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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Naim Vijdani,

Petitioner,

v.

John Mattos, NSDC Warden; Michael Bernacke, Field Director, West Valley City Office of ICE ERO; Todd Lyons, ICE Acting Director; Kristi Noem DHS Secretary; Pam Bondi, U.S. Attorney General, Kerri Ann Quihuis, ICE Field Office Director, Las Vegas

Respondents.

Case No. 2:25-cv-02496-GMN-EJY

Reply to Respondent's Response to Petitioner's Petition for Writ of Habeas Corpus

INTRODUCTION

Respondent's opposition rests on a singular argument: that Mr. Vijdani's detention is within the presumptively reasonable six-month timeframe recognized by the Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001). ECF No. 21 at 2–3. Respondents, therefore, argue that this Court should stay Mr. Vijdani's case—and that he remains in custody—until May 2026, when his present period of detention reaches six months. *Id.* at 3.

This argument fails. For the reasons below, this Court should grant the petition, order Mr. Vijdani's immediate release from ICE custody and transport back to Las Vegas, Nevada, and prohibit Respondents from removing Mr. Vijdani to any third country absent meaningful notice consistent with due process.

BACKGROUND

Petitioner Naim Vijdani is a native and citizen of Iran. Over 30 years ago—when he was fifteen years old—he fled Iran with his parents and siblings due to their adherence to the Baha'i faith. Mr. Vijdani was placed in removal proceedings and ordered removed to Iran on September 11, 2017. ECF No. 1-1 at 1; ECF No. 21-3 at 2–3.

Mr. Vijdani has significant mental health issues, [redacted] He was previously found incompetent in Nevada state court and was committed to a state psychiatric hospital. Most recently, on February 1, 2026, Respondents transferred Mr. Vijdani to South Carolina for in-patient mental health treatment.[1] ECF No. 18 at 3.

Mr. Vijdani now challenges his current immigration detention and Respondents' continued custody without evidence of a realistic or reasonably foreseeable removal. As set forth below, Respondents assertion that this Court stay Mr. Vijdani's case and that he remain in custody because he has not yet been detained for six months misunderstands *Zadvydas* and exceeds the limits imposed by the Due Process Clause.

ARGUMENT

Respondents' argument rests solely on the basis that Mr. Vijdani has not yet been detained for six months following his detention. This argument

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[1] Respondents did neither alerted this Court nor counsel that Mr. Vijdani was moved out of the district and across the country. Of note, Mr. Vijdani has never been to South Carolina and has no ties to that state.

misunderstands *Zadvydas* and mischaracterize the nature of the claim. First, as Respondents correctly pointed out in their response, the removal period started when Mr. Vijdani was released from his criminal custody on a presently unknown date in 2020. ECF No. 21 at 2 citing 8 U.S.C. §1231(a)(1)(B)(iii). ICE evidently chose not to detain Mr. Vijdani at that time despite the existence of the final order of removal. Accordingly, the six-month period of presumptive reasonableness under *Zadvydas* expired sometime in 2020 or 2021, six months after his release from custody. *See Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001) (the period of presumptive reasonableness is "six months after a final order of removal—that is, three months after the statutory removal period has ended"); *see also Tanahan v. United States*, Case No. 2:25-cv-02075-RFB-BNW, 2026 WL 161761 (D. Nev. Jan. 21, 2026) (citing *Kim Ho Ma*). Therefore, Mr. Vijdani's present detention is not presumptively reasonably under *Zadvydas*.

Second, Respondents' focus on the six-month benchmark ignores that the *Zadvydas* presumption is rebuttable and does not operate as a safe harbor for unlawful detention. *See Alkarori v. Nevada S. Det. Ctr.*, No. 2:25-CV-02567-MMD-MDC, 2026 WL 266756, at *2 (D. Nev. Feb. 2, 2026) ("This six-month presumption may be rebutted where there is no significant likelihood of removal in the reasonably foreseeable future.") The Supreme Court did not hold that detention is per se reasonable during the first six months. Rather, it recognized six months as a presumptively reasonable period while expressly preserving the authority—and obligation—of district courts to assess whether detention remains authorized under the statute and the Constitution. Courts have repeatedly recognized that detention may become unreasonable within the six-month period where the records show that removal is not realistically foreseeable. *See Douglas v. Baker*, No. 25-CV-2243-ABA, 2025 WL 2997585 at *2 (D. Md. Oct. 24, 2025) ("regardless of whether the six-month *Zadvydas* period has expired, the question presented by a petition asserting

a *Zadvydas* claim is 'whether [the petitioner's] removal is reasonably foreseeable.' Both during the six-month period and after, a district court has an ongoing 'obligation to determine whether detention remains authorized.'") (internal cites omitted); *see also Munoz-Saucedo v. Pittman*, No. CV 25-2258 (CPO), 2025 WL 1750346, at *5 (D. N.J. June 24, 2025) (collecting cases recognizing that the six-month presumption may be rebutted before six months where removal is not reasonably foreseeable).

