

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

NIKO IASHVILI) CIVIL ACTION NO. 25-cv-01150
)
VERSUS) JUDGE DRELL
)
U.S. IMMIGRATION AND) MAGISTRATE JUDGE PEREZ-
CUSTOMS ENFORCEMENT ET) MONTES
AL

**ANSWER AND RETURN TO PETITION
FOR A WRIT OF *HABEAS CORPUS***

Federal Respondents, in their official capacities, in response to the application for a writ of *habeas corpus* filed by the Petitioner, Niko Iashvili, allege and aver:

ADMITTED FACTS

Those facts set forth within the Memorandum of Law, filed contemporaneously with this Answer, are incorporated and alleged herein by reference.

FIRST DEFENSE

The jurisdiction of this Court extends solely to Petitioner's pure claim relating to his continued detention by the United States Immigration and Customs Enforcement.

SECOND DEFENSE

Petitioner has failed to state a claim upon which relief can be granted. He has failed to establish that there is **no** significant likelihood of his removal in the reasonably foreseeable future.

THIRD DEFENSE

Iashvili is a native and a citizen of Georgia ordered removed from the United States of America as inadmissible for being present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. 8 U.S.C. § 1182(a)(6)(A)(i). In addition, Petitioner did not possess a valid entry document. 8 U.S.C. 1182(a)(7)(A)(i)(I). Petitioner is currently in ICE custody pending his removal. A travel document has been requested, and his removal is likely in the reasonably foreseeable future. Thus, the continued detention of Niko Iashvili pending his removal from the United States of America comports with all statutory and regulatory provisions governing the detention of aliens pending removal from the United States of America.

FOURTH DEFENSE

All allegations of fact not otherwise admitted to or conceded within this answer or the attached memorandum in support of this answer are denied.

WHEREFORE, it is prayed that this answer and return to the application for the issuance of a writ of *habeas corpus* filed by Petitioner be deemed sufficient and, after due proceedings are had and for the reasons set forth within the Memorandum of Law filed with this answer, the petition should be dismissed with prejudice. It is further prayed that all legal and equitable relief that the named Respondents may otherwise be entitled to issue forthwith.


Respectfully submitted,

ZACHARY A. KELLER
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 17, 2025, a copy of the foregoing Answer and Return was filed electronically with the Clerk of Court using the CM/ECF system. I further certify that a copy of same has been forwarded via first class mail, postage prepaid and properly addressed to *pro se* Plaintiff as follows:

Niko Iashvili
#A 
River Correctional Center
26362 Hwy 15
Ferriday, LA 71334

s/ Karen J. King
KAREN J. KING (#23508)
Assistant United States Attorney

are also, 8 U.S.C. § 1225. **UNITED STATES DISTRICT COURT**
Correctional Center **WESTERN DISTRICT OF LOUISIANA**
e Notice to Appear (NTA) o **ALEXANDRIA DIVISION**

NIKO IASHVILI e United States at) **CIVIL ACTION NO. 25-cv-01150**
)
VERSUS or paroled. Gvmt. Ex. A at ¶) **JUDGE DRELL**
)
U.S. IMMIGRATION AND Petitioner v) **MAGISTRATE JUDGE PEREZ-**
CUSTOMS ENFORCEMENT ET) **MONTES**
AL moved from the United States to Georgia on September 19, 2024. Gvmt. Ex. A at ¶

7. However, the Immigration Judge (IJ) granted Petitioner's request for withholding
of removal from Georgia. *Id.* DHS appealed to the Bureau of Immigration Appeals
(BIA). *Id.* Four months later, the removal order became administratively final when

MEMORANDUM OF LAW

I. INTRODUCTION

On August 11 2025, Niko Iashvili, Petitioner, filed an application with this
the BIA dismissed DHS's appeal on January 29, 2025. *Id.*
Court through which he seeks the issuance of a writ of *habeas corpus* directing his
DHS Enforcement and Removal Operations (ERO) immediately requested a
release from the institutional detention maintained by the Department of Homeland
travel document for Petitioner's removal to the United Kingdom, which was denied.
Security (DHS). ECF 1. According to Petitioner, his continued detention within the
Gvmt. Ex. A at ¶ 8. ERO New Orleans requested assistance from ERO Headquarters
institutional custody of DHS is violative of the Immigration and Nationality Act and
for a third country removal on May 3, 2025. Gvmt. Ex. A at ¶ 9. On May 30, 2025,
his Fifth Amendment due process rights. ECF 1 at 6-9. For the following reasons,
ERO submitted requests for travel documents to the countries of Armenia, Moldova,
Petitioner's application should be denied and this action dismissed.
and Azerbaijan. Gvmt. Ex. A at ¶ 10. A second request was sent to these countries on

