IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

SALIM OMAR BALOUCH, Petitioner, v. PAMELA BONDI, KRISTI NOEM, TODD LYONS, BRET BRADFORD, ALEXANDER SANCHEZ, Respondents.	§ § § § § § § § § § §	CIVIL ACTION NO. 9:25-CV-00216-MJT

REPORT AND RECOMMENDATION

Petitioner, Salim Omar Balouch ("Balouch'), is currently detained by Immigration and Customs Enforcement (ICE) at IAH, an ICE adult detention holding facility located in Livingston, Texas. A petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 is currently on file in this district challenging this detention. The above-styled action was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636 and the Local Rules for the Assignment of Duties to the United States Magistrate Judge for findings of fact, conclusions of law, and recommendations for the disposition of the case.

BACKGROUND FACTS AND EVIDENCE PRESENTED

Balouch is a citizen of Iran and was brought to the United States for prosecution of a drug trafficking crime. After being convicted and serving his time for this crime, Balouch was released into ICE custody on April 18, 2023, to remove him to his home country of Iran. He requested relief of removal but was denied, and an order of removal was entered and finalized on April 27, 2023. Travel documents were requested from Iran but were denied.

Balouch filed a petition for a writ of habeas corpus seeking his release on May 1, 2024, in the Southern District of Texas. *Balouch v. Garland, et. al.*, No. 4:24-CV-1637, ECF 1 (S.D. Tex. Oct. 18, 2024). Balouch was eventually released on an Order of Supervision on October 8, 2024, after having been detained by ICE for a total of nineteen months. (Ex. P-3.) On October 18, 2024, the court dismissed the petition upon agreement by the parties and after the release of Balouch from custody. *Balouch*, No. 4:24-CV-1637, at ECF 13. While on release, Balouch complied with the terms of his supervision reporting as required.

On June 23, 2025, Balouch was arrested at his home and re-detained. There is a dispute as to what notices have been given to Balouch since his arrest and detainment. However, both parties agree that he was given a Notice of Revocation of Release on August 20, 2025.[1] While the Respondents mention other notices given to Balouch, none of them have been produced as evidence to the court. The Notice of Revocation states that Balouch's supervision is being revoked due to changed circumstances and that he is in ICE custody pursuant to 8 C.F.R. 241.4/241.13. (Ex. P-5.) It also states that he will be afforded an informal interview[2] to respond and submit evidence. (*Id.*) Further, the notice indicates that his case is under review by Iran for the issuance of a travel document. (*Id.*)

On July 24, 2025, Balouch filed his Petition for Habeas Corpus now before this court in the Eastern District of Texas. (Doc. #1.) On August 21, 2025, Respondents filed their Response in Opposition. (Doc. #5.) Attached to their Response is a Sworn Declaration by Deportation

---

[1] Petitioner produced this document as Exhibit P5 at the evidentiary hearing in this case, but it was not signed or dated. Respondent produced the same document with a block printed handwritten name in the signature block and handwritten date as Respondent's Exhibit 1. Petitioner contests the authority of the person named on the notice, Amy Lebo, Deportation Officer, and argues that this notice should have been signed by Bret Bradford, District Director.

[2] The parties dispute whether Balouch was given an informal interview. Respondents claim that he met with officials at the Montgomery Immigration facility after his arrest wherein he was asked his name, medical history, and whether he wanted to notify the consulate. Petitioner claims this was merely an intake session.

Officer Amy L. Lebo. (Doc. #5-1.) Lebo lists a recitation of events, dates, and documents, but does not provide the documents mentioned. (*Id.*) She states that her office, ERO Houston, submitted a I-269 Certificate of Identity to headquarters on August 18, 2025, for placement of Balouch onto an Iran removal charter flight, which would not require the issuance of a travel document by Iran. (*Id.* at ¶21.) She also stated that her office learned on August 20, 2025, that Balouch was added to a flight manifest for an ICE Iran removal charter flight departing the United States within the next nine (9) days, and that he can be removed without an issued travel document. (*Id.* at ¶23.) No documents regarding this flight manifest are attached. This removal did not occur within the nine days as shown by Balouch's continued detention and his testimony at the evidentiary hearing.

On September 17, 2025, the court held a hearing on this matter. Balouch testified and offered five documents that were admitted into the record as evidence. Respondents offered one document into evidence, the Notice of Revocation, and brought no witnesses. On the day of the hearing, Respondents filed a Supplement to their Response with an Amended Sworn Declaration of Amy L. Lebo. (Doc. #8-1.)

