

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

E.J.Z.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-cv-238-CDL-AGH
	:	28 U.S.C. § 2241
PAM BONDI, <i>et al.</i> ,	:	
	:	
Respondents.	:	

REPORT AND RECOMMENDATION

Respondents filed a motion to dismiss (ECF No. 9) Petitioner’s application for habeas relief (ECF No. 1). Respondents contend Petitioner’s application is premature and should be dismissed. Resp’ts’ Mot. to Dismiss 5-6, ECF No. 9. Petitioner failed to respond to the motion to dismiss. As explained below, the Court agrees that the petition is premature and recommends that Petitioner’s habeas application be dismissed without prejudice.

BACKGROUND

Petitioner, a native and citizen of Honduras, was most recently taken into Immigration and Customs Enforcement (“ICE”) custody on March 20, 2025. Karwowski Decl. ¶¶ 3-4, Ex. F, at 1-2, ECF Nos. 9-1, 9-7; Pet. 1, 3, ECF No. 1. Petitioner was removed from the United States on June 9, 2006, based on an expedited removal order issued on April 22, 2006. *Id.* ¶ 5-6, Exs. B-C, ECF Nos. 9-3, 9-4. He arrived back in the United States on September 1, 2016, without inspection, but was released under an Order of Supervision. *Id.* ¶¶ 7-8, Exs. D-E, ECF Nos. 9-5,

9-6. ICE reinstated Petitioner's prior removal order on September 2, 2016. *Id.* Ex. D, at 1.

On March 20, 2025, ICE arrested Petitioner when he reported as required under his supervision. Karwowski Decl. Ex. A, at 2, ECF No. 9-2. That day, ICE served Petitioner with a Notice of Revocation of Release and a new Notice of Intent/Decision to Reinstate Prior Order, which again reinstated Petitioner's April 22, 2006, removal order. *Id.* Ex. F, at 1-2, 4, ECF No. 9-7.

Petitioner filed an application for habeas relief on July 21, 2025. Respondents moved to dismiss Petitioner's habeas application on August 11, 2025. Petitioner failed to respond to the motion to dismiss. This motion is ripe for review.

DISCUSSION

I. Petitioner's application for habeas relief is premature.

Respondents move to dismiss Petitioner's application, contending that Petitioner is properly detained under 8 U.S.C. § 1231(a) and any claim for relief pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001), is premature. Resp'ts' Mot. to Dismiss 5-7. Under section 241(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1231(a), "when an alien is ordered removed," the Attorney General "shall" remove the alien within ninety days. 8 U.S.C. § 1231(a)(1)(A). Detention during the removal period is mandatory. 8 U.S.C. § 1231(a)(2). The removal period shall be extended "if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien's departure or conspires or acts to prevent the alien's removal subject to an order of removal." 8 U.S.C. § 1231(a)(1)(C).

Finally, inadmissible aliens, criminal aliens, and those who pose a risk to the community or of non-compliance with a removal order “may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in [§ 1231(a)(3)].” 8 U.S.C. § 1231(a)(6).

Section 1231(a)(6) does not limit the length of post-final order detention. In *Zadvydas*, however, the United States Supreme Court applied the doctrine of constitutional avoidance to “read an implicit limitation into the statute.” 533 U.S. at 689. The Supreme Court held that § 1231(a)(6) authorizes post-removal-order detention only for a period “reasonably necessary” to accomplish the alien’s removal from the United States. *Id.* at 699-700. The Court recognized six months as a presumptively reasonable period of time to allow the government to accomplish such removal. *Id.* at 701. The Eleventh Circuit subsequently explained that to be entitled to release under *Zadvydas*, an alien must show: “(1) that the six-month period, which commences at the beginning of the statutory removal period, has expired when the § 2241 petition is filed; 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) (quotation marks omitted); *see also Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (“[I]n order to state a claim under *Zadvydas* the alien . . . must show post-removal order detention in excess of six months [and] also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”).

Respondents are correct that Petitioner is currently detained under 8 U.S.C.

§ 1231(a). Petitioner was served on March 20, 2025, with a notice of intent to reinstate his prior final removal order; he also came into custody that same day. Karwowski Decl. ¶ 9, Ex. F. Thus, Petitioner is subject to post-final order detention under § 1231(a). 8 U.S.C. § 1231(a)(1)(A); 8 C.F.R. § 1241.8(a).

Respondents are also correct that any habeas petition challenging the length of Petitioner's post-final order detention is premature because Petitioner had not been detained for more than six months at the time he filed his application for habeas relief. *See Akinwale*, 287 F.3d at 1052 ("This six-month period thus must have expired at the time Akinwale's § 2241 petition was filed in order to state a claim under *Zadvydas*"). Petitioner came into immigration custody on March 20, 2025. Karwowski Decl. ¶ 4, Ex. A, at 2. But he filed his application for habeas relief on July 21, 2025—only four months later. In fact, the six-month period has not expired as of the filing of this recommendation. Such a claim is premature under *Akinwale* and *Zadvydas*.

Therefore, as Petitioner's due process claim for prolonged detention under *Zadvydas* is premature, the Court recommends that Respondents' motion to dismiss be granted.

II. Petitioner is not otherwise entitled to relief under *Zadvydas*.

Even if Petitioner's application were not premature, he fails to show there is no significant likelihood of removal in the reasonably foreseeable future. As explained above, to be entitled to relief under *Zadvydas* a petitioner must provide "evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Gozo*, 309 F. App'x at 346 (quotation marks

omitted). Petitioner states in his petition that he has “cooperated fully with all efforts of ICE” and that “[a]s of today[,] ICE has been unable to remove the petitioner to Honduras.” Pet. 3. But Petitioner presented no evidence to show that he will not be removed in the reasonably foreseeable future. Further, despite being advised of his right to respond to the motion to dismiss, Petitioner failed to respond or otherwise present evidence in opposition to the motion to dismiss. Thus, on the record before the Court, Petitioner fails to meet his burden of showing there is no significant likelihood of removal in the reasonably foreseeable future.¹

CONCLUSION

For the foregoing reasons, it is recommended that Respondents’ motion to dismiss (ECF No. 9) be granted and Petitioner’s application for habeas relief (ECF No. 1) be dismissed without prejudice. Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to this Recommendation, or seek an extension of time to file objections, within fourteen (14) days after being served with a copy hereof. The district judge shall make a *de novo* determination of those portions of the Recommendation to which objection is made. All other portions of the Recommendation may be reviewed for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1,

¹ The Court notes, however, that while it recommends Respondents’ motion to dismiss be granted, the dismissal should be without prejudice such that Petitioner can re-file his petition in the future. Petitioner’s ability to pursue relief under *Zadvydas* will ripen on or about September 20, 2025. Further, Petitioner is seeking relief from removal and his individual hearing on his request is scheduled for September 18, 2025. Karwowski Decl. Ex. I, ECF No. 9-10. Petitioner’s circumstances will likely change due to these events. As filed, however, the Petition is premature and the record is insufficient to meet Petitioner’s burden under *Zadvydas*.

“[a] party failing to object to a magistrate judge’s findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice.”

SO RECOMMENDED, this 16th day of September, 2025.

s/ Amelia G. Helmick
UNITED STATES MAGISTRATE JUDGE