

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

V.K.,	:	
	:	
Petitioner,	:	
	:	
v.	:	Case No. 4:25-cv-262-CDL-AGH
	:	28 U.S.C. § 2241
Warden, STEWART DETENTION	:	
CENTER, <i>et. al</i> ,	:	
	:	
Respondents.	:	

REPORT AND RECOMMENDATION

Pending before the Court is Petitioner's application for habeas relief (ECF No. 1). This case presents the question of whether the Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), can take individuals, who were previously determined not to be removable, back into civil detention and continue to detain those individuals, while knowing they cannot be removed. Respondents here would have this court say yes. But it declines to do so. As explained below, it is recommended that Petitioner's application for habeas relief be granted and that he be released from custody under an Order of Supervision.

BACKGROUND

Petitioner is a native of Uzbekistan who was admitted into the United States on August 18, 2000, as a lawful permanent resident. Pet. ¶ 17, ECF No. 1; Guerra Decl. ¶ 4, ECF No. 4-1; Guerra Attach. B, at 1-2, ECF No. 4-3. At the time of his admission, Petitioner was a citizen of Uzbekistan. Guerra Decl. ¶ 4. On September

30, 2008, Petitioner was convicted in the Superior Court of Fulton County, Georgia, of two counts of aggravated assault with a deadly weapon, two counts of false imprisonment, and one count of burglary. Guerra Attach. A, at 1, 3, ECF No. 4-2. He was sentenced to a total of one year imprisonment—commuted to time served upon entry and completion of a detention program—followed by six years on probation. *Id.* at 1. Petitioner initially entered ICE custody on March 6, 2009. Pet. ¶ 17; Pet. Ex. B, at 2, ECF No. 1-3. The same day he was served with a notice to appear (“NTA”), charging him with removability under 8 U.S.C. § 1227(a)(2)(A)(iii) based on convictions for an aggravated felony. Guerra Attach. C, at 1, 3, ECF No. 4-4. On April 2, 2009, an immigration judge (“IJ”) ordered Petitioner’s removal to Uzbekistan. Guerra Attach. D, at 1, ECF No. 4-5. However, after the Uzbekistan embassy refused to issue travel documents, Petitioner was released under an order of supervision (“OSUP”) on or about July 28, 2009. Guerra Decl. ¶¶ 8-9; Guerra Attach. E, ECF No. 4-6.

Petitioner testified that he began the process of renouncing his Uzbekistan citizenship in the early 2000s—prior to his removal order—because he, along with his whole family, was preparing to obtain USA citizenship and Uzbekistan did not allow dual citizenship. Hr’g Tr. 10:8-17, ECF No. 14. Petitioner explained that Uzbekistan confirmed his renunciation in 2012. *Id.* at 11:7-9. He attached a 2019 letter from the Uzbekistan consulate to his petition confirming his renunciation of citizenship, effective October 17, 2012. Pet. Ex. E, at 2, ECF No. 1-6. Petitioner also testified that in 2012, he provided ICE a letter confirming that he had renounced his

Uzbekistan citizenship. Hr'g Tr. 8:16-9:2, 9:8-10.

Pursuant to the OSUP, Petitioner was required to report regularly to ICE. Pet. Ex. G, at 2-7, ECF No. 1-8. In both his petition and hearing testimony, Petitioner contended that he reported regularly as required until February 25, 2025, when he appeared for his yearly report, and ICE took him into custody. Pet. ¶ 21; Hr'g Tr. 6:13-7:15. According to Petitioner, the only reason given for being taken into custody was that “[t]his is new administration and we have to detain you.” Hr'g Tr. 7:16-21. Respondents originally contended that Petitioner reported regularly until February 20, 2024, when he failed to appear, and that was the reason he was taken into custody in February 2025. Guerra Decl. ¶¶ 10-11. However, Petitioner produced a receipt showing that he reported on February 20, 2024, and Respondents backed off that assertion, instead claiming that Petitioner’s OSUP “was revoked for the purpose of enforcing [his] final order of removal[.]” Pet. Ex. G, at 6; Resp’ts’ Surreply 2-4, ECF No. 9; Bunbury Decl. ¶ 6, ECF No. 9-1.

