

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.

OPINION

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 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