

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

YURIEN ALMEIDA ARENCIBIA,	:	
Petitioner,	:	
	:	Case No. 4:25-CV-252-CDL-CHW
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER,¹	:	
	:	
Respondent.	:	

RESPONDENT'S RESPONSE

On August 4, 2025, the Court received Petitioner's petition for a writ of habeas corpus ("Petition"). ECF No. 1. Petitioner primarily asserts that his detention violates his Fifth Amendment due process rights pursuant to *Zadvydas v. Davis*, 533 U.S. 678 (2001), and seeks release from custody. Pet. 6-8, ECF No. 1. As explained below, the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of Cuba who is detained post-final order of removal pursuant to 8 U.S.C. § 1231(a). Declaration of Deportation Officer Lia Chambliss ("Chambliss Decl.") ¶¶ 3, 6, 7. Petitioner was paroled into the United States on January 8, 2016, after entering at or near Hidalgo, Texas. *Id.* ¶ 3 & Ex. A. Petitioner's status was adjusted to that of a Cuban Refugee ("CU6") on June 16, 2016. *Id.* ¶ 3 & Ex. A.

¹ In addition to the Warden of Stewart Detention Center, Petitioner also names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents in his Petition. "[T]he default rule [for claims under 28 U.S.C. § 2241] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official." *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

On or about January 5, 2022, Petitioner was convicted in the Superior Court of Jenkins County, Georgia for the offense of manufacturing marijuana. Chambliss Decl. ¶ 4 & Ex. B. He was sentenced to ten years imprisonment with three years to serve. *Id.* ¶ 4 & Ex. B. On October 27, 2023, Immigration and Customs Enforcement, Enforcement and Removal Operations (“ICE/ERO”) served Petitioner with a Form I-862, Notice to Appear (“NTA”), charging him with removability pursuant to Immigration and Nationality Act (“INA”) §§ 237(a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(A)(i) (8 U.S.C. §§ 1227(a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(A)(i)) due to his felony drug conviction. *Id.* ¶ 5 & Ex. C.

On October 30, 2024, at a hearing on the merits at the Georgia Department of Corrections, Petitioner’s application for relief was denied by the immigration judge (“IJ”) and Petitioner was ordered removed to Cuba. Chambliss Decl. ¶ 6 & Ex. D. Petitioner entered ICE/ERO custody on or about January 9, 2025. *Id.* ¶ 7. He is presently detained under the authority of 8 U.S.C. § 1231(a). *Id.*

On or about April 21, 2025, ICE/ERO reviewed Petitioner’s custody status. Chambliss Decl. ¶ 8 & Ex. E. The determination was made to continued Petitioner’s detention. *Id.* On or about July 9, 2025, ICE/ERO initiated the 180-day review of Petitioner’s custody status and made the decision to continue detention. *Id.* ¶ 9.

LEGAL FRAMEWORK

Because Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in 8 U.S.C. § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court’s final order; or (3) the date the alien is released from criminal confinement. *See*

8 U.S.C. §§ 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the “removal period,” detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is “reasonably necessary” to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, “may be detained beyond the removal period”). In *Zadvydas*, the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. “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.” *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that “in order 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.” 287 F.3d at 1052 (emphasis added). Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; 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) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52).

ARGUMENT

Petitioner primarily asserts that his detention violates due process under *Zadvydas*. Pet. 6-8. The Petition should be denied. Petitioner is not entitled to relief under *Zadvydas* because he fails to meet his burden to “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.

Petitioner presents no evidence to meet his burden. Rather, he simply restates the relevant standard, alleging without supporting evidence that “Petitioner has been held for over 180 days since a final order of removal was entered, with no significant likelihood of actual removal in the reasonably foreseeable future.” Pet. 6. Petitioner’s conclusory statements that he is unlikely to be removed in the near future are insufficient to state a claim under *Zadvydas*. See *Novikov v. Gartland*, No. 5:17-cv-164, 2018 WL 4100694, at *2 (S.D. Ga. Aug. 28, 2018), *recommendation adopted*, 2018 WL 4688733 (S.D. Ga. Sept. 28, 2018); *Gueye v. Sessions*, No. 17-62232-Civ, 2018 WL 11447946, at *4 (S.D. Fla. Jan. 24, 2018); *Rosales-Rubio v. Att’y Gen. of United States*, No. 4:17-cv-83-MSH-CDL, 2018 WL 493295, at *3 (M.D. Ga. Jan. 19, 2018), *recommendation adopted*, 2018 WL 5290094 (M.D. Ga. Feb. 8, 2018). Rather, 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 (internal quotations omitted) (emphasis added). Because Petitioner provides none, he cannot meet his burden under *Zadvydas*.

