

UNITED DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GREGORIO HERRERA GONZALEZ,

Petitioner,

v.

Case No. 1:26-CV-05319-TLN-SCR (Hc)

WARDEN, CALIFORNIA CITY IMMIGRATION
PROCESSING CENTER, ET AL.,

Respondents,

FILED

AUG 10 2026

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY DK

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT TO
HABEAS CORPUS

1. INTRODUCTION

The court ordered Respondents to show cause why the Petition should not be granted. Respondents' filing does not meet that burden. While Respondents rely on statutory authority permitting detention during the removal period, they present no evidence demonstrating that Petitioner's removal is significantly likely in the reasonably foreseeable future as required under *Zadvydas v. Davis*, 533 U.S.678(2001)

2. RESPONDENTS DO NOT ESTABLISH FORSEEABLE REMOVAL

Respondents rely primarily on historical immigration records and several Notices of Removal referencing Mexico. However, the Response contains no evidence that any country has agreed to accept Petitioner, that travel documents have been issued, or that removal logistics have been arranged.

Under *Zadvydas*, generalized assertions that removal may occur are insufficient. The government must present evidence demonstrating that removal is realistically foreseeable. Respondents provide no documentation showing acceptance by Mexico or any other country, nor any projected removal timeline.

A designation of a potential country of removal does not establish foresee-ability absent proof of acceptance by that country.

The only document submitted by the Federal respondents that Petitioner refused to sign is a notice to him about ICE's intention to remove to Mexico, not an application for travel documents or forms that would otherwise appear to assist in his removal. There is no indication that ICE has attempted to initiate Petitioner's removal to any other third country. In fact, by ICE own admission on the opposition to the petition Cuba denied repatriation and on December 27, 2025 ICE served Petitioner with the notice to remove him to Mexico since that time has provided zero evidence of Mexico's acceptance, or any travel documents from the Mexican government. ICE held petitioner in detention after Cuba denied repatriation for an additional eleven months. In those eleven months ICE has provided no evidence that it has been working directly with any third-country let alone Mexico. A country that has given no indication that it is accepting Petitioner.

3. WARNING TO ALIEN ORDERED REMOVED OR DEPORTED - DOCUMENT DID LACK EXPLANATION UPON DELIVERY

Exhibit E (Warning to Alien Ordered Removed or Deported) that was attached to the Petitioner did lack explanation upon delivery and when the respondent asked the details, he was not able to get comprehension of the meaning from the officer that handed to him. And lack of understanding and getting sufficient explanation of the document made the petitioner to decline for signing the warning for failure to respond.

4. PETITIONER HAS ESTABLISHED FAMILY LINKS IN THE UNITED STATES AND HAS NO FELLONIES OR MIS-DEMNEANS

Petitioner has no criminal record or significant miss-demeans and he has lived with respect to rules and laws of the United States.

5. ENV IS NOT PROOF OF ACCEPTANCE REMOVAL TO A THIRD-COUNTRY

Respondents confuse the existence of an internal verification procedure with actual evidence that

Petitioner's removal is likely in the reasonably foreseeable future. An electronic nationality verification process does not itself establish that Mexico has agreed to accept the Petitioner, or that removal will occur within a reasonably foreseeable period established by *Zadvydas*.

ENV cannot cure Mexico's absent from the record and the record is silent as to any Mexican acceptance of Petitioner. Even setting aside the regulatory defect respondents declaration does not show what *Zadvydas* requires, a significant likelihood of removal in the reasonably foreseeable future.

6. RESPONDENTS RELYING ON PELICH, LEMA AND DIOUF IS MISPLACED

In *Pelich*, *Lema* and *Diouf* the Petitioner's own conduct directly prevented the government from obtaining travel documents or executing already arranged removal. Here respondents contend that travel documents are unnecessary for Petitioner's nationality has already been verified through ENV program. But thus, unlike the petitioner's in *Pelich*, and *Lema*, petitioner has not prevented verification of his identity or nationality nor have respondents shown, as in *Diouf*, the petitioner refused, to board for an actual removal after receiving the country has legally received to accept him.

If ENV has already verified Petitioner's nationality and travel documents are unnecessary, where is the evidence that Mexico has accepted this particular petitioner?

Respondents have produced no diplomatic acceptance, no confirmation from Mexican authority, and no evidence that removal is significantly likely in the reasonably foreseeable future. Their reliance on the existence of the ENV program does not satisfy the burden under *Zadvydas*.

7. RESPONDENTS THIRD-COUNTRY REMOVAL POLICY IS UNCONSTITUTIONAL

Courts in the Ninth Circuit have held that ICE's current third-country removal policy is unconstitutional. Petitioner has never been given the opportunity to actually adjudicate his fear-based claim in front of a neutral adjudicator.

Petitioner has told various ICE Agents about his fear for removal to Mexico and Petitioner states his

fear-based claim the ICE Agents state “it is simple yes or no question, do you want to sign to Mexico?” The Petitioner consent to removal to Mexico was not arbitrary or intended to obstruct removal. Rather Petitioner has a genuine and objectively reasonable fear of being sent to third-country where senior officials of the DHS have publicly acknowledge that organized criminal cartel exercise extensive control over the northern border region. Petitioner's refusal therefore, cannot be characterized as bad faith obstruction under 8 U.S.C. 1231(a)(1)(c).

8. CONTINUED DETENTION IS NO LONGER REASONABLY RELATED TO REMOVAL

The record reflects:

- a) Petitioner's detention is now prolonged from September 29, 2025 up to today 31 July 2026, (305 days)
- b) No travel document has been issued
- c) No country has accepted Petitioner; and
- d) Respondents provide no projected removal timeline.

Once the petitioner provides good reason to believe removal is unlikely, the burden shifts to the government to rebut that showing with evidence. *Zadvydas*, 533 U.S. At 701. Respondents have not met that burden.

CONCLUSION

WHEREFORE, Petitioner respectfully requests that this Court:

- I. Find that Respondents have failed to demonstrate a significant likelihood of removal in the reasonably foreseeable future; and
- II. Order Petitioner released under reasonable conditions of supervision consistent with *Zadvydas v.*

Davis To the extent the court orders release, Petitioner respectfully requests that release under reasonable conditions of supervision.

Respectfully submitted,

A black rectangular box with a white 'X' inside, used to redact the signature of the petitioner.

GREGORIO HERRERA GONZALEZ

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