IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

PARMINDERPAL SINGH,	:	
	:	
Petitioner,	:	
	:	**Case No. 4:25-CV-81-CDL-AGH**
v.	:	**28 U.S.C. § 2241**
	:	
WARDEN, STEWART DETENTION CENTER,[1]	:	
	:	
	:	
Respondent.	:	

RESPONDENT'S RESPONSE

On January 21, 2025, Petitioner field a petition for a writ of habeas corpus ("Petition") in the U.S. District Court for the Western District of Washington. ECF No. 1. On March 4, 2025, the case was transferred to this Court. ECF Nos. 7, 8. Petitioner asserts that his detention violates his Fifth Amendment due process rights and the Immigration and Nationality Act ("INA") and seeks release from custody. Pet. ¶¶ 28-31, ECF No. 1. As explained below, the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of India who is detained post-final order of removal under 8 U.S.C. § 1231(a)(6). Graumenz Decl. ¶ 3; Hawthorne Decl. ¶ 5 & Ex. O. On or about August 7, 1999, Petitioner unlawfully entered the United States in New York, New York without admission or parole. Graumenz Decl. ¶ 4 & Ex. A. On September 29, 2008, Petitioner was convicted in the

[1] In addition to Warden of Stewart Detention Center Terrence Dickerson, Petitioner also names officials with Immigration and Customs Enforcement ("ICE") and the warden of a different facility as Respondents in his Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

Superior Court of King County, Washington of (1) solicitation: possession of methamphetamine, (2) third-degree assault, (3) second-degree malicious mischief, and (4) fourth-degree assault. *Id.* ¶ 5 & Ex. B. He was sentenced to, *inter alia*, 360 days imprisonment. *Id.* ¶ 5 & Ex. B.

On March 16, 2009, Homeland Security Investigations ("HSI") encountered Petitioner while he was in criminal custody in Washington and served him with a Notice to Appear ("NTA") charging him with inadmissibility pursuant to INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), based on his unlawful presence in the United States without admission or parole. *Id.* ¶¶ 6-7 & Exs. A, C. On the same day, Petitioner entered Immigration and Customs Enforcement ("ICE"), Enforcement and Removal Operations ("ERO") custody. *Id.* ¶ 6. On March 20, 2009, Petitioner was released from ICE/ERO custody on bond. *Id.* ¶ 8 & Ex. A.

On December 6, 2010, Petitioner was arrested on a charge of conspiracy to distribute cocaine. Graumenz Decl. ¶ 9 & Ex. A. On July 11, 2011, an immigration judge ("IJ") administratively closed Petitioner's removal proceedings due to his criminal detention pending prosecution on this charge. *Id.* ¶ 10 & Ex. D. On September 2, 2011, Petitioner was convicted in the U.S. District Court for the Western District of Washington of conspiracy to distribute cocaine in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(C) and 846. *Id.* ¶ 11 & Ex. E. He was sentenced to 24 months imprisonment. *Id.* ¶ 11 & Ex. E.

On October 12, 2012, Petitioner re-entered ICE/ERO custody, and the IJ re-calendared his removal proceedings. *Id.* ¶¶ 12-13 & Ex. F. On June 27, 2013, the IJ denied Petitioner's application for relief from removal and ordered him removed to India. *Id.* ¶ 14 & Ex. F. On July 25, 2013, Petitioner appealed the IJ's removal order to the Board of Immigration Appeals ("BIA"). Graumenz Decl. ¶ 15 & Ex. A. On September 24, 2013, the IJ granted Petitioner bond, and he was

released from ICE/ERO custody on the same day. *Id.* ¶ 16. On January 21, 2015, the BIA dismissed Petitioner's appeal, making his removal order final. *Id.* ¶ 17 & Ex. G; *see* 8 C.F.R. § 1241.1(a).

