

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO: 25-20384-CIV-CANNON

DAVID SAINT FORT,

Petitioner,

v.

**DEPARTMENT OF HOMELAND SECURITY,
U.S. ATTORNEY GENERAL,
MIAMI FIELD OFFICE-USCIS,**

Respondents.

**RESPONDENTS' RETURN TO PETITIONER'S PETITION FOR
WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

Department of Homeland Security, et al., (collectively referred to as Respondents), through the undersigned counsel, hereby respond to David Saint Fort's (Petitioner) Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241 (Petition) [ECF No. 1]. Therein, Petitioner argues that his alleged prolonged detention without a bond hearing violates Due Process under the Fifth Amendment and the Excessive Bail clause of the Eighth Amendment. The Petition should be denied because there is a significant likelihood of removal in the reasonably foreseeable future since he is scheduled to be removed within forty-five days. Further, the Petition should be denied because he is not entitled to a bond hearing under the Fifth Amendment or Eighth Amendment since he is detained under 8 U.S.C. § 1231.

I. BACKGROUND¹

On or about June 10, 2001, Petitioner, a Haitian national, entered the United States without inspection at or near West Palm Beach, Florida. *See* Exhibit A, Form I-213, Record of Deportable/Inadmissible Alien, at 1.

On March 10, 2005, Petitioner pled guilty to the sale of cocaine and was sentenced to nine months of incarceration. *Id.* at 2.

On May 9, 2023, Immigration and Customs Enforcement (ICE) encountered Petitioner, an aggravated felon, at the Miami-Dade Turner Guilford Knight Correctional Center in Miami, Florida, after the Petitioner's arrest for Possession of a Controlled Substance, Petit Theft, and Antishoplifting Device. *See id.* at 1; Exhibit B, Declaration of Deportation Officer Ryan Fitzpatrick, at ¶ 44. He was subsequently taken into ICE custody. *See* Exhibit C, Form I-286, Notice of Custody Determination.

On May 20, 2024, the immigration court denied Petitioner's applications for relief. *See* Exhibit D, Removal Order.

On March 5, 2025, the Board of Immigration Appeals (BIA) dismissed Petitioner's appeal. *See* Exhibit E, BIA Decision, at 3.

On March 16, 2025, the Department of Homeland Security (DHS) conducted a post-order custody review of Petitioner's case and determined to continue detention because there is a significant likelihood of Petitioner's removal in the reasonably foreseeable future. *See* Exhibit F, Post Order Custody Review Letter, at 1. DHS also considers him a threat to public safety and flight risk. *See* Exhibit B at ¶ 50.

Petitioner is scheduled for removal to Haiti within the next 45 days. *See Id.* at ¶ 51.

¹ Respondents summarize the portion of Petitioner's immigration history relevant to his Petition herein. Respondents' Exhibit F, Declaration of Deportation Officer Ryan Fitzpatrick, details Petitioner's immigration history since his illegal entry in 2001.

II. ARGUMENT

A. The Petition should be dismissed because there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future.

8 U.S.C. § 1231(a)(1)(A) directs Immigration and Customs Enforcement to remove an alien subject to a final order of removal within the 90-day removal period. Specifically, section 1231(a)(1)(A) provides: “Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the ‘removal period’).”

The removal period begins on the latest of the following:

- (i) The date the order of removal becomes administratively final.
- (ii) If the removal order is judicially reviewed and if a court orders a stay of removal of the alien, the date of the court’s final order.
- (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.

8 U.S.C. § 1231 (a)(1)(B).

In *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001), the Supreme concluded that six months is a presumptively reasonable period to detain a removable alien awaiting deportation. *Id.* (stating “for the sake of uniform administration in the federal courts, we recognize that [six month] period.”). “Although not expressly stated, the Supreme Court appears to view the six-month period to include the 90-day removal period plus 90 days thereafter.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051 (11th Cir. 2002) (per curiam). Further, to state a claim under *Zadvydas*, “the alien not only must show post-removal order detention in excess of six months but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

In this case, the Petition should be denied under *Zadvydas* because the Petitioner has failed to establish that there is no significant likelihood of his removal in the reasonably foreseeable future since he is scheduled to be removed to Haiti within 45 days.

B. Petitioner is not entitled to a bond hearing because he is detained under § 1231.

In his claims for relief, Petitioner argues that Due Process under the Fifth Amendment, and the Eighth Amendment's prohibition against excessive bail have been violated because he has not undergone a bond hearing. *See* (ECF No. 1 at ¶¶ 40-46).

First, Petitioner is not eligible for a bond hearing because he is detained under U.S.C. § 1231. Significantly, section 1231(a)(2)(A) states that a detained alien shall not be released during the removal period.

During the removal period, the Attorney General shall detain the alien. Under no circumstance during the removal period shall the Attorney General release an alien who has been found inadmissible under section 1182(a)(2) or 1182(a)(3)(B) of this title or deportable under section 1227(a)(2) or 1227(a)(4)(B) of this title.

Section 1231(a)(2)(A) (emphasis added)

The plain text of § 1231(a)(2) is consistent with the Supreme Court's interpretation in *Johnson v. Arteaga-Martinez*. There, the Supreme Court plainly stated that § 1231(a)(2) "provides that the Government 'shall' detain noncitizens during the statutory removal period. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578 (2022).

Second, *Arteaga-Martinez* held that bond hearings are not required under 8 U.S.C. § 1231(a)(6). *See Arteaga-Martinez*, 596 U.S. 573, 581 ("On its face, the statute [§ 1231(a)(6)] says nothing about bond hearings before immigration judges or burdens of proof, nor does it provide any other indication that such procedures are required."). The only form of relief mentioned in section 1231(a)(6) is that if the alien is released, then they "shall be subject to the terms of supervision." Section 1231(a)(6).

Third, Petitioner has not met his burden to prove that he is entitled to a bond hearing during the removal period. *See United States v. Nickson*, 553 F. App'x 866, 869 (11th Cir. 2014) (quoting *Coloma v. Holder*, 445 F.3d 1282, 1284 (11th Cir. 2006)) ("[the] petitioner has

the burden of establishing his right to federal habeas relief.”). He has not cited to any caselaw or statutory authority affording him a right to a bond hearing during the removal period.

Thus, Petitioner’s claims should be denied.

III. CONCLUSION

Accordingly, the Petition should be denied because there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future. The Petition should also be denied because Petitioner is not entitled to a bond hearing since he is detained under 8 U.S.C. § 1231.

Respectfully submitted,

**HAYDEN O’BYRNE
UNITED STATES ATTORNEY**

Natalie Diaz
NATALIE DIAZ
ASSISTANT U.S. ATTORNEY
Florida Bar No. 85834
E-mail: Natalie.Diaz@usdoj.gov
99 N.E. 4th Street, Suite 300
Miami, Florida 33132
Telephone: (305) 961-9306

CERTIFICATE OF SERVICE

I HEREBY CERTIFY the Respondents mailed a copy to Petitioner at the address listed below.

David Saint Fort

A# 

Krome Service Processing Center

Inmate Mail/Parcels

18201 S.W. 12th Street Miami, Florida 33194

/s/Natalie Diaz
NATALIE DIAZ
Assistant U.S. Attorney