UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 25-23463-CIV-DIMITROULEAS

ATAWAKUMA TERRELONGE,

Petitioner,

v.

KRISTI NOEM, SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY., *et al.*

Respondents.

_____/

RESPONDENTS' RETURN TO WRIT OF HABEAS CORPUS

Kristi Noem, Secretary, U.S. Department of Homeland Security, *et al.* ("Respondents"), through the undersigned counsel, maintains that Atawakuma Terrelonge's ("Petitioner") Petition for Writ of Habeas Corpus ("Petition") should be dismissed under *Zadvydas v. Davis,* 533 U.S. 678, 701(2001) as premature because he is neither subject to an administrative final order of removal nor has he accrued post-removal order detention in excess of six months.

I. BACKGROUND

Petitioner is a native and citizen of Jamaica. (ECF No. 1 at ¶ 6).

On August 8, 1995, Petitioner was convicted in the Circuit Court for Baltimore County, Maryland for the offenses of: Robbery with a Dangerous and Deadly Weapon, in violation of Article 27, §§ 288 and 489 of the Annotated Code of Maryland and Handgun in the Commission of a Felony in violation of Article 27, § 36B of the Annotated Code of Maryland. *See* (Exhibit A, 1995 Maryland Conviction Records, at 9-10). He was sentenced to five years imprisonment. (*Id.* at 5).

On March 7, 2003, Petitioner, who subject to a removal order from 1998, was deported to Jamaica. *See* (Exhibit B, Notice of Decision to Reinstate Prior Order).

On or about June 10, 2004, Respondents encountered Petitioner at the Baltimore City Central Jail after he was arrested for assault and possession of a controlled and dangerous substance. *See* (Exhibit C, July 2024 Form I-213, at 1).

On June 29, 2005, the U.S. District Court for the District of Maryland convicted Petitioner for the offense of Illegal Re-Entry, in violation of 8 U.S.C. § 1326 in *United States v. Atawakuma Terrelonge*, Case No. 04-cr-00525-AMD (D. Md. 2005). *See* (Exhibit D, 2005 Illegal Reentry Conviction Records). Petitioner pled guilty and was sentenced to 36 months of incarceration. (*Id.*).

On September 14, 2007, Petitioner was deported from the United States for a second time. *See* (Exhibit E, 2007 Warrant of Removal).

On December 18, 2023, the U.S. District Court for the Southern District of Florida convicted Petitioner for the offense of Illegal Re-Entry in violation of 8 U.S.C. § 1326 and sentenced him to four (4) months imprisonment, with credit for time served in *United States v. Atawakuma Terrelonge*, Case No. 23-cr-20341-RNS (S.D. Fla. Dec. 18, 2023). *See* (Exhibit F, 2023 Illegal Reentry Conviction).

On the same date, U.S. Bureau of Prisons transferred Petitioner Krome Service Processing Center pending his removal, pursuant to an immigration detainer. *See* (Exhibit G, Declaration of Deportation Officer Martinez, at ¶ 22).

On December 20, 2023, Petitioner claimed fear of returning to Jamaica. Respondents referred Petitioner's case to the Asylum Pre-screening Officer (APSO) for the Reasonable Fear (RF) process. (*Id.* at ¶ 23).

On December 29, 2023, APSO determined a positive RF determination. (*Id.* at ¶ 25). APSO referred Petitioner's case to the immigration judge for withholding only proceedings. (*Id.*).

On May 23, 2025, Respondents reviewing panel attempted to interview Petitioner for his 180 days post order custody review (POCR), but he refused to answer any questions. *See* (Exhibit H, 2025 POCR, at 1).

On July 22, 2025, Respondents served Petitioner with the 180 days POCR Decision to Continue Detention, which stated "[t]he reviewing panel believes that the criteria for release set forth at 8 C.F.R. § 241.4(e) has not been met due to Mr. TERRELONGE's behavior, disciplinary incidents while in ERO custody, his criminal history, and aggravated felony conviction. Mr. TERRELONGE may be a threat to public safety and the community." (*Id.* at 2).

On August 5, 2025, the immigration judge issued a decision denying relief and ordering Petitioner removed to Jamaica. *See* (Exhibit I, 2025 IJ Decision).[1] Petitioner has until September 5, 2025, to file an appeal with the Board of Immigration Appeals. (*Id.* at 7). As of August 27, 2025, he had not done so. *See* (Exhibit G at ¶ 41).