II. THE FACTUAL BACKGROUND

July 2, 2025. *Id.* ERO is still working to remove Petitioner to a third country. Further,
Petitioner, Niko Iashvili, a native and citizen of Georgia, entered the United
ICE conducted a Custody Review in September 2024 and determined Petitioner was
States at an unknown time and place near San Ysidro, California. *See Declaration of*
a flight risk. Gvmt. Ex. A at ¶ 6.
William Saunders, Assistant Field Office Director (AFOD), attached hereto as Gvmt.

III. ARGUMENT

Ex. A at ¶ 4. He was encountered by U.S. Customs and Border Protection (CBP),
placed in expedited removal proceedings, and taken into custody on May 4, 2024. *Id.*;

see also, 8 U.S.C. 1225(b)(1)(A)(I). Petitioner is currently detained at the Rivers Correctional Center in Ferriday, Louisiana. Gvmt. Ex. A at ¶ 4. He was served with a Notice to Appear (NTA) on May 25, 2024, charging him as removable on the basis that he entered the United States at an unknown place and time without being admitted or paroled. Gvmt. Ex. A at ¶ 5. In addition, he was not in possession of a valid entry document. *Id.* Petitioner was found to be inadmissible and ordered removed from the United States to Georgia on September 16, 2024. Gvmt. Ex. A at ¶ 7. However, the Immigration Judge (IJ) granted Petitioner's request for withholding of removal from Georgia. *Id.* DHS appealed to the Bureau of Immigration Appeals (BIA). *Id.* Four months later, the removal order became administratively final when the BIA dismissed DHS's appeal on January 29, 2025. *Id.*

DHS Enforcement and Removal Operations (ERO) immediately requested a travel document for Petitioner's removal to the United Kingdom, which was denied. Gvmt. Ex. A at ¶ 8. ERO New Orleans requested assistance from ERO Headquarters for a third country removal on May 1, 2025. Gvmt. Ex. A at ¶ 9. On May 30, 2025, ERO submitted requests for travel documents to the countries of Armenia, Moldova, and Azerbaijan. Gvmt. Ex. A at ¶ 10. A second request was sent to these countries on July 2, 2025. *Id.* ERO is still working to remove Petitioner to a third country. Further, ICE conducted a Custody Review in September 2024 and determined Petitioner was a flight risk. Gvmt. Ex. A at ¶ 6.

III. ARGUMENT

A. Petitioner is not entitled to Immediate Release under *Zadvydas*¹.

Petitioner is under a final order of removal and is detained pursuant to 8 U.S.C. § 1231(a). § 1231(a)(1)(A) provides that the Attorney General has 90 days after an order of removal becomes final in which to effect an alien's removal. Although DHS has 90 days to remove an alien after he is ordered removed under § 1231 (a)(1)(A), the Supreme Court has held that § 1231 permits the detention beyond 90 days, for a period reasonably necessary to bring about that alien's removal from the United States. Pursuant to *Zadvydas*, detention for up to six months after the removal order becomes final is "presumptively reasonable." *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001).

The Supreme Court clearly indicated that the lapse of the presumptive period does not mandate release and concluded that, "[t]o the contrary, an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 121 S.Ct. at 2505. Conversely, detention beyond the six-month period is not presumptively unreasonable and DHS may continue to detain an alien if there is a significant likelihood of removal within the reasonably foreseeable future. See e.g. *Janvier v. IIA*, 174 F.Supp.2d 430, 436, n. 10 (E.D. Va. 2001). Thus, to state a claim for relief under the *Zadvydas* decision, an alien must: 1) establish post-removal order

¹ In *Clark v. Martinez*, 543 U.S. 371 (2005), the Supreme Court held that its ruling in *Zadvydas* applies equally to inadmissible aliens.

detention more than six months at the time of the filing of his or her petition; and 2) establish good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *See e.g. Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002).

To satisfy his burden under the second prong:

[A]n alien's claim must be supported by more than mere "speculation and conjecture." In order to shift the burden to the Government, an alien 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. If the alien fails to come forward with an initial offer of proof, the petition is ripe for dismissal.

Galtogbah v. Sessions, No. 6:18-CV-00880, 2019 WL 3766280, at *2 (W.D. La. June 18, 2019), *report and recommendation adopted*, No. 6:18-CV-00880, 2019 WL 3761637 (W.D. La. Aug. 8, 2019) (internal citations omitted).

