

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

MEBRATU MEHUR,	:	
	:	
Petitioner,	:	
	:	Case No. 4:25-CV-281-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION CENTER,¹	:	
	:	
Respondent.	:	

RESPONDENT’S RESPONSE

On September 9, 2025, the Court received Petitioner’s petition for a writ of habeas corpus (“Petition”). ECF No. 1. Petitioner 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. 3-4, ECF No. 1. As explained below, the Petition should be denied.

BACKGROUND

Petitioner is a native and citizen of Eritrea who