Tartangar Stephens, an ICE Supervisory Detention and Deportation Officer (“SDDO”) also testified at the evidentiary hearing. Hr'g Tr. 41:19-24. When asked what efforts ICE made between Petitioner’s release in 2009 and his re-detention in February 2025 to obtain travel documents, she testified that each year a request for travel documents was made to Uzbekistan and that each time, the request was rejected. *Id.* at 51:5-13, 51:24-52:4. In April 2025, following Petitioner’s re-detention, ICE, Enforcement and Removal Operations (“ERO”) “began efforts” to obtain travel documents from Uzbekistan. Guerra Decl. ¶ 12. It scheduled Petitioner for a removal

flight on May 6, 2025. *Id.* However, on April 23, 2025, the Uzbekistan consulate informed ERO that it could not issue travel documents for Petitioner because he renounced his citizenship.¹ *Id.* ¶ 13.

Petitioner filed his application for habeas relief with this Court on August 15, 2025 (ECF No. 1). He asserts three counts for relief. In count one, he alleges that his “continued detention . . . violates 8 U.S.C. § 1231(a)(6), as interpreted in [*Zadvydas v. Davis*, 533 U.S. 678 (2001)].” Pet. ¶ 57. In count two, he alleges that his continued detention violates his right to substantive due process. *Id.* ¶ 59. Finally, in count three, he alleges that he has been denied procedural due process because “there is no administrative mechanism in place for him to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates *Zadvydas*.” *Id.* ¶ 61.

Respondents responded to the petition on September 8, 2025, relying entirely on the contention that Petitioner’s *Zadvydas* claim is premature. Resp’ts’ Resp. 5-8, ECF 4. Petitioner filed a reply on September 17, 2025 (ECF No. 5), and after being given permission by the Court, Respondents’ filed a surreply (ECF No. 9). On September 18, 2025, the Court notified the parties that it found “good cause” to hold an evidentiary hearing on the petition and instructed them to file a joint report listing any potential witnesses and exhibits they planned to introduce at the hearing. Order,

¹ Stephens conceded—based on her review of the file—that Petitioner made ICE aware in 2012 that he had renounced his Uzbekistan citizenship. Hr’g Tr. 50:9-18. However, she seemed to suggest that Uzbekistan’s previous refusals to grant travel document were conditional, i.e. “at this time,” but it was not until May 12, 2025 that Uzbekistan sent a letter that was a “definitely, no” and that it would not issue travel documents and could not do so without Petitioner returning to renew his citizenship. *Id.* at 47:10-48:3.

ECF No. 6. The parties filed the joint status report on September 25, 2025 (ECF No. 10).

The Court held the evidentiary hearing on October 30, 2025. SDDO Stephens was questioned about efforts to remove Petitioner after Uzbekistan informed ERO that it would not issue travel documents. She testified that in July 2025, ICE received a new directive that changed third-country removal and that instead of sending requests to a nation “around Uzbekistan” that was willing to accept him, it placed his name in a State Department database that handles third-country removal requests. Hr’g Tr. 43:16-44:1. She also testified that she “took the file apart again” on the morning of the evidentiary hearing, “discovered” that Petitioner’s father was a Russian citizen, and contacted another DDO at “headquarters,” who indicated that she would contact the Russian embassy about the likelihood of obtaining travel documents from Russia. *Id.* at 44:5-9, 45:7-22. Stephens also indicated that “[w]e are going to submit a new travel document to the Uzbekistan embassy to reevaluate our [travel document] request.” *Id.* at 46:16-17.

During the hearing, the Court stated that it would allow Petitioner until Monday, November 3, 2025, to file a new or amended petition if he wished to address Respondents’ prematurity argument, and that if he did so, Respondents would have three days to respond. Hr’g Tr. 59 8-15. On November 3, 2025, Petitioner notified the Court that he had decided to neither file a new petition nor an amended petition (ECF No. 15).