In addition, inadmissible aliens, who have been determined to be either a risk to the community or unlikely to comply with the removal order, may be detained beyond the removal period. 8 U.S.C. § 1231(a)(6).

Here, Petitioner's removal order became final on January 29, 2025, when the BIA dismissed DHS's appeal. *Gvmt. Ex. A*, ¶7. The instant petition was filed on August 11, 2025, thirteen days after the expiration of the six-month presumptively reasonable period. Petitioner has been in DHS's custody for approximately ten months since his removal order became final. Even though Petitioner's detention

exceeds the presumptively reasonable six-month period, he fails to show that there is no significant likelihood of removal in the reasonably foreseeable future.² *Singh v. DHS/ICE*, 771 F. Supp. 2d 372, 377 (D.N.J. 2011) (“Alien’s detention of more than 305 days continued to be authorized by [8 U.S.C. § 1231] after removal order became administratively final because he alleged no facts to substantiate the conclusion that there was good reason to believe that there was no significant likelihood of his removal to India in the reasonably foreseeable future so as to require government to respond with evidence sufficient to rebut that showing.”); *see also, Lakhani v. Bondi*, No. 1:25-CV-00763, 2025 WL 2811345, at *2 (W.D. La. Sept. 17, 2025), *report and recommendation adopted*, No. 1:25-CV-00763, 2025 WL 2808506 (W.D. La. Oct. 2, 2025)

Nor has Petitioner identified any “particular individual barriers to his repatriation” to Armenia, Moldova, or Azerbaijan. *Galtogbah v. Sessions, supra*. A grant of deferral does not guarantee the alien will be released from custody. *See* 8 C.F.R. § 208.17(b)(1)(ii), (c). Even if an alien has been granted withholding of removal, the removal order remains valid and enforceable, albeit not executable to the specific country for which the alien has demonstrated a likelihood of persecution or torture. 8 U.S.C. § 1231(b)(2)(E); 8 C.F.R. § 1208.16(f); *Johnson v. Guzman Chavez*, 594 U.S.

² The facts of the instant case differ from the cases cited by Petitioner that are based upon detention more than 10 months, multiple country refusals to issue a travel document, lack of a repatriation agreement, lack of action by DHS to effect the removal, and other barriers to repatriation. ECF 1 at 8-10.

523, 536 (2021) (“If an immigration judge grants an application for withholding of removal, he prohibits DHS from removing the alien to that particular country, not *from* the United States.” (emphasis in original)). Petitioner’s deferral applies only to Georgia; it does not entitle Petitioner to remain in the United States. And though Petitioner has been detained beyond the 90-day removal period in 8 U.S.C. § 1231(a)(1)(A), continued detention is authorized by 8 U.S.C. § 1231(a)(6) because Petitioner is an inadmissible alien, who has been determined to be a flight risk. Gvmt. Ex. A ¶ 6. Since Petitioner cannot be removed to Georgia, DHS must remove him to a third country. 8 U.S.C. § 1231(b)(E)(vii). Thus, Petitioner fails to meet the second prong of the *Zadvydas* analysis, and his petition should be dismissed.

Petitioner is subject to an administratively final order of removal as an inadmissible alien. Gvmt. Ex. A at ¶ 7. He has been determined to be a flight risk. Gvmt. Ex. A at ¶ 6. A travel document for removal to Armenia, Moldova, or Azerbaijan has been requested, and it is anticipated that DHS will receive a travel document for his removal in the reasonably foreseeable future. Therefore, the continued detention of Petitioner, pending his removal, is reasonable. *Zadvydas* demands nothing more. Moreover, Petitioner has been afforded custody review since he came into DHS’s custody in May 2024 (pre-removal). Gvmt. Ex. A at ¶ 6. While Petitioner may disagree with the conclusion reached during the custody review, the discretionary determination to continue custody is not itself subject to judicial review. 8 U.S.C. § 1252(a)(2)(B).

It is undisputed that Petitioner entered the U.S. without being detected at an unknown location and at an unknown time. It is further admitted that Petitioner did not possess any valid documents for entry into the United States. He is now under a final order of removal, and his removal is pending the issuance of a travel document from a third country. Petitioner's detention does not violate due process.

IV. CONCLUSION

For the foregoing reasons, Federal Respondents request that the Court deny Iashvili's Petition and Amended Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241.

Respectfully submitted,


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further certify that a copy of same has been forwarded via first class mail, postage prepaid and properly addressed to *pro se* Plaintiff as follows:

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