At the hearing, Balouch testified that he complied with all of his conditions of supervised release. He stated that the only document he has received since being in custody is the unsigned Notice of Revocation of Release on August 20, 2025. (Ex. P-5.) He claims that the government took his Iranian passport in 2015 upon his arrival to the United States. He testified that, while in custody, on August 25, 2025, he was transported by bus to an airport in Alexandria, Louisiana. There were several buses with detainees and a couple of Omni International airplanes. The detainees lined up to board the planes and were asked of their destination country. Balouch stated that once he said Iran, he was taken back inside and told they were not taking Iranians for the

scheduled flights. While approximately 100 detainees boarded the planes, five Iranians were not boarded. He was returned to the ICE holding facility. He stated that he was told yesterday that he would be removed in two weeks on October 1, 2025.

At the hearing, the Respondents did not offer any testimony or evidence other than the Notice of Revocation. Respondents merely rely upon the amended declaration of Lebo regarding their efforts to remove Balouch. While the declaration states that Balouch is on a new flight manifest and will now be removed on October 1, 2025, no manifest was produced as evidence and Lebo was not present for cross-examination by Petitioner. Counsel for Respondents could not answer the court's questions regarding the manifest, any history of Iran citizens being removed with or without travel documents, or whether Iran is actually accepting deportees.

ANALYSIS

Respondents state in their response that Petitioner is being lawfully detained and his removal is reasonably foreseeable. The United States Supreme Court opinion in *Zadvydas* v. *Davis*, 533 U.S. 678 (2001) holds that a post-removal-period detention of six months is presumptively reasonable to allow the United States to effectuate removal. Petitioner argues that the presumptive six-month period in *Zadvydas* has expired given his previous nineteen months of post-removal detention and current eighty-six days of re-detainment. Therefore, the burden shifts to the Respondents to establish a "significant likelihood that the petitioner will be removed within the reasonably foreseeable future."

In *Zadvydas*, the Court held that section 1231(a)(6)[3] authorizes detention only for a period reasonably necessary to bring about the noncitizen's removal from the US, and six months of post-removal detention is considered "presumptively reasonable." 533 U.S. at 701. The Court outlined a process whereby the noncitizen bears the burden of proving unreasonableness of detention during the six-month window. *Id.* Thereafter, if there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the burden shifts to the Government to justify continued detention. *Id.* The Supreme Court remanded the case back to Fifth Circuit to apply this new standard. *Id.*

On remand, the Fifth Circuit found that Zadvydas provided good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future and that INS had not rebutted that showing, so the district court's judgment ordering that Zadvydas be released was affirmed. *Zadvydas v. Davis*, 285 F.3d 398, 404 (5th Cir. 2002). The court noted that the order of release "shall not of itself preclude the ***INS from seeking to return Zadvydas to INS custody*** (if that be otherwise shown to be appropriate) ***upon a showing that, on the basis of matters transpiring after the decision of the court, there has then become a substantial likelihood of removal in the reasonably foreseeable future"*** or INS seeks a modification of the conditions of his release based upon some material change. *Id.* (emphasis added).

In our present case, Balouch already served over six months of post-removal detention while awaiting removal in 2023-2024. In fact, he was detained for nineteen months before he was released in October 2024, by ICE on an order of supervised release pursuant to 8 C.F.R. § 241.13

---

[3] Zadvydas was subject to removal due to aggravated felony convictions and a controlled substance conviction. He was born in Germany at a displaced person camp. After ordering his removal to Germany, Germany informed INS that he was not a German citizen and it would not accept him, and Lithuania likewise refused to accept him because he was neither a citizen nor a permanent resident of Lithuania. *Zadvydas v. Davis*, 285 F.3d 398, 400 (5th Cir. 2002).

because there was good reason to believe there was no significant likelihood of removal to another country in the reasonably foreseeable future. Now, almost a year later, he has been "re-detained" due to "changed circumstances." (Ex. P-5.) The only alleged circumstance in his notice is that "his case is under current review by Iran for the issuance of a travel document" (*Id.*) As indicated by the Fifth Circuit on remand, upon return to custody, it is now Respondents' burden to show that there is a substantial likelihood of removal to Iran in the reasonably foreseeable future. *See also Nguyen v. Hyde*, No. 25-cv-11470, 2025 WL 1725791 (D. Mass. June 20, 2025) (finding *Zadvydas* 6-month presumption not applicable where alien is "re-detained" after having been on supervised release and that respondents failed to meet their burden to show a substantial likelihood of removal is now reasonably forseeable); *Tadros v. Noem*, No. 25-cv-4108, 2025 WL 1678501 (D. N.J. June 13, 2025) (finding 6-month presumption had long lapsed while petitioner was on supervised release and it is respondent's burden to show removal is now likely in the reasonably foreseeable future). Moreover, 8 C.F.R. § 241.4(b)(4) states that after release under section 241.13, "***if the Service subsequently determines,*** because of a *change of circumstances*, that there is a significant likelihood that the alien may be removed in the reasonably foreseeable future to the country to which the alien was ordered removed or to a third county, the alien shall again be subject to the custody review procedures under this section." Therefore, the question is whether the Respondents have shown that that there is a significant likelihood of removal to Iran in the reasonably foreseeable future.