On November 13, 2025, Petitioner filed a status report and attached an

affidavit from his wife, indicating that on November 9, 2025, ICE took Petitioner to a New York area airport in an attempt to remove him from the country. Bondari Decl. §§ 7-8, ECF No. 18. However, when ICE presented purported travel documents at the Uzbekistan Airways counter, ICE was told they were not valid travel documents. *Id.* §§ 8-9. Accordingly, Petitioner was returned to detention. *Id.* § 10. The Court then provided Respondents an opportunity to respond to the status report and provide “factual updates related to the attempted removal.” Text-only Order, Nov. 13, 2025, ECF No. 17. On November 18, 2025, Respondents admitted that they unsuccessfully attempted to remove Petitioner on November 9, 2025, but provided no further factual update regarding attempted removal. Resp’ts’ Resp. to Ct. Order, ECF No. 19. Petitioner’s application for habeas relief is ripe for review.

DISCUSSION

I. Legal Framework for Post-Final Order of Removal Detention

Because Petitioner has a final order of removal, Petitioner’s detention is governed by 8 U.S.C. § 1231(a). Under § 1231(a), “when an alien is ordered removed,” the Attorney General “shall” remove the alien within ninety days. 8 U.S.C. § 1231(a)(1)(A). This removal period begins to run on, as relevant here, “the date the order of removal becomes administratively final,” or “[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement.” 8 U.S.C. § 1231(a)(1)(B)(i), (iii). Detention during the ninety-day removal period is mandatory. 8 U.S.C. § 1231(a)(2). The removal period shall be extended “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." 8 U.S.C. § 1231(a)(1)(C). Finally, inadmissible aliens, criminal aliens, and those who pose a risk to the community or of non-compliance with a removal order "may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in [§ 1231(a)(3)]." 8 U.S.C. § 1231(a)(6).

Section 1231(a)(6) does not limit the length of post-final order detention. In *Zadvydas*, however, the United States Supreme Court applied the doctrine of constitutional avoidance to "read an implicit limitation into the statute." 533 U.S. at 689. The Supreme Court held that § 1231(a)(6) authorizes post-removal-order detention only for a period "reasonably necessary" to accomplish the alien's removal from the United States. *Id.* at 699-700. The Court recognized six months as a presumptively reasonable period of time to allow the government to accomplish such removal. *Id.* at 701. The Eleventh Circuit subsequently explained that in order "[t]o state a claim under *Zadvydas* . . . an alien must show that: (1) he has been detained for more than six months following the final order of removal and (2) there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Vaz v. Skinner*, 634 F. App'x 778, 782 (11th Cir. 2015) (citing *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) ("[I]n order to state a claim under *Zadvydas* the alien . . . must show post-removal order detention in excess of six months [and] also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.")).

II. Petitioner is Entitled to Release Under *Zadvydas*

Petitioner contends he is entitled to release under *Zadvydas* because he had been detained for a total of 282 days at the time he filed his petition—including 170 days following his February 25, 2025 arrest—and because his removal is not reasonably foreseeable. Pet. ¶¶ 18, 22-24, 57. In their response, Respondents only address the first prong of the *Zadvydas* analysis, contending that Petitioner’s claim is premature because he had only been held 171 days—nine days short of the six-month presumptively reasonable period provided in *Zadvydas*—prior to filing his petition. Resp’ts’ Resp. 7-8. The Court addresses both prongs below.

A. Six-Month Post-Removal Order Detention

Respondents would have this Court dismiss the Petition based on prematurity under *Akinwale*. In *Akinwale*, the Eleventh Circuit discusses how a petitioner can establish a claim for release from custody under *Zadvydas*. The Eleventh Circuit explains: “[I]n order to state a claim under *Zadvydas* the alien not only must show post-removal detention in excess of six months but 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. This language has been interpreted by courts within this Circuit, including this Court, to require two things prior to stating a claim for relief under *Zadvydas*. First, a Petitioner must show “that the six-month period, which commences at the beginning of the statutory removal period, has expired when the § 2241 petition is filed.” *Gozo v. Napolitano*, 309 F. App’x 344,

346 (11th Cir. 2009). Second, a Petitioner must show “evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*

