

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

ALEM WOLDEGHERGISH,

Petitioner,

v.

ROBERT LYNCH, ICE Field Office  
Director, Enforcement and Removal  
Operations Detroit, *et al.*,

Respondents.

Case No. 1:25-cv-00461

District Judge Susan J. Dlott

Magistrate Judge Karen L. Litkovitz

---

**RESPONDENT'S RESPONSE TO THIS COURT'S  
SEPTEMBER 15, 2025 ORDER**

---

On September 15, 2025, this Court ordered Respondents to respond to the following:

(1) Respond[] to Woldeghergish's assertion that 'the federal government has recently recognized Eritrea's non-compliance in issuing travel documents,' (Doc. 16, at 113), including any effect Pres. Proc. No. 10949, 90 FR 24497. 2025 WL 1626552 (Pres), at 24500, may have on the ability of the United States government to remove Woldeghergish to Eritrea in the reasonably foreseeable future; and

(2) Provid[e] additional details, including available documentation, on the steps and/or progress the government has made to secure travel documents or otherwise facilitate the removal or Woldeghergish from the United States in the reasonably foreseeable future.

(Sept. 15, 2025 Order, ECF 20, PageID 123-24.)

Respondents hereby respond and provide the following information as follows:

On July 15, 2025, ICE confirmed that Eritrea is reviewing travel document requests and will issue “travel documents for individuals confirmed to be citizens of Eritrea.” (Declaration of Luke Affholter, Exhibit A, at 2, ¶4.)

On July 30, 2025, a travel document for Woldeghergish was requested from Eritrea. (*Id.* at ¶5.)

Also on July 30, 2025, ICE requested a travel document for Woldeghergish from the government of Malta, where he was resettled prior to entering the United States. (*Id.*)

On September 10, 2025, ICE issued a Decision to Continue Detention, where ICE indicated that there exists a significant likelihood that Woldeghergish will be removed from the United States in the reasonably foreseeable future “because Eritrea and/or Malta” is expected to issue a travel document for him. (*Id.* at ¶6.)

ICE is unaware of any institutional barriers that will prevent the issuance of a travel document from either Eritrea or Malta, that will prevent Woldeghergish’s removal to either Eritrea or Malta once a travel document is issued, or prevent his removal from the United States in the reasonably foreseeable future. (*Id.* at ¶¶7-8.)

### **Petitioner Remains Lawfully Detained Pending Removal**

In *Zadvydas v. Davis*, the Supreme Court interpreted Section 1231(a)(6), the provision that allows for detention beyond the removal period, to limit post-removal-period detention to a period “reasonably necessary to bring about the alien’s removal

from the United States.” 533 U.S. 678, 689 (2001). The Court held that post-removal-order detention for six months is “presumptively reasonable.” *Id.* at 701. Beyond six months, if removal is no longer reasonably foreseeable, continued detention is not authorized by the statute. *Id.* at 699.

The burden is on the petitioner to show his removal is unlikely, as an alien may be detained beyond six months unless the “alien provides good reason to conclude there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. If an alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future in a habeas corpus petition, the government must respond with evidence sufficient to rebut that showing. *Id.*

In *Zadvydas*, the Court emphasized that the “basic purpose” of immigration detention is “assuring the alien’s presence at removal” and concluded this purpose was not served by the continued detention of aliens whose removal was not “reasonably foreseeable.” *Id.* at 699. Removal was not reasonably foreseeable in *Zadvydas* because no country would accept the deportees or the United States lacked an extradition treaty with their receiving countries. *Id.*

The Supreme Court’s rulings in this area, however, do not require the government to release every alien who has been in detention for more than six months. To the contrary, in *Zadvydas*, the Court held:

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. And for detention to remain reasonable, as the period of prior post-removal confinement grows, what counts as the “reasonably foreseeable

future” conversely would have to shrink. **This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.**

*Id.* at 701 (emphasis added).

Similarly, in *Clark v. Martinez*, an alien’s removal to Cuba was not reasonably foreseeable when the government conceded “that it is no longer even involved in repatriation negotiations with Cuba.” 543 U.S. 371, 386 (2005). In both cases, the Court recognized that the government’s purported interest in detaining an alien was severely diminished when there is no significant likelihood that the alien could be removed. *See Demore v. Kim*, 538 U.S. 510, 527 & n.10 (2003) (observing that detentions at issue in *Zadvydas* did not serve a feasible immigration purpose). The “indefinite and potentially permanent” civil detention of such an alien would clearly pose serious substantive due process concerns. *See Zadvydas*, 533 U.S. at 696. Because Congress did not clearly intend “to authorize long-term detention of unremovable aliens,” however, the Court held that this constitutional threat could be avoided by construing the statute as not authorizing detention once removal is no longer reasonably foreseeable. *Id.* at 697-99.

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. 533 U.S. at 701.

Respondents reiterate that Petitioner's detention is statutorily and constitutionally permissible. Petitioner cannot make a claim under *Zadvydas* because he has yet to be detained beyond six months and Petitioner cannot establish that, "no significant likelihood of removal [exists] in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701.

Woldeghergish has been detained since June 10, 2025, approximately four months, two months shy of the time period necessary under *Zadvydas*. (Petition, ECF 4, PageID 12, ¶1.) Further, there is a significant likelihood that Woldeghergish will be removed from the United States to either Eritrea or Malta, in the reasonably foreseeable future. (Affholter Decl., Ex. A, at 2, ¶6-8.)

Although the Presidential Proclamation recognized Eritrea's "non-compliance in issuing travel documents," ICE has confirmed that Eritrea is reviewing travel document requests and will issue "travel documents for individuals confirmed to be citizens of Eritrea." (*Id.* at ¶4.) Indeed, ICE requested a travel document from both Eritrea and Malta for Petitioner. (*Id.* at ¶5.)

Moreover, even if a travel document cannot be obtained from Eritrea, there is still a significant likelihood that one will be issued for Petitioner from the government of Malta in the reasonably foreseeable future. (*Id.* at ¶6-8.)

As a result, Woldeghergish cannot demonstrate that there is no significant likelihood of his removal in the reasonably foreseeable future.

Based upon the above, Petitioner remains lawfully detained pending removal from the United States. Therefore, his Petition for Habeas Corpus should be denied and dismissed.

Respectfully submitted,

DOMINICK S. GERACE II  
United States Attorney

s/William B. King II  
WILLIAM B. KING II (0094046)  
Assistant United States Attorney  
Attorney for Respondents  
221 East Fourth Street, Suite 400  
Cincinnati, Ohio 45202  
Office: (513) 684-3711  
Fax: (513) 684-6972  
E-mail: Bill.King@usdoj.gov