

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

REZA YAGHOUBI YEGANEH,

Petitioner,

v.

WARDEN, BLUEBONNET DETENTION
FACILITY, et al,

Respondent.

Civil Action No. 1:25-CV-00121-H

RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner seeks his immediate release from immigration detention and an order of supervision. *See* ECF No. 1. As explained herein, Petitioner shows no entitlement to habeas relief, and he is not entitled to immediate release. The Court should deny the relief requested in the habeas petition.

I. Background

Petitioner is a native and citizen of Iran. App. p. 10. Petitioner entered the United States on August 1, 1994, without inspection. *Id.* On September 17, 2009, Petitioner's status was adjusted to that of a lawful permanent resident. *Id.*

On September 5, 2008, Petitioner was convicted of embezzlement and obtaining property under false pretenses in Oklahoma. App. p. 6. Five and half years later, on April 2, 2014, Petitioner was convicted of the offenses of robbery in the second degree and false personation of law enforcement officer. App. pp. 13-21.

Immigration and Customs Enforcement (“ICE”) served Petitioner with a Notice to Appear on October 9, 2013, charging him as removable from the United States under section 237(a)(1)(A) as an alien who was inadmissible at the time he adjusted status. Petitioner was inadmissible because he had committed a crime involving moral turpitude under section 212(a)(2)(A)(i)(I) of the Act. App. pp. 10-12.

A year later, on December 8, 2014, ICE served Petitioner with additional charges of removability: (1) section 237(a)(2)(A)(iii) – conviction of a theft aggravated felony under section 101(a)(43)(G); and (2) section 237(a)(2)(A)(i) – conviction of a crime involving moral turpitude within five years of. App. pp. 23-35. On December 9, 2014, an Immigration Judge found Petitioner removable pursuant to all three charges. On that same date, the Immigration Judge ordered Petitioner removed to Iran, and Petitioner waived his right to appeal. App. pp. 37-38. On March 10, 2015, Petitioner was released from detention on an Order of Supervision. App. p. 3, ¶ 5.

On March 18, 2025, ICE took Petitioner into custody pending removal to Iran. App. p. 3, ¶ 6. In response, Petitioner filed a motion to reopen and a stay of removal. On March 21, 2025, an Immigration Judge granted the stay of removal pending the outcome of the motion to reopen. App. pp. 41-44. On April 24, 2025, the motion to reopen was denied. App. p. 46-48.

On July 21, 2025, Petitioner filed a petition for a habeas corpus. ECF No. 1. Petitioner alleges that his detention is unlawful and violates 8 U.S.C. § 1231(a)(6) and Supreme Court precedence and that there is no significant likelihood of his removal. ECF No. 1, ¶¶ 41-44. He additionally asserts that ICE did not follow its own regulations when

re-detaining him and that he is therefore entitled to immediate release from custody. ECF No. 1, ¶ 49.

II. Argument and Authorities

A. ICE lawfully detained Petitioner pursuant to 8 U.S.C. § 1231(A).

The authority of ICE to detain noncitizens under federal law derives from 8 U.S.C. § 1231, which directs the Attorney General of the United States to affect the removal of any noncitizen from this country within 90 days of any order of removal. 8 U.S.C. § 1231(a)(1). However, once that time passes and after “removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute” and the noncitizen must be released. *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001).

After the removal period under § 1231(a)(2), following § 1231(a)(6), Petitioner may be returned to detention pending removal. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001). Specifically, § 1231 (a)(6) broadly authorizes the executive branch of government, through its Attorney General and agencies, including DHS ICE, the discretion to detain and re-detain certain categories of aliens. As the *Zadvydas* Court explained:

An alien ordered removed [1] who is inadmissible ... [2] [or] removable [as a result of violations of status requirements or entry conditions, violations of criminal law, or reasons of security or foreign policy] or [3] who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period and, if released, shall be subject to [certain] terms of supervision

Zadvydas, 533 U.S. at 682 (quoting 8 U.S.C. § 1231(a)(6)). By its plain language, the statute does not impose any limitation on the length of an alien’s detention. *See id.* Significantly, the Supreme Court in *Zadvydas* addressed § 1231(a)(6) constitutional concern with indefinite detention by clearly holding an alien could be detained “until it has

been determined that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701. This limitation is linked to the statute’s “basic purpose,” which is to “assur[e] the alien’s presence at the moment of removal.” *Id.* at 699.

Petitioner was lawfully re-detained under the relevant statute and Supreme Court authority.

B. Petitioner’s continued detention is lawful.

Petitioner claims that his continued detention is unreasonable and not authorized. ECF No. 1, p. 2. Following *Zadvydas*, however, Petitioner is plainly wrong.