These same courts have strictly interpreted *Akinwale* to allow for dismissal of cases in which a petitioner filed his case before the six-month detention period expired. This includes cases in which the petition was filed prior to the expiration of the presumptively reasonable period, but the habeas case remained pending past the six-month presumptively reasonable period. *See, e.g., Thelemaque v. Barr* No. 20-20467-CIV-ALTONAGA/Reid, 2020 WL 13551808, at *2 n.2 (S.D. Fla. Mar. 30, 2020) (finding petition was premature because the petitioner was detained on August 2, 2019, and filed his petition on January 27, 2020, but noting that since the six-month period had expired, any subsequent petition would not be premature). In other words, the *Akinwale* rule has been previously applied as a bar on habeas relief if the six-month period had not expired at the time of filing. The Court does not recommend that *Akinwale* be so strictly applied to the specific facts of this case.

First, a strict application of *Akinwale* ignores the circumstances of this case and the purpose of *Zadvydas*. In *Zadvydas*, the Supreme Court applied the constitutional avoidance principle to § 1231(a)(6) to prohibit prolonged post-final order detention when removal was not likely to occur. The Court applied this principle to § 1231 because it recognized that “indefinite detention of an alien would raise a serious constitutional problem[]” under the Fifth Amendment Due Process Clause. *Zadvydas*, 533 U.S. at 690. The Court explained that to determine whether

detention is constitutionally sound, the question a habeas court must answer is whether detention is “reasonably necessary to secure removal.” *Id.* at 699-700. This is because the “basic purpose” of the statute is to effectuate an individual’s removal *Id.* at 697. Thus, “once removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699.

In order to promote uniformity, the Court then found six months post-final order detention to be a presumptively reasonable period in which ICE can detain someone while attempting to remove them. *Id.* at 701 (“Consequently, for the sake of uniform administration in the federal courts, we recognize that period.”) But the Court did not state that this six-month period is a bright line rule that must apply and restart *any* time an individual is taken into immigration custody. To the contrary, in a subsequent opinion the Supreme Court clarified:

Zadvydas did not hold that the statute authorizes detention until it approaches constitutional limits; it held that, *since* interpreting the statute to authorize indefinite detention (one plausible reading) would approach constitutional limits, the statute should be read (in line with the other plausible reading) to authorize detention only for a period consistent with the purpose of effectuating removal.

Clark v. Martinez, 543 U.S. 371, 384 (2005) (emphasis in original). Thus, the Court should not be so focused on counting days of detention that it misses the bigger picture—that detention for a purpose other than effectuating removal is not constitutionally sound. And that is the context in which this case arises. An individual has been taken into civil detention by authorities who, the evidence shows, know he cannot currently be removed from the country.

Respondents argue that this context does not matter—they can detain

Petitioner for at least six-months upon revocation of his order of supervision. They cite to a prior case from this Court to show that the six-month presumptive period under *Zadvydas* restarts any time an individual is taken into immigration custody.² In *Meskini v. Attorney General of the United States*, No. 4:14-cv-42, 2018 WL 1321576 (M.D. Ga. Mar. 14, 2018), the Court denied a petitioner's application for habeas relief based on *Zadvydas* when the petitioner had been detained for multiple different post-final order periods. The Court explained that *Zadvydas* is not a "permanent 'Get Out of Jail Free Card' that may be redeemed at any time just because an alien was detained too long in the past." *Meskini*, 2018 WL 1321576, at *3. But *Meskini* similarly does not create a brightline rule regarding the *Zadvydas* period. To the contrary, this Court discussed *Zadvydas* and the Supreme Court's "underlying concern" that individuals that are unable to be removed should not "be condemned to an indefinite term of imprisonment within the United States." *Id.* (quoting *Zadvydas*, 533 U.S. at 695).

