

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Ivan Rudiuk v. Merrick Garland, et al.

Case No. 3:25-cv-2600-BTM-SBC (S.D. Cal. Nov. 17, 2025) · No. 3:25-cv-2600-BTM-SBC · Decided
November 17, 2025

SUMMARY

The United States District Court for the Southern District of California granted Ivan Rudiuk’s petition for a writ of habeas corpus challenging his continued immigration detention. Applying *Zadvydas v. Davis*, the court found that the Government had not shown that Rudiuk’s removal to a third country was reasonably foreseeable. The court ordered Respondents to release Rudiuk under appropriate conditions or provide him with a hearing before an immigration judge by December 1, 2025, and retained jurisdiction to enforce the judgment.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	November 17, 2025
DOCKET	3:25-cv-2600-BTM-SBC
DISPOSITION	writ_granted
PROCEDURAL POSTURE	Petition for a writ of habeas corpus challenging continued immigration detention after a final order of removal.
STANDARD OF REVIEW	The court assessed under <i>Zadvydas v. Davis</i> whether removal was reasonably foreseeable and whether the Government had adequately supported its position that removal was likely in the foreseeable future.
PRECEDENTIAL VALUE	Unpublished federal district court order; generally nonprecedential.
PARTIES	Ivan Rudiuk v. Merrick Garland, et al.

TOPICS

- immigration detention
- federal habeas corpus
- removal proceedings
- immigration
- due process

PRACTICE AREAS

- immigration law
- federal habeas corpus
- immigration detention

QUESTIONS PRESENTED

1. Whether continued detention after a final order of removal violated the limits recognized in *Zadvydas v. Davis* because removal was not reasonably foreseeable.
2. Whether the Government's conclusory assertion that Petitioner might be removed to an unidentified third country was sufficient to establish that removal was reasonably likely in the foreseeable future.
3. What relief was appropriate upon finding that removal was not reasonably foreseeable.

HOLDINGS

1. An alien may not be detained indefinitely after a final order of removal; detention is limited to the period reasonably necessary to bring about removal, and continued detention is impermissible when removal is not reasonably foreseeable.
2. A conclusory assertion that removal to an unidentified third country is likely is insufficient to establish that removal is reasonably foreseeable; the Government must provide real evidentiary support for its position.
3. The petition for a writ of habeas corpus was granted, and Respondents were required either to release Petitioner with appropriate conditions or supervision or provide a hearing before an Immigration Judge to determine whether he was a flight risk or danger to the community.

KEY QUOTATIONS

“The Court rules that Petitioner’s detention is limited “to a period reasonably necessary to bring about [his] removal from the United States.”” (at 1)

“Petitioner may not be detained indefinitely.” (at 1)

*“The Court in *Zadvydas* required federal habeas courts to assess the accuracy of the Government’s position that it is reasonably likely to remove a noncitizen.” (at 2)*

“The Government’s failure to do so is strong evidence that Petitioner’s removal to a third country is not reasonably likely in the foreseeable future.” (at 2)

FACTUAL BACKGROUND

An Immigration Judge ordered Ivan Rudiuk removed to Russia, but also granted withholding of removal to Russia, and the removal order became final. Rudiuk remained detained and alleged that his removal was not reasonably likely. The Government asserted that he might be removed to a third country, but Mexico, Ecuador, and Guatemala had declined to accept him, and the Government did not identify another prospective country or provide supporting evidence.

PROCEDURAL HISTORY

An Immigration Judge ordered Petitioner removed to Russia on January 13, 2025, while granting withholding of removal to Russia. The removal order became final on February 25, 2025. After the Government failed to identify a third country willing to accept Petitioner, Petitioner sought habeas relief challenging his continued

detention. The district court granted the petition and ordered release under appropriate conditions or a hearing before an Immigration Judge.

DISPOSITION

writ_granted

REMAND INSTRUCTIONS

Respondents shall either release Petitioner with appropriate conditions of release and/or supervision by December 1, 2025, or provide Petitioner a hearing before an Immigration Judge by that date to determine whether he is a flight risk or danger to the community. Respondents shall file a status report by December 3, 2025. The court retained jurisdiction to enforce the judgment.