The Supreme Court in *Zadvydas* found 6-months detention to be presumptively reasonable period when, as here, removal is reasonably foreseeable due to the updated request for travel documents. *See Atkinson v. DHS*, Slip Op, 2025 WL 1737017 (June 6, 2025, W.D. Wash.), adopted 2025 WL 1736596 (June 23, 2025, W.D. Wash.) (stating that, though § 2241 petitioner’s detention has extended past the removal period, his continued detention remains presumptively reasonable unless and until more than 6-months have passed (citing *Zadvydas*, 533 U.S. at 701)). That said, while the Court designated six months as a presumptively reasonable period of post-order detention, it made clear that the presumption “does not mean that every alien not removed must be released after six months.” *Id.* at 701; *Agyei-Kodie v. Holder*, 418 F. App’x 317, 318 (5th Cir. 2011) (a habeas challenge brought before the expiration of the six-month period should be dismissed as premature).

To establish a *prima facie* claim for habeas relief under *Zadvydas*, the alien must provide a good reason to believe that there is no significant likelihood of removal in the

reasonably foreseeable future. *Andrade v. Gonzales*, 459 F.3d 538, 543 (5th Cir. 2006); *Saeku v. Johnson*, No. 1:16-CV-155-O, 2017 WL 4075058, at *3 (N.D. Tex. Sept. 14, 2017). The “reasonably foreseeable future” is not a static concept. Rather, it is fluid and country-specific, depending in large part on the diplomatic relations between the United States and the subject country that will receive the removed alien. The mechanisms for obtaining a temporary travel document from another country are manifold and include functional considerations of rapport and diplomacy, which are beyond the control of ICE. One court has aptly observed:

Clearly, it is no secret that the bureaucracies of second and third world countries, and not a few first world countries, can be inexplicably slow and counter-intuitive in the methods they employ as they lumber along in their decision-making. To conclude that a deportable alien who hails from such a country must be released from detention, with the likely consequence of flight from American authorities back into the hinterlands, simply because his native country is moving slow, would mean that the United States would have effectively ceded its immigration policy to those other countries. The Court does not read the holding in *Zadvydas* as requiring such an extreme result.

Fahim v. Ashcroft, 227 F. Supp. 2d 1359, 1367 (N.D. Ga. 2002).

Additionally, a “lack of visible progress” in the removal process “does not in and of itself meet [the petitioner’s] burden of showing that there is no significant likelihood of removal.” *Id.* at 1366; *Nagib v. Gonzales*, No. 3:06-CV-0294-G, 2006 WL 1499682, at *3 (N.D. Tex. May 31, 2006). “[I]t simply shows that the bureaucratic gears of the [federal immigration agency] are slowly grinding away.” *Khan v. Fasano*, 194 F. Supp. 2d 1134, 1137 (S.D. Cal. 2001); *Idowu v. Ridge*, No. 3:03-CV-1293-R, 2003 WL 21805198, at *4 (N.D. Tex. Aug. 4, 2003).

Courts should grant the government appropriate leeway where the process of

removal to a particular country is closely related to foreign policy judgments and expertise. *See Darwishahmed v. Warden Fed. Detention Ctr. Oakdale*, No. 07-1658, 2008 WL 4450276, at *6 (W.D. La. July 30, 2008) (citing *Zadvydas*, 533 at 700). Relevant to the underlying petition, the removal of an individual to Iran is complicated due to ever-changing diplomatic policy and foreign relations with and the United States and Iran. This process is cumbersome and involves significant coordination with multiple agencies, based on the current state of affairs and diplomatic relations.

“The burden is on the alien to show that there is no reasonable likelihood of repatriation.” Khan, 194 F. Supp. 2d at 1136 (emphasis in original). Conclusory allegations are insufficient to meet the alien’s burden of proof. *Nagib*, 2006 WL 1499682, at *3 (citing *Gonzalez v. Bureau of Immigration and Customs Enforcement*, No. 1:03-CV-178-C, 2004 WL 839654 (N.D. Tex. Apr. 20, 2004)). One court has explained:

To carry his burden, [the] petitioner must present something beyond speculation and conjecture. To shift the burden to the government, [the] petitioner must demonstrate that “the circumstances of his status” or the existence of “particular individual barriers to his repatriation” to his country of origin are such that there is no significant likelihood of removal in the reasonably foreseeable future.

Idowu, 2003 WL 21805198, at *4 (citation omitted).