In applying the principles outlined in *Zadvydas*, the Court explained that its "focus is on *today* and whether Petitioner will likely be removed in the reasonably foreseeable future based on the facts available to the Court *today*." *Id.* (emphasis in original). The Court "acknowledge[ed] the Supreme Court's observation that the length of prior detention is a factor that must be considered in deciding a reasonable

² Parties in immigration habeas have colloquially referred to adding up the *Zadvydas* periods of each post-final order immigration detention period as "stacking" the *Zadvydas* period. For example, if an individual is held in custody post final-order detention in 2018 for 4 months, then comes back into custody in 2025 for another 4 months, their total detention period would be 8 months post-final order of removal. Respondents claim that *Meskini*, discussed hereafter, held that stacking is not allowed. The Court is not basing its decision here on stacking.

length of time for future detention, but [the Court further explained that it] does not understand that factor to necessarily be dispositive.” *Id.*

The Court then looked at the individual circumstances of Meskini’s case as of that day. *Meskini*, 2018 WL 1321576, at *3-5. It explained that his removal period may have restarted when he returned to immigration custody after serving a criminal offense. *Id.* at *4. Further, the Court found that the government presented evidence that (1) circumstances had changed with Meskini’s country of nationality from his prior detention; and (2) the evidence presented showed that it was likely that Meskini would be accepted for repatriation. *Meskini*, 2018 WL 1321576, at *4. In other words, the record in *Meskini* established that Meskini “failed to show that as of *today* it is significantly unlikely that he will be removed in the reasonably foreseeable future.” *Id.*

Nothing in this Court’s analysis in *Meskini* is inconsistent with the Court’s discussion above. *Meskini* stands for the proposition that the Court should analyze the constitutionality of an individual’s detention as of today. Additionally, *Meskini* counsels the Court *against* a strict application of the six-month detention period from *Zadydas*. Finally, *Meskini* is factually distinguishable from this case in two critically important ways. First, there is no plausible argument here that Petitioner’s removal period started when he returned to immigration custody in February. *See* 8 U.S.C. § 1231(a)(1)(B) (listing actions that trigger the beginning of the removal period, none of which apply to Petitioner’s re-detention). And second, as discussed in detail in subsection B below, Petitioner has presented evidence that he is not likely

to be removed in the reasonably foreseeable future.

Using this framework, it is clear that Petitioner should not be barred from proceeding to the merits of his habeas petition based on a strict counting of his days of detention prior to his filing the petition. As of *today*, Petitioner has been in custody for an uninterrupted eight (almost nine) months. Including his time in detention from 2009, Petitioner has been immigration custody for almost 14 months. But, importantly and as explained above, that is not where the discussion ends. In 2009, ICE determined that Petitioner could not be removed to Uzbekistan. Guerra Decl. ¶¶ 8-9; Guerra Attach. E. So, in compliance with *Zadvydas*, ICE released him from custody on an order of supervision. *Id.* During his almost 16 years of supervision, ICE attempted to obtain travel documents for Petitioner each year, and each time Uzbekistan refused. Hr'g Tr. 51:5-13, 51:24-52:4. Additionally, in 2012, ICE received notification from Petitioner that he renounced his Uzbekistan citizenship. *Id.* at 50:9-18. In other words, each year for 16 years, ICE confirmed that Petitioner was not likely to be removed in the reasonably foreseeable future. Despite this knowledge, in February 2025, when Petitioner reported for his yearly supervision check-in, he was taken into custody. This evidence cannot be ignored when the Court evaluates whether Petitioner is entitled to habeas relief; Petitioner's current detention—without a likelihood of removability—fails to comply with the purposes of § 1231(a)(6) and is unconstitutional.

Second and more practically, the Court notes that at the evidentiary hearing in this case, Respondents conceded that (1) the *Akinwale* rule is not jurisdictional,

and (2) Petitioner could cure the defect by filing a new habeas petition. Hr'g Tr. 21:20-22:6, 30:12-14. If, as Respondents admitted, the prematurity rule as set out in *Akinwale* is not jurisdictional and could be fixed simply by filing an amended petition, then the Court declines to put form over substance and dismiss Petitioner's meritorious claims for habeas relief based upon a Court-created rule (*Akinwale*) that, as discussed above, is not directly applicable to Petitioner. Petitioner's application for habeas relief is not premature and should not be dismissed on this ground.