On or about February 17, 2015, Petitioner filed his first petition for review ("PFR") with the U.S. Court of Appeals for the Ninth Circuit. *Singh v. Whitaker*, No. 15-70487, Pet. for Review (9th Cir. Feb. 17, 2015), ECF No. 1. Petitioner filed his first motion to reopen with the BIA on January 4, 2016, and the BIA denied the motion on March 11, 2016. Graumenz Decl. ¶¶ 18-19 & Exs. H, I. On October 3, 2018, the Ninth Circuit denied Petitioner's first PFR. *Singh v. Sessions*, 739 F. .App'x. 442 (Mem.) (9th Cir. 2018). On January 15, 2019, Petitioner filed his second motion to reopen with the BIA, and the BIA denied the motion on September 7, 2021. Graumenz Decl. ¶¶ 20-21 & Exs. A, J. Petitioner filed a second PFR with the Ninth Circuit on October 6, 2021, and the Ninth Circuit denied the PFR on June 17, 2022. *Id.* ¶¶ 22-23 & Ex. K. Petitioner filed his third motion to reopen with the BIA on February 15, 2024, and the BIA denied the motion on April 8, 2024. *Id.* ¶ 26 & Ex. L ("On February 15, 2024, [Petitioner] filed the current motion to reopen.").

On February 16, 2024, Petitioner re-entered ICE/ERO custody at the Northwest Immigration Processing Center ("NWIPC") in Tacoma, Washington. *Id.* ¶ 24. From February 16, 2024 to June 5, 2024, ICE/ERO made efforts to confirm that there were no legal impediments to Petitioner's removal such as a stay of removal issued by the BIA or a Court of Appeals. *Id.* ¶ 25. On or about June 5, 2024, Petitioner filed his third PFR with the Ninth Circuit. *Id.* ¶ 28. On October 23, 2024, the Ninth Circuit dismissed Petitioner's third PFR. *Id.* ¶ 37 & Ex. N.

On June 17, 2024, ICE/ERO interviewed Petitioner in order to finalize a travel document request. Graumenz Decl. ¶ 29. On or about June 25, 2024, ICE/ERO electronically submitted a travel document request to the Indian Consulate in Seattle, Washington ("Seattle Consulate"). *Id.* ¶ 30. ICE/ERO verified that the travel document request remained pending with the Seattle

Consulate on July 8, July 26, and August 26, 2024. *Id.* ¶¶ 31-33. On September 27, 2024, ICE/ERO mailed a physical copy of the travel document request to the Seattle Consulate. *Id.* ¶ 34.

In October 2024, ICE/ERO transferred Petitioner to Arizona in anticipation of his removal in the event ICE/ERO received a travel document. *Id.* ¶ 35. However, ICE/ERO was unable to remove Petitioner because the travel document request remained pending. *Id.* On October 22, 2024, ICE/ERO received an email from the Seattle Consulate confirming that the travel document request remained pending. Graumenz Decl. ¶ 36. In November 2024, ICE/ERO transferred Petitioner back to NWIPC to continue removal efforts. *Id.* ¶ 38. On November 12, 2024, ICE/ERO met with an Indian consular official from the Seattle Consulate, and the official confirmed that the travel document request remained pending. *Id.* ¶ 39. In November 2024, ICE/ERO again transferred Petitioner to Arizona in anticipation of removal. *Id.* ¶ 40. Again, ICE/ERO was unable to remove Petitioner because the travel document request remained pending. *Id.* ICE/ERO verified that the travel document request remained pending with the Seattle Consulate on November 25 and December 5, 2024. *Id.* ¶¶ 41-42.

ICE/ERO transferred Petitioner to Stewart Detention Center on December 16, 2024, and his file was received on December 22, 2024. *Id.* ¶¶ 43-44. On or about January 10, 2025, ICE/ERO completed another travel document request and hand delivered it to a Vice Consul at the Indian Consulate in Atlanta, Georgia ("Atlanta Consulate). Graumenz Decl. ¶ 45. On February 13, 2025, ICE/ERO updated the travel document request on instruction from the Atlanta Consulate. *Id.* ¶ 46. On March 4, 2025, the Seattle Consulate interviewed Petitioner. *Id.* ¶ 47. On March 6, 2025, ICE/ERO confirmed that the Atlanta Consulate received Petitioner's Indian birth certificate as part of the travel document request. *Id.* ¶ 48. On the same day, the Atlanta Consulate informed

