

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

Y.A.A.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-cv-252-CDL-CHW
	:	28 U.S.C. § 2241
Warden, STEWART DETENTION	:	
CENTER, ¹	:	
	:	
Respondent.	:	
	:	

ORDER AND RECOMMENDATION

Before the Court is Petitioner Y.A.A.'s application for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. (Doc. 1). For the following reasons, it is **RECOMMENDED** that the motion (Doc. 1) be **DENIED**.

BACKGROUND

Petitioner, a native and citizen of Cuba, was paroled into the United States on January 8, 2016. (Doc. 4-1, ¶ 2). On October 27, 2023, Immigration and Customs Enforcement (“ICE”) charged Petitioner with removability under 8 U.S.C. §§ 1227(a)(2)(A)(iii), (a)(2)(B)(i), and (a)(2)(A)(i) following his 2022 felony drug conviction in the Superior Court of Jenkins County. (*Id.*, ¶¶ 4–5). On October 30, 2024, an Immigration Judge ordered Petitioner removed to Cuba, and ICE took Petitioner into custody on January 9, 2025. (*Id.*, ¶¶ 6–7); (Doc. 4-5). Petitioner did

¹ [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, 435 (2004) (citations omitted). The Clerk’s office is **DIRECTED** to change the docket to reflect the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

not appeal, and his removal order became final on November 29, 2024. (Doc. 1, p. 4). *See* 8 C.F.R. §§ 1003.38(b), 1241.1(c).

ICE/ERO reviewed Petitioner’s custody status on or about April 21, 2025, and continued his detention. (Docs. 4-1, ¶ 7; 4-6). On or about July 9, 2025, ICE/ERO initiated the 180-day review of Petitioner’s detention status and continued detention. (Doc. 4-1, ¶ 9). Petitioner was still detained as of August 27, 2025, the date of Respondent’s response in opposition. (*Id.*, ¶ 7).

Petitioner filed this habeas action pursuant to Section 2241 on July 25, 2025. (Doc. 1). Respondent filed a response in opposition on August 27, 2025. (Doc. 4). Petitioner filed a reply on September 17, 2025. (Doc. 5). This motion is ripe for review.

DISCUSSION

Respondent urges the Court to deny Petitioner’s Section 2241 petition because Petitioner has failed to meet his evidentiary burden under *Zadvydas* to show that there is no significant likelihood of removal in the reasonably foreseeable future. (Doc. 5, p. 4).

Under § 1231(a), “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days.” 8 U.S.C. § 1231(a)(1)(A). This removal period begins on the latest of three triggering dates:

- (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 the 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.

Id. at §§ 1231(a)(2)(B)(i)–(iii).

Detention during this 90-day “removal period” is mandatory. *Id.* at § 1231(a)(2)(A). This removal period shall be extended “and the alien may remain in detention during such extended period 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.” *Id.* at § 1231(a)(1)(C). Detention may continue beyond the 90-day period if it is “reasonably necessary” to effectuate removal. *Zadvydas*, 533 U.S. at 689; 8 U.S.C. § 1231(a)(6).

Although § 1231(a)(6) does not limit the length of post-final order of detention, the Supreme Court of the United States determined in *Zadvydas* that detention for six months is presumptively reasonable. *Zadvydas*, 533 U.S. at 701. Following this six-month period, “once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable further, the Government must respond with evidence sufficient to rebut that showing.” *Id.* The United States Court of Appeals for the Eleventh Circuit has explained that for an alien to state a claim under *Zadvydas*, he 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) (quoting *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002)). Only if a petitioner makes both of these showings does the burden shift to the respondent to rebut with evidence. *Zadvydas*, 533 U.S. at 701.

Respondent argues that Petitioner’s Section 2241 petition should be denied because Petitioner has not met the second prong of *Zadvydas*—that a petitioner “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. Respondent correctly concedes *Zadvydas*’s first

prong, that Petitioner has been detained longer than six months, but argues that Petitioner has not provided *any* evidence as to the second prong. (Doc. 4, p. 4).

Petitioner does not make any argument in his Section 2241 petition or reply that there is no significant likelihood of removal in the reasonably foreseeable future. Rather, he makes only a bare assertion that that he “has been held for over 180 days since a final order of removal was entered, with no significant likelihood of actual removal in the foreseeable future.” (Doc. 1, p. 6). Petitioner’s “bare allegations are insufficient to demonstrate a significant unlikelihood of his removal in the reasonably foreseeable future.” *Fahim v. Ashcroft*, 227 F. Supp. 2d 1359, 1365 (N.D. Ga. 2002); *see Tejada v. Dugger*, 941 F.2d 1551, 1559 (11th Cir. 1991) (noting that a petitioner is not entitled to habeas relief “when his claims are merely conclusory allegations unsupported by specifics” (quotations and citations omitted)). At the time of his filing, Petitioner had been in ICE custody for approximately 7 months, but he has not shown an unlikelihood of removal in the reasonably foreseeable future. *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)), report and recommendation adopted, No. 20-22449-CIV, 2022 WL 44632 (S.D. Fla. Jan. 5, 2022).

CONCLUSION

Because Petitioner has failed to present any evidence to indicate that ICE will not remove him in the reasonably foreseeable future, it is **RECOMMENDED** that Petitioner’s application for habeas corpus relief (Doc. 1) be **DENIED**.

OBJECTIONS

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 thereof. Any objection is limited in length to TWENTY (20) PAGES. See M.D. Ga. L.R. 7.4. 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 further notified that, pursuant to Eleventh Circuit Rule 3-1, “[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 10th day of October, 2025.

s/ Charles H. Weigle
Charles H. Weigle
United States Magistrate Judge