B. Significant Likelihood of Removal

The second *Zadvydas* prong requires a petitioner to show "there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Vaz*, 634 F. App'x at 782. Petitioner has clearly made that showing. The undisputed evidence shows that following the IJ's April 2009 removal order ICE was unable to remove Petitioner because Uzbekistan refused to issue travel documents. *Guerra* ¶ 8. Respondents have not provided documentation explaining the reasons given by Uzbekistan at the time, but it was prior to Petitioner's renunciation of citizenship in 2012. *Id.* ¶ 9. Further, the evidence shows that every year since Petitioner's release, ICE requested travel documents from Uzbekistan, and each time they were refused. Hr'g Tr. 51:5-13, 51:24-52:4. Finally, the undisputed evidence shows that following Petitioner's re-detention on February 25, 2025, Uzbekistan once again refused to issue travel documents, this time fairly emphatically. *Guerra* ¶ 13; Hr'g Tr. 47:18-23.

As noted, Respondents' briefing did not argue that there was a significant

likelihood of removal in the reasonably foreseeable future, despite the petition and Respondents' own documents showing that Uzbekistan had steadfastly refused to accept him. This is remarkable because *Zadvydas* states that "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." *Zadvydas*, 533 U.S. at 701 (emphasis supplied).

At the evidentiary hearing, Respondents' counsel contended "that [significant likelihood of removal in the reasonably foreseeable future] is not appropriate to get into at this time" and that "prematurity comes first." Hr'g Tr. 20:8-11, 37:3-4. Counsel also objected to the Court not allowing Respondents to present evidence at a later time on significant likelihood of removal in the reasonably foreseeable future, contending that "it was not directed" in the Court's order for an evidentiary hearing "that [significant likelihood of removal in the reasonably foreseeable future] would be addressed necessarily" at the hearing. Hr'g Tr. 36:20-23. The court rejected that argument at the hearing and does so again.

Petitioner's application for habeas relief clearly argued that there was no significant likelihood of removal in the reasonably foreseeable future, and the Court's order for an evidentiary hearing placed no limitations on the issues to be addressed. Pet. ¶ 24, 57; Order, Sept. 18, 2025. Furthermore, Respondents are not entitled to unilaterally determine the order in which a Court addresses arguments or considers evidence, and it is not unusual for a Court to hear evidence on all issues even if a party feels that only one is determinative. Additionally, considering the lengthy

period of Petitioner's past detention, the questionable basis for his re-detention, and the fact that the petition was filed just nine days short of six months following his most recent detention, it was unreasonable for Respondents to conclude that the prematurity issue was so conclusive as to dispose of the need to address significant likelihood of removal in the reasonably foreseeable future at the evidentiary hearing.

Moreover, it is clear from the evidence Respondents did present on significant likelihood of removal in the reasonably foreseeable future—some of it arguably hearsay—that other than placing Petitioner's name on a possible third-country removal database, Respondents did nothing to try to remove him between the time Uzbekistan informed them (again) that it would not accept Petitioner and the morning of the hearing date on October 30, 2025.³ It was not until then that SDDO Stephens reviewed the file and—based on her belief that Petitioner's father was born in Russia and was a Russian citizen—decided to request through headquarters that the Russian embassy be contacted about possibly obtaining travel documents for Petitioner. Hr'g Tr. 44:5-9, 45:7-22, 53:16. However, Petitioner testified that his

³ During the evidentiary hearing, Petitioner testified that he cooperated "one hundred percent" with ICE's efforts to remove him, including applying for travel documents and a passport with the Uzbekistan embassy. Hr'g Tr. 7:24-8:8, 18:20-19:2. The only evidence to contradict this was on direct examination when Stephens was asked if Petitioner "always cooperated" and she responded negatively, stating that "[a] lot of times when we ask him questions he would tell us that he has an attorney." Hr'g Tr. 50:1-4. However, Respondents have not pointed to any document that Petitioner failed to provide or sign, whether through his attorney or otherwise. Furthermore, they have not shown that he failed to agree to speak to them *with* his attorney present or that he refused to be interviewed by any foreign consulate officials. Stephens admitted that she never served Petitioner with a failure to comply notice. *Id.* at 54:17-20. Thus, although not explicitly argued by Respondents, the Court concludes that Petitioner has appropriately cooperated with his removal, and Respondents' failure to effectuate such removal is not due to any lack of cooperation by Petitioner.

father was born in Uzbekistan.⁴ *Id.* at 18:1-2. Further, on cross examination, it became clear that Stephens's knowledge as to Petitioner's father's citizenship status—including whether he was now a United States citizen and how the breakup of the former Soviet Union affected citizenship—was limited, and she admitted that she had asked the DDO handling Russia to review it because of her lack of familiarity. *Id.* at 53:3-22.