CASES CITED

- Zadvydas v. Davis, 533 U.S. 678, 689-90, 699 (2001)
- Rodriguez v. Robbins, 715 F.3d 1127, 1139 (9th Cir. 2013)
- Nadarajah v. Gonzales, 443 F.3d 1069, 1082 (9th Cir. 2006)

OPINION

Rudiuk
PER CURIAM.

1 2 3 4 5 6 7

8 UNITED STATES DISTRICT COURT

9 SOUTHERN DISTRICT OF CALIFORNIA

10 11 IVAN RUDIUK, Case No.: 3:25-cv-2600-BTM-SBC 12 Petitioner,

ORDER GRANTING PETITION

13 v. FOR WRIT OF HABEAS CORPUS

14 MERRICK GARLAND, et al., 15 Respondents. 16 17 18 19 20 21 22 23 24 25 26 27 28 1
Pending before the Court is Petitioner Ivan Rudiuk’s petition for a writ of habeas 2 corpus. On
January 13, 2025, an Immigration Judge (IJ) ordered Petitioner removed to 3 Russia. The IJ also
granted Petitioner’s application for withholding of removal to Russia. 4 On February 25, 2025,
Petitioner’s order of removal became final. Petitioner claims that 5 his continued detention is
unlawful, and Petitioner alleges that his removal is not likely. 6 The Government’s sole contention
in response is that Petitioner is likely to be 7 removed to a third country. The Government
requested that Mexico, Ecuador, or 8 Guatemala accept Petitioner, but they all declined to accept
him. The Government has not 9 identified the third country to which Petitioner’s removal is
allegedly likely. 10 The Court rules that Petitioner’s detention is limited “to a period reasonably 11
necessary to bring about [his] removal from the United States.” See Zadvydas v. Davis, 12 533
U.S. 678, 689 (2001); see also Rodriguez v. Robbins, 715 F.3d 1127, 1139 (9th Cir. 13 2013)

(recognizing that 6 months of immigration detention is prolonged no matter the 14 authorizing statute of detention). Petitioner may not be detained indefinitely. See 15 *Zadvydas*, 533 U.S. at 690 (“A statute permitting indefinite detention of an alien would 16 raise a serious constitutional problem.”). The Court must decide whether Petitioner’s 17 removal is “reasonably foreseeable.” Id. at 699. 18 The Court finds the Government’s contention that Petitioner’s removal is reasonably 19 likely in the foreseeable future conclusory. The Government has not offered any real 20 support for its conclusion. There is little basis for the Court to accept the Government’s 21 position beyond that it is working on obtaining a third country to accept Petitioner. If the 22 Court accepted the Government’s conclusory position here, *Zadvydas* would have little 23 force. The Court in *Zadvydas* required federal habeas courts to assess the accuracy of the 24 Government’s position that it is reasonably likely to remove a noncitizen. Id. 25 Here, because the Government has offered no real evidence to support its position, 26 the Court is constrained to rule that Petitioner’s removal is not reasonably likely in the 27 foreseeable future. Indeed, the Government has had almost nine months to remove 28 Petitioner to a third country. The Government’s failure to do so is strong evidence that 1 || Petitioner’s removal to a third country is not reasonably likely in the foreseeable future. 2 || See *Nadarajah v. Gonzales*, 443 F.3d 1069, 1082 (9th Cir. 2006) (explaining that where no 3 country has been identified for the petitioner’s removal, “one cannot say that his removal 4 ||is reasonably foreseeable”). 5 The petition for a writ of habeas corpus is GRANTED. Respondents shall either (a) 6 ||release Petitioner with appropriate conditions of release and/or supervision no later than 7 December 1, 2025, or (b) provide Petitioner a hearing, no later than December 1, 2025, 8 || before an IJ under 8 U.S.C. § 1231(a) for the IJ to determine whether Petitioner is a flight 9 || risk or a danger to the community. The Court retains jurisdiction to enforce the judgment. 10 || Respondents shall file a status report no later than December 3, 2025. 11 || } SO ORDERED. 12 ||Dated: November 17, 2025 , 13 Pog Til Honorable Barry Ted Moskowitz 14 United States District Judge 15 16 17 18 19 20 21 22 23 24 25 26 27 28