At bottom, the six-month period identified in *Zadvydas* is not a jurisdictional bar, nor does it insulate detention from constitutional scrutiny. The controlling question under *Zadvydas* is, and always has been, whether detention is reasonably necessary to secure removal. Where removal is not reasonably foreseeable, continued detention violates due process regardless of the precise length of detention.

Even if this Court were to accept Respondents' framing of the six-month presumption, Mr. Vijdani has rebutted any presumption of reasonableness. Mr. Vijdani has been subject to an order of removal for almost nine years, and ICE has been unable to remove him throughout that period. Respondents do not meaningfully rebut Mr. Vijdani's argument that his removal to Iran is not reasonably foreseeable. The government merely states—without support—that "ICE continues to seek the necessary travel documents to repatriate Mr. Vijdani to Iran." ECF No. 21 at 3. It has provided no details to show what it has done to obtain travel documents and whether it has had any substantive communications with the Iranian government. And despite providing neither this information nor any estimate about when it may obtain Mr. Vijdani's documents, Respondents nevertheless asks this Court to keep Mr. Vijdani in custody for another three months.

Respondents' argument improperly assumes that the mere passage of time can substitute for reasonable foreseeability. *Zadvydas* requires more than speculation or good-faith assertions by ICE. Indeed, courts within this Circuit, including in this District, have declined to find the government's burden satisfied where Respondents rely on little more than generalized assertions that removal may occur at some undefined point in the future. See, e.g., *Partovi v. Bondi*, No. 2:25-CV-02283-JAD-DJA, 2026 WL 93124, at *4 (D. Nev. Jan. 13, 2026) (granting preliminary injunction); *Cavieres Gomez v. Mattos*, No. 2:25-cv-00975-GMN-BNW, 2025 WL 3101994 at *6 (D. Nev. Nov. 6, 2025); *Singh v. Gonzales*, 448 F. Supp. 2d 1214, 1220 (W.D. Wash. 2006); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *3 (E.D. Cal. July 16, 2025); *Chun Yat Ma v. Asher*, No. C11-1797 MJP, 2012 WL 1432229, at *4 (W.D. Wash. April 25, 2012). Where, as here, removal is not reasonably foreseeable because the government has not or cannot take the steps required to lawfully remove Mr. Vijdani, continued detention becomes indefinite in nature.

Importantly, nothing in Respondents' response meaningfully challenges Mr. Vijdani's claim that his removal is not reasonably foreseeable. To the contrary, while Respondent's claim that "ICE continues to seek the necessary travel documents to repatriate Mr. Vijdani to Iran" (ECF No. 21 at 3) they do not even allege that they expect to receive travel documents. Despite urging this Court to stay Mr. Vijdani's case to run the six-month clock, Respondents offered no evidence—and made no allegation—that Iran is likely to provide travel documents to Mr. Vijdani between now and May. Respondents simply note that ICE "continues to seek the necessary travel documents." ECF No. 21 at 3. But there is every reason to believe ICE's efforts will not be fruitful given based on Respondents' failure to provide any reason to believe their efforts will result in travel documents and the fact that ICE has been unable to obtain travel documents since Mr. Vijdani's

detention began in November (or for the past almost nine years, for that matter). As such, the circumstances of Mr. Vijdani's case show that his removal is not reasonably foreseeable.

In short, Mr. Vijdani's claim is not foreclosed by *Zadvydas*. The six-month period of presumptive reasonableness ended years ago. However, even if this Court accepts Respondents' argument that Mr. Vijdani is still within the six-month period, he has rebutted the presumption that his detention is reasonable because his removal is simply not reasonably foreseeable. This is precisely the type of claim *Zadvydas* contemplated: a challenge to continued detention where removal is not reasonably foreseeable and the government cannot meet its burden of justifying further confinement. Respondents' arguments fail, and Mr. Vijdani is entitled to relief.

CONCLUSION

Because lawful removal is not reasonably foreseeable and because continued detention no longer bears a reasonable relation to its purported purpose, Mr. Vijdani's confinement violates the Due Process Clause of the Fifth Amendment. The Constitution does not permit the indefinite detention of immigrants nor does *Zadvydas* condone the argument that the government may lawfully detain any noncitizen with a final order of removal for six months where removal is not reasonably foreseeable.

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For these reasons, this Court should grant the petition for a writ of habeas corpus, order Mr. Vijdani's immediate release and transport back to Las Vegas, Nevada, and enjoin Respondents from re-detaining Mr. Vijdani absent changed circumstances regarding the likelihood of removal.

Dated February 26, 2026.

Respectfully submitted,

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Federal Public Defender

/s/ Hannah D. Nelson

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