If 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.” *Zadvydas*, 533 U.S. at 701. However, if the alien fails to produce facts indicating that ICE is incapable of executing his removal soon and that his detention will be of indefinite duration, the petition should be dismissed. *Apau v. Ashcroft*, No. 3:02-CV-2652-D, 2003 WL 21801154, at *3 (N.D. Tex. June 17, 2003).

First, Petitioner has not been detained beyond the six-month post-order period. Petitioner has only been in custody since March. App. p. 3, ¶ 6. Second, travel documents have been requested by ICE. App. p. 4, ¶ 12. While Petitioner claims that he cannot be removed because ICE was unable to execute his removal in the past, the passage of time alone does not meet Petitioner's burden to prove that his removal is not foreseeable. *See Fahim*, 227 F. Supp. 2d at 1366.

Petitioner fails to show that Iran has indicated it would not issue a travel document. Because real progress is being made on Petitioner's removal, he cannot meet his burden to show that there is no significant likelihood of removal in the reasonably foreseeable future.

C. ICE followed all applicable regulations when revoking release.

Petitioner argues that ICE failed to comply with the regulations in revoking his Order of Supervision, specifically violating §§ 241.4 and 241.13. Petitioner is wrong.

The Code of Federal Regulations sets forth specific provisions regarding the release and revocation of release of a noncitizen with a final order of removal. 8 C.F.R. § 241.4 is entitled "Continued detention of inadmissible, criminal, and other aliens [noncitizens] beyond the removal period" and relates to the release (and the revocation of release) of such noncitizens. Generally, regulations grant authority to designated officials with ICE (formerly the Immigration and Naturalization Service) to grant release or parole to a noncitizen, and the agency may continue a noncitizen's custody under the provisions of the C.F.R. 8 C.F.R. § 241.4(a).

Revocation of release is governed by 8 C.F.R. § 241.4(l). This can occur for two reasons: the noncitizen violates the conditions of release, § 241.4(l)(1), or ICE determines

in its discretion to revoke release, § 241.4(l)(2). If release is revoked due to a violation of conditions under § 241.4(l)(1), the noncitizen must be notified of the reasons for revocation and afforded an initial informal interview promptly after his return to custody, to afford the noncitizen an opportunity to respond to the reasons for revocation stated in the revocation of release notification. 8 C.F.R. § 241.4(l)(1).

The regulation providing for revocation of release in the discretion of ICE has no such language requiring notice of the reason for revocation or for an informal interview upon being taken into custody. 8 C.F.R. § 241.4(l)(2). Factors allowing for the revocation of release in the discretion of ICE include: (1) the purpose of the release has been served; (2) the noncitizen violated a condition of release; (3) revocation is appropriate to enforce a removal order or to commence removal proceedings; and (4) the conduct of the noncitizen, or any other circumstance, indicates release would no longer be appropriate. 8 C.F.R. §§ 241.4(l)(2) (i–iv).

DHS has also enacted special regulations for noncitizens who have “provided good reason to believe there is no significant likelihood of removal to the country to which he or she was ordered removed . . . in the reasonably foreseeable future.” 8 C.F.R. § 241.13(a). Pursuant to that regulation, DHS will release a noncitizen who has made such a showing, subject to appropriate conditions of release. 8 C.F.R. § 241.13(g)(1). Similar to the regulations described above, § 241.13 provides for the revocation of release if ICE determines that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future.” 8 C.F.R. § 241.13(i)(2).

Petitioner's release and therefore his revocation was under 8 C.F.R. § 241.4, not 8 C.F.R. § 241.13. App. p. 46. Thus, the regulatory provision applicable to revocation of his release is 8 C.F.R. § 241.4. This regulation sets forth two provisions for the revocation of release: § 241.4(l)(1), where revocation is a result of a violation of some condition of the release, and § 241.4(l)(2), where revocation is at the discretion of ICE, including when appropriate to enforce a removal order against an alien.

While § 241.4(l)(1) states that "[t]he alien will be afforded an initial informal interview promptly after his or her return to Service custody to afford the alien an opportunity to respond to the reasons for revocation stated in the notification," § 241.4(l)(2) contains no such language. Nonetheless, ICE has provided Petitioner notice. Petitioner was informed that he would be detained because he is the subject of a final order of removal and there is now a likelihood of removal to Iran. App. p. 3, ¶ 7. Petitioner was also afforded an informal interview to respond to the reasons for revocation. *Id.* To the extent Petitioner contends that he should have received prior notice of the revocation of his release, no regulation or statute requires such prior notice. Thus, ICE has complied with the relevant regulations governing the revocation of release. Petitioner's claims that ICE's revocation of his release violated regulations fails as ICE properly exercised its ample discretion in revoking Petitioner's release.

III. Conclusion

Petitioner's petition for habeas should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

On August 12, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

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