II. ARGUMENT

Petitioner claims that his seven (7) month detention violates *Zadvydas*, which allegedly "read § 1231 to authorize detention of an alien for only six months." (ECF No. 1 at ¶ 29). This claim fails because *Zadvydas v. Davis* only applies to individuals subject to an administrative final

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[1] On March 28, 2024, Respondents improperly removed Petitioner to Jamica while his order of removal had not become administratively final. *See* (Exhibit G, Declaration of Deportation Officer Martinez, at ¶ 30).

removal order, which Petitioner does not have.[2] Further, the Petition is premature because Petitioner has not accrued post-removal order detention in excess of six months.

§ 1231(a)(1)(A) directs Immigration and Customs Enforcement to remove an alien subject to a final order of removal within the 90-day removal period. § 1231(a)(1)(A) ("Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the "removal period").

> The removal period beings on the latest of the following:
>
> (i) The date the order of removal becomes administratively final.
> (ii) If the removal order is judicially reviewed and if a court orders a stay of removal of the alien, the date of the court's final order.
> (iii) If the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.
>
> § 1231(a)(1)(B).

Nonethless, "federal law authorizes aliens…to be detained beyond the ordinary 90-day removal period" in § 1231(a)(1)(B). *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051 (11th Cir. 2002) (citing 8 U.S.C. § 1231(a)(6)). Such extended detention period is found in § 1231(a)(6), which states:

> An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or 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 the terms of supervision in paragraph (3).
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> § 1231(a)(6) (emphasis added).

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[2] Petitioner has until September 5, 2025, to appeal the Immigration Judge's denial. *See* (Exhibit I at 7).

In *Zadvydas*, the Supreme concluded that six months is a presumptively reasonable period to detain a removable alien awaiting deportation. *Id.* (stating "for the sake of uniform administration in the federal courts, we recognize that [six-month] period."). *Zadvydas v. Davis,* 533 U.S. 678, 701(2001).

Additionally, in *Akinwale*, the Eleventh Circuit clarified that 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. *Akinwale*, 287 F.3d at 1052.

If a petitioner has been detained fewer than six months, then the § 2241 habeas petition should be dismissed as premature. *See Phadael v. Ripa*, No. 24-CV-22227-RKA, 2024 U.S. Dist. LEXIS 109481, 2024 WL 3088350, at *3 (S.D. Fla. June 21, 2024) (Because the petitioner "filed his Petition . . . comfortably within *both* the six-month period of presumptive reasonableness under *Zadvydas and* the ninety-day mandatory detention period set by § 1231(a)(1), . . . his § 2241 petition must be dismissed as premature." (emphasis in original); *Allotey v. Mia. Field Off. Dir., Immigr*, 24-cv-24765-DPG, 2024 WL 5375519, 2024 LEXIS 239135, at *5 (Dec. 10, 2014) (denying habeas petition has premature under *Zadvydas* when petitioner had only been detained for eighteen days prior to filing the habeas petition).

Here, the Petition should be dismissed as premature because Petitioner is neither subject to an administrative final order of removal in his withholding-only proceeding nor has he shown post-order detention in excess of six months under *Zadvydas.*[3]

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[3] Petitioner claimed a decision in his immigration proceeding has not been issued, but after the filing of the Petition, the immigration judge denied his immigration application on August 5, 2025. (ECF No. 1 at ¶ 25). The immigration judge's decision becomes administratively final on September 5, 2025. *See* (Exhibit I at 7). Petitioner also claimed that Respondents cannot "lawfully remove…him." (*Id.* at ¶ 26). Respondents disagree as Jamaica has accepted his repatriation several

Accordingly, the Petition should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the Respondents' Return to Habeas Corpus was mailed to Petitioner at the address listed below on September 2, 2025. Respondents' Return to Habeas Corpus could not be mailed on September 1, 2025, because it is a federal holiday.

Atawakuma Terrelonge
A-[redacted]
Krome Service Processing Center
Inmate Mail/Parcels
18201 SW 12th Street
Miami, FL 33194

Natalie Diaz
NATALIE DIAZ
Assistant U.S. Attorney

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times and believe there will not be barriers to repatriation once the immigration judge's decision becomes administratively final. *See* (Exhibit B and Exhibit E).