At most, Petitioner appears to claim that he is entitled to relief under *Zadvydas* because he has been in detention for more than six months and he has not yet been removed. Pet. 6. But a non-citizen cannot meet his *Zadvydas* burden by simply noting that his removal has been delayed. See *Ortiz v. Barr*, No. 20-CV-22449, 2021 WL 6280186, at *5 (S.D. Fla. Feb. 1, 2021) (“[T]he mere existence of a delay of Petitioner’s deportation is not enough for Petitioner to meet his burden.”

(citations omitted)), *recommendation adopted*, 2022 WL 44632 (S.D. Fla. Jan. 5, 2022); *Ming Hui Lu v. Lynch*, No. 1:15-cv-1100, 2016 WL 375053, at *7 (E.D. Va. Jan. 29, 2016) (“[A] mere delay does not trigger the inference that an alien will not be removed in the foreseeable future.” (internal quotations and citations omitted)); *Newell v. Holder*, 983 F. Supp. 241, 248 (W.D.N.Y. 2013) (“[T]he habeas petitioner’s assertion as to the unforeseeability of removal, supported only by the mere passage of time [is] insufficient to meet the petitioner’s initial burden” (collecting cases)). Yet, that is all Petitioner provides in his Petition. This is simply insufficient. Thus, Petitioner fails to meet his burden to present evidence that there is no significant likelihood of removal in the reasonably foreseeable future, and the Petition should be denied.

CONCLUSION

The record is complete in this matter, and the case is ripe for adjudication on the merits. Petitioner fails to show that he is entitled to relief on either of his claims. Petitioner is not entitled to relief under *Zadvydas* because he fails to meet his evidentiary burden to show there is no significant likelihood of removal in the reasonably foreseeable future. For this reason, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 27th day of August, 2025.

WILLIAM R. KEYES
UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed the Respondent's Response with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that I have this date mailed by United States Postal Service the document and a copy of the Notice of Electronic Filing to the following non-CM/ECF participants:

Yurien Almeida Arencibia
A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 27th day of August, 2025.

BY: /s/ Michael P. Morrill
MICHAEL P. MORRILL
Assistant United States Attorney

DECLARATION OF Deportation Officer Lia Chambliss

I, Lia Chambliss, declare as follows:

- 1. I have been employed with the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement, Enforcement and Removal Operations (ICE/ERO) since 2002. I am currently employed as a Deportation Officer working at Stewart County Detention Center in Lumpkin, Georgia.**
- 2. In my capacity as a Detention & Deportation Officer, I am the officer assigned to the case involving Yurien Arencibia (the petitioner), whose alien registration number is [REDACTED]. [REDACTED] I have reviewed the relevant documents from the petitioner's alien file (A-file) and other official government records related to the petitioner's removal proceedings and, unless otherwise stated, this declaration is based on that review.**
- 3. The petitioner is a native and citizen of Cuba who was paroled into the United States on January 8, 2016 after entering at or near Hidalgo, Texas. The petitioner's status was adjusted to that of a Cuban Refugee (CU6) on June 16, 2017. Exhibit A, Form I-213: Record of Deportable/Inadmissible Alien.**
- 4. On or about January 5, 2022, the petitioner was convicted in the Superior Court of Jenkins County, Georgia for the offense of Manufacture of Marijuana. He was sentenced to ten years imprisonment with three years to serve. Exhibit B, Jenkins County Superior Court Criminal Records, dated January 5, 2022.**
- 5. On October 27, 2023, ICE/ERO served the petitioner with a Form I-862, Notice to Appear charging him with removability pursuant to INA § 237(a)(2)(A)(iii); § 237(a)(2)(B)(i); and § 237(a)(2)(A)(i) due to his felony drug conviction. Exhibit C, Notice to Appear.**
- 6. On October 30, 2024, at a hearing on the merits at the Georgia Department of Corrections, the petitioner's application for relief was denied by the immigration judge and petitioner was ordered removed to Cuba. Exhibit D, Removal Order.**
- 7. The petitioner entered ICE/ERO custody on or about January 9, 2025. He is presently detained under the authority of INA § 241(a).**
- 8. On or about April 21, 2025, ICE/ERO reviewed the petitioner's custody status and determined to continue his detention. Exhibit E, Decision to Continue Detention, dated April 21, 2025.**

9. On or about July 9, 2025, ICE/ERO initiated the 180-day review of the petitioner's custody status and the decision to continue detention.

Pursuant to Title 28, U.S. Code Section 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, this the 26th of August 2025.

Lia Chambliss, DC

Lia Chambliss, Deportation Officer
Department of Homeland Security
Immigration & Customs Enforcement
Stewart Detention Center
Lumpkin, Georgia