In *Nguyen v. Hyde*, the court considered a Petitioner's section 2241 request for release under similar circumstances. 2025 WL 1725791 (D. Mass. June 20, 2025). Nguyen was ordered removed to Vietnam in 1992 but was placed on supervision due to the lack of a repatriation agreement at the time between the United States and Vietnam. *Id. at *1.* In 2020, the U.S. and

Vietnam signed a Memorandum of Understanding to facilitate the return of Vietnam citizens. *Id.* at *2. Five years later, in March 2025, Nguyen was detained by ICE, and the Respondents asserted a change in circumstances per the regulation and argued for his removal to Vietnam. *Id.*at *3. The court held that respondents failed to meet their burden of showing a significant likelihood of removal because of the five-year gap between the repatriation agreement and his detention; the lack of information presented that Nguyen is eligible under that memorandum; and the lack of concrete steps taken by ICE to process his travel documents. *Id.* at *3-4. Thus, the court found petitioner's detention was unlawful, and release was appropriate. *Id.* at *5.

In this case, no documents have been provided to the court regarding any communications with Iran regarding the Petitioner's removal or any flight manifests of his impending removal. There was evidence presented of two failed attempts to remove Balouch and a prior denial of travel documents from Iran almost exactly a year ago. All the court has to consider is a conclusory statement in a declaration with no supporting evidence that Balouch is on a flight manifest to leave in two weeks. These conclusory statements (both in the Response and at the hearing by counsel) without evidence do not pass muster. "A remote possibility of an eventual removal is not analogous to a significant likelihood that removal will occur in the reasonably foreseeable future." *Kane v. Mukasey*, No. CV B-08-037, 2008 WL 11393137, at *5 (S.D. Tex. Aug. 21, 2008), *superseded by*, 2008 WL 11393094 (S.D. Tex. Sept. 12, 2008) (a new report and recommendation was entered denying the petition as moot because petitioner was deported prior to the order adopting), *R & R adopted*, 2008 WL 11393148 (S.D. Tex. Oct. 7, 2008). In *Kane*, the court noted that "no clear guidance exists to aid courts in making the determination as to whether significant likelihood of removal in the reasonably foreseeable future exists. Ultimately, determining what the

'reasonably foreseeable future' really is, is a factual determination to be undertaken by the habeas court looking into the circumstance and detention length of each individual petitioner." *Id.*

Consequently, the undersigned finds that the Respondents have not met their burden. There is no information, much less evidence, indicating ICE's efforts to remove detainees to Iran or any concrete information regarding its efforts to remove the Petitioner to Iran other than failed attempts. There is no indication that Iran is willing to accept Petitioner after having previously denied his travel document. There is no evidence that Iran has accepted any detainees without a travel document. As a result, the court finds there is not a significant likelihood of removal to Iran in the reasonably foreseeable future.

RECOMMENDATION

For the reasons discussed herein, this court recommends that the Petition for a writ of habeas corpus be GRANTED and Respondents be ORDERED to release Petitioner should the district court adopt this report and recommendation (on October 2, 2025, if no objections are filed), subject to Balouch's prior order of supervision in accordance with 8 C.F.R. § 241.5.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1)(c), each party to this action has the right to file objections to this report and recommendation. Objections to this report must: (1) be in writing, (2) specifically identify those findings or recommendations to which the party objects, and (3) be served and filed within fourteen (14) days after being served with a copy of this report. *See* 28 U.S.C. § 636(b)(1)(c) (2009); FED. R. CIV. P. 72(b)(2). A party who objects to this report is entitled to a *de novo* determination by the United States district judge of those proposed findings and recommendations to which a specific objection is timely made. *See* 28 U.S.C. § 636(b)(1) (2009); FED R. CIV. P. 72(b)(3). Objections may not exceed eight (8) pages.

A party's failure to file specific, written objections to the proposed findings of fact and conclusions of law contained in this report, within fourteen (14) days of being served with a copy of this report, bars that party from: (1) entitlement to de novo review by the United States district judge of the findings of fact and conclusions of law, *see Rodriguez v. Bowen*, 857 F.2d 275, 276–77 (5th Cir. 1988), and (2) appellate review, except on grounds of plain error, of any such findings of fact and conclusions of law accepted by the United States district judge, *see Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, at 1428–29 (5th Cir. 1996) (en banc).

SIGNED this the 17th day of September, 2025.

Christine L Stetson
UNITED STATES MAGISTRATE JUDGE