zadvydas* appealed a “Fifth  
5 Circuit h[olding] [that] [the petitioner’s] continued detention [was] lawful as long  
6 as good faith efforts to effectuate deportation continue and [the petitioner] failed  
7 to show that deportation will prove impossible.” 533 U.S. at 702 (cleaned up).  
8 The Supreme Court reversed, finding that the Fifth Circuit’s good-faith-efforts  
9 standard “demand[ed] more than our reading of the statute can bear.” *Id.*

10       Thus, “under *Zadvydas*, the reasonableness of Petitioner’s detention does  
11 not turn on the degree of the government’s good faith efforts. Indeed, the  
12 *Zadvydas* court explicitly rejected such a standard. Rather, the reasonableness of  
13 Petitioner’s detention turns on whether and to what extent the government’s efforts  
14 are likely to bear fruit.” *Hassoun v. Sessions*, No. 18-CV-586-FPG, 2019 WL  
15 78984, at \*5 (W.D.N.Y. Jan. 2, 2019). Accordingly, “the Government is required  
16 to demonstrate the likelihood of not only the *existence* of untapped possibilities,  
17 but also of a probability of success in such possibilities.” *Elashi v. Sabol*, 714 F.  
18 Supp. 2d 502, 506 (M.D. Pa. 2010).

19       Here, then, Respondents’ mere statement that they have “requested a travel  
20 document” from some unknown source is “insufficient. It is merely an assertion  
21 of good-faith efforts to secure removal; it does not make removal likely in the  
22 reasonably foreseeable future.” *Gilali v. Warden of McHenry Cnty.*, No. 19-CV-  
23 837, 2019 WL 5191251, at \*5 (E.D. Wis. Oct. 15, 2019). Many courts have  
24 agreed that requesting travel documents does not itself make removal reasonably  
25 likely. *See, e.g., Andreasyan v. Gonzales*, 446 F. Supp. 2d 1186, 1189 (W.D.  
26 Wash. 2006) (holding evidence that the petitioner’s case was “still under review  
27 and pending a decision” did not meet respondents’ burden); *Islam v. Kane*, No.  
28 CV-11-515-PHX-PGR, 2011 WL 4374226, at \*3 (D. Ariz. Aug. 30, 2011), *report*

1 *and recommendation adopted*, 2011 WL 4374205 (D. Ariz. Sept. 20, 2011)  
2 (“Repeated statements from the Bangladesh Consulate that the travel document  
3 request is pending does not provide any insight as to when, or if, that request will  
4 be fulfilled.”); *Khader v. Holder*, 843 F. Supp. 2d 1202, 1208 (N.D. Ala. 2011)  
5 (granting petition despite pending travel document request, where “[t]he  
6 government offers nothing to suggest when an answer might be forthcoming or  
7 why there is reason to believe that he will not be denied travel documents”);  
8 *Mohamed v. Ashcroft*, No. C01-1747P, 2002 WL 32620339, at \*1 (W.D. Wash.  
9 Apr. 15, 2002) (granting petition despite pending travel document request). Thus,  
10 this Court should grant the petition and order Mr. Michael released.

11 At a minimum, this Court should continue the case to July 15, 2026, to  
12 determine whether Respondents have received a travel document for Mr. Michael.  
13 If they have not, the six-month removal period will have expired, and the lack of a  
14 travel document will mean that Mr. Michael’s removal is not significantly likely  
15 in the reasonably foreseeable future.

#### 16 CONCLUSION

17 For these reasons, this Court should grant Mr. Michael’s petition and order  
18 his release or at least stay this case until July 15, 2026, to determine whether  
19 Respondents have received a travel document.

20 Respectfully submitted,

21 Dated: May 20, 2026

22 *s/ Kara Hartzler*

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