ICE/ERO for the first time that India requested a watermark identity document or birth certificate for the travel document request. *Id.*

On March 11, 2025, ICE Headquarters ("HQ"), Removal and International Operations ("RIO") met with a Minister at the Indian Embassy in Washington, D.C. and discussed, *inter alia*, ICE/ERO's travel document request for Petitioner. Hawthorne Decl. ¶ 11. The Minister indicated that the Indian government continued to review the travel document request. *Id.* On March 12, 2025, the Atlanta Consulate interviewed Petitioner via a video call. Graumenz Decl. ¶ 49. On March 12, 2025, ICE/ERO asked Petitioner if he possessed a passport or watermark card, and he indicated he did not. *Id.* ¶ 50. ICE/ERO has manifested Petitioner for removal in the event either the Seattle Consulate or Atlanta Consulate issues a travel document before his scheduled removal date. *Id.* ¶ 51.

The Indian government has recently issued travel documents at ICE/ERO's request. Hawthorne Decl. ¶ 12. When cases—such as Petitioner's—lack prior passport information, issuance of a travel document can be delayed. *Id.* ¶¶ 6, 12. However, India is open for international travel, and no travel bans are in place. *Id.* ¶ 13. ICE/ERO is currently removing non-citizens to India on a weekly basis via commercial flights. *Id.* Additionally, ICE/ERO has removed non-citizens to India via charter flights, and the last charter flight occurred on March 18, 2025. *Id.* In fiscal year 2024, ICE/ERO successfully removed 1,529 Indian nationals to India. *Id.*

Petitioner has also received custody reviews. ICE/ERO completed Petitioner's 90-day post-order custody review ("POCR") on May 29, 2024 and served him with its decision to continue his detention on June 14, 2024. *Id.* ¶ 27 & Ex. M. ICE/ERO completed a 180-day POCR on August 29, 2024 and served Petitioner with its decision to continue detention on August 30, 2024. Hawthorne Decl. ¶ 8 & Ex. P. On March 5, 2025, ICE/ERO completed additional POCRs and

served Petitioner with its decisions to continue detention on March 12, 2025. *Id.* ¶¶ 9-10 & Exs. Q, R.

LEGAL FRAMEWORK

Since Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in 8 U.S.C. § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court's final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the "removal period," detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is "reasonably necessary" to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, "may be detained beyond the removal period"). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. "After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing." *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that "in order

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." 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Gozo v. Napolitano*, 309 F. App'x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52).

ARGUMENT[2]

Petitioner asserts his detention violates both his Fifth Amendment due process rights, Pet. ¶¶ 28-29, and the INA, *id.* ¶¶ 30-31. He does not specify any standard governing either claim. But given that Petitioner is detained post-final order of removal beyond the 90-day removal period, 8 U.S.C. § 1231(a)(6) and the Supreme Court's standard in *Zadvydas*—which interpreted this statutory language—therefore govern his claims. Petitioner fails to establish that he is entitled to relief under *Zadvydas*.

Petitioner has the initial burden of demonstrating that there is no significant likelihood of removal in the reasonably foreseeable future. *Zadvydas*, 533 U.S. at 701; *Akinwale*, 287 F.3d at 1052. In attempt to meet his burden, Petitioner asserts that he "received information . . . that the Indian Consulate had already refused to issue a travel document prior to October 30, 2024." Pet. ¶ 20. In other words, he appears to represent that the travel document request has been denied. His

[2] Respondent addresses Petitioner's claims for relief together because, in each claim, Petitioner seeks relief for alleged prolonged post-final order detention under *Zadvydas*. *See, e.g., Linares v. Dep't of Homeland Sec.*, 598 F. App'x 885, 887 (11th Cir. 2015) (evaluating the petitioner's claims together because the "procedural and substantive due process claims were both grounded in the government's alleged violation under *Zadvydas*[]"). To the extent that the Court interprets Petitioner's claims for relief differently, Respondents respectfully request an opportunity to amend this Response. To the extent Petitioner claims he has not received custody reviews, his claim should be denied because ICE/ERO has reviewed Petitioner's custody status and determined that he should remain detained. Carter Decl. ¶ 12 & Ex. E.