Stephens also indicated that ICE was going to try again with the Uzbekistan embassy under the theory that Petitioner “was not supposed to be left country-less” and that he “should have been issued a country when he renounced his citizenship.” *Id.* at 46:16-20. She cited improved United States-Uzbekistan relations. *Id.* at 52:7-10. Earlier this month, ICE attempted Petitioner's removal again. Bondari Decl. §§ 7-9. And again, the removal was unsuccessful because Uzbekistan declined to issue travel documents for Petitioner. *Id.*; Resp'ts' Resp. to Ct. Order.

Based on the record evidence, the Court concludes that there is no significant likelihood of Petitioner's removal in the reasonably foreseeable future. Petitioner presented undisputed evidence that ICE failed on multiple occasions over the years to obtain travel documents from Uzbekistan, including as recently as April and November 2025. SDDO Stephens's belief that Uzbekistan might now reconsider is

⁴ On cross examination, Respondents' counsel asked Petitioner if Uzbekistan was part of the Russian Federation at the time his father was born, and Petitioner responded in the affirmative. Hr'g Tr. 13:2-5. However, while Uzbekistan was part of the Soviet Union until declaring its independence on September 1, 1991, it was never part of the Russian Federation, which itself did not come into existence until December 1991. U.S. Dep't of State, Archive, Background Note: Uzbekistan, <https://2001-2009.state.gov/r/pa/ei/bgn/2924.htm> (last visited Nov. 26, 2025); U.S. Dep't of State, Office of the Historian, A Guide to the United States' History of Recognition, Diplomatic Relations, by Country, Since 1776 Russia, <https://history.state.gov/countries/russia> (last visited Nov. 26, 2025). Petitioner was born in 1984. Guerra Attach. B, at 1.

speculative optimism at best. The possibility of removal to Russia is even more conjectural, and even if there was some nugget of possibility, it is clear that such removal would not occur anytime in the near future because it was only on October 30, 2025, that ICE even thought to ask. In short, Respondents failed to rebut Petitioner's showing that there is no significant likelihood of removal in the reasonably foreseeable future, and therefore, the Court finds that he has satisfied the second *Zadvydas* prong. Petitioner is entitled to habeas relief in the form of release from custody.

CONCLUSION

For the foregoing reasons, it is recommended that Petitioner's application for habeas relief (ECF No. 1) be **GRANTED**.⁵ 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 hereof. 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

⁵ Petitioner filed an emergency motion for a preliminary injunction, requesting that the Court order Petitioner's immediate release from custody, enjoin Respondents from re-detaining him without first providing him with a hearing before an IJ, and enjoining his removal to a third country without first providing him with constitutionally-compliant procedures. Pet'r's Mot. for Prelim. Inj. 2, ECF No. 20. If this recommendation is adopted, Petitioner's first request would be rendered moot. Regarding Petitioner's second request, the granting of habeas relief and release from custody would implicitly bar Respondents from re-detaining him without a significant likelihood of removal in the reasonable foreseeable future because to do otherwise would arguably violate the Court's order. Therefore, Petitioner is effectively requesting that the Court direct Respondents to obey the Court's order and to obey the laws governing re-detention. Finally, as to his request to enjoin removal to a third country without procedural safeguards, this was not a claim asserted in his petition and is not of the same character as his request to be released from detention based on there being no significant likelihood of removal. See *Kaimowitz v. Orlando, Fla.*, 122 F.3d 41, 43 (11th Cir. 1997) (affirming district court's denial of motion for preliminary injunction that sought relief that was not of the same character as the issues in the suit). Therefore, the Court recommends that Petitioner's motion for a preliminary injunction be denied.

Recommendation may be reviewed for clear error.

The parties are hereby 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 26th day of November, 2025.

s/ Amelia G. Helmick
UNITED STATES MAGISTRATE JUDGE