purported evidence for this assertion is an October 30, 2024 letter from one Congressional staff member based on information learned from another staff member about a Congressman's alleged inquiries into Petitioner's case. Pet. Ex. 3, ECF No. 1-2. In turn, that letter includes an alleged quote from an unnamed ICE official about that official's alleged conversation with an unnamed Indian consular official, which states "[t]he Indian Consulate has refused to issue a travel document for [Petitioner]. As such, he is being returned to NWIPC in the next few days." *Id.*

Setting aside that Petitioner's sole evidence is at least five levels of hearsay, Petitioner cannot meet his burden on this basis because there is no evidence that India has outright denied ICE/ERO's travel document request or that India will not issue a travel document. As an initial matter, the letter indicates only that the Indian consulate had not issued a travel document as of October 30, 2024—not that the travel document request had been formally denied. This is bolstered by the same Congressional staff member's subsequent letter from January 3, 2025. *See* Pet. Ex. 4, ECF No. 1-4. That letter again includes an alleged quote from an unnamed ICE official, which states that ICE "is still waiting [sic] travel document issuance from the Indian Consulate," *Id.*, indicating that the request remained pending over two months *after* Petitioner purports it was "refused," Pet. ¶ 20.

Aside from this January 3, 2025 letter, there is ample evidence establishing that the Indian government has not denied ICE/ERO's travel document request. Since October 30, 2024, ICE/ERO has twice confirmed that the travel document request remains pending with the Seattle Consulate, submitted a second travel document request to the Atlanta Consulate, and twice met personally with Indian consular officials about Petitioner's travel document requests. Graumenz Decl. ¶¶ 39, 41-42, 45; Hawthorne Decl. ¶ 11. Indeed, within the last three weeks alone, Petitioner has been interviewed by both the Seattle Consulate and the Atlanta Consulate pursuant to

ICE/ERO's travel document requests. Graumenz Decl. ¶¶ 47, 49. Thus, Petitioner's representations concerning the multi-level-hearsay letter from October 30, 2024 are contradicted by a later letter from the same source and almost five months of further factual developments that he has not disputed. Petitioner cannot meet his evidentiary burden under *Zadvydas* on this basis.

Other than this thoroughly contradicted assertion, Petitioner appears to rely on the passage of time without removal, claiming that ICE/ERO has "been unable or unwilling to remove" him since he re-entered custody on February 16, 2024. Pet. ¶ 17. However, as other courts have recognized, a non-citizen cannot meet his *Zadvydas* burden by simply noting that his removal has been delayed. *See Ortiz v. Barr*, No. 20-CV-22449, 2021 WL 6280186, at *5 (S.D. Fla. Feb. 1, 2021) ("[T]he mere existence of a delay of Petitioner's deportation is not enough for Petitioner to meet his burden." (citations omitted)), *recommendation adopted*, 2022 WL 44632 (S.D. Fla. Jan. 5, 2022); *Ming Hui Lu v. Lynch*, No. 1:15-cv-1100, 2016 WL 375053, at *7 (E.D. Va. Jan. 29, 2016) ("[A] mere delay does not trigger the inference that an alien will not be removed in the foreseeable future." (internal quotations and citations omitted)); *Newell v. Holder*, 983 F. Supp. 241, 248 (W.D.N.Y. 2013) ("[T]he habeas petitioner's assertion as to the unforeseeability of removal, supported only by the mere passage of time [is] insufficient to meet the petitioner's initial burden . . . ." (collecting cases)). For these reasons, Petitioner fails to meet his burden to present evidence that there is no significant likelihood of removal in the reasonably foreseeable future, and the Petition should be denied.

Even assuming Petitioner offered evidence sufficient to shift the burden to Respondent to show a likelihood of removal—which he has not—Respondent meets his burden. India is issuing travel documents to ICE/ERO, and ICE/ERO removes non-citizens to India on a weekly basis,

including 1,529 in fiscal year 2024. Hawthorne Decl. ¶¶ 12-13. Thus, ICE/ERO is able to remove Indian non-citizens generally.

As to Petitioner's case specifically, while ICE/ERO's travel document request has been complicated by Petitioner's lack of a valid Indian passport, *id.* ¶ 12, the request remains pending, and the Indian government continues to review it, *id.* ¶ 11. As other courts have held, Petitioner is not entitled to relief under *Zadvydas* based solely upon the Indian consulate's lack of perceived progress in acting on ICE/ERO's travel document request. *See Alhousseini v. Whitaker*, No. 1:18-cv-848, 2019 WL 1439905, at *3 (S.D. Ohio Apr. 1, 2019), *recommendation adopted*, 2020 WL 728273 (S.D. Ohio Feb. 13, 2020) (collecting cases); *Novikov v. Gartland*, No. 5:17-cv-164, 2018 WL 4100694, at *2 (S.D. Ga. Aug. 28, 2018), *recommendation adopted*, 2018 WL 4688733 (S.D. Ga. Sept. 28, 2018) (denying non-citizen's *Zadvydas* claim where the non-citizen did "not explain how the past lack of progress in the issuance of his travel documents means that [his country of nationality] will not produce the documents in the foreseeable future"); *Linton v. Holder*, No. 10-20145-Civ-Lenard, 2010 WL 4810842, at *4 (S.D. Fla. Oct. 4, 2010) ("[A] delay in issuance of travel documents does not, without more, establish that a petitioner's removal will not occur in the reasonably foreseeable future, even where the detention extends beyond the presumptive 180 day (6 month) presumptively reasonable period." (citations omitted)); *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1366 (N.D. Ga. 2002) ("The lack of visible progress since [ICE] requested travel documents from the [foreign] government does not in and of itself meet [the non-citizen's] burden of showing that there is no significant likelihood of removal." (citation omitted)).

Importantly, while the courts in these cases denied relief despite a continued delay in consular action, here, there have been significant developments on ICE/ERO's travel document request in the last month alone. Just two weeks ago, an Indian consular official confirmed that

ICE/ERO's travel document request remains pending and that the Indian government continues to review it. *Id.* ¶ 11. And within the last month, Petitioner has been interviewed by both the Seattle Consulate and the Indian Consulate. Graumenz Decl. ¶¶ 47, 49. The Atlanta Consulate also recently requested additional information from ICE/ERO pursuant to the travel document request. *Id.* ¶ 48. In the event ICE/ERO receives a travel document, ICE/ERO is prepared to remove Petitioner, even manifesting him on an upcoming flight. *Id.* ¶ 51.

These developments indicate that there is a significant likelihood of removal in the reasonably foreseeable future, and Petitioner has not presented evidence disputing them. Instead, he relies solely on the multi-level hearsay statements in the letter discussed above to assert that a travel document request may have been denied at some point before October 30, 2024. Pet. ¶ 20; Pet. Ex. 3. But in evaluating *Zadvydas* claims, this Court has "emphasize[d] that the proper perspective is *today*. Not whether someone may subjectively believe that Petitioner's rights have been violated in the past; and not even whether his *Zadvydas* rights may have been encroached upon at some arbitrary date months ago." *Meskini v. Att'y Gen. of United States*, 4:14-cv-42-CDL, 2018 WL 1321576, at *4 (M.D. Ga. Mar. 14, 2018) (emphasis in original). Even assuming the Court construes the October 30, 2024 level as demonstrating that ICE/ERO's travel document request was previously denied—which it was not—Petitioner still cannot meet his evidentiary burden under *Zadvydas* because "*today*," the evidence demonstrates both that ICE/ERO's travel document request is progressing and that ICE/ERO will be able to remove Petitioner once it receives a travel document. For these reasons, Petitioner has not established that he is entitled to relief under *Zadvydas*, and the Petition should be denied.

CONCLUSION

The record is complete in this matter, and the case is ripe for adjudication on the merits. For the reasons stated herein, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 26th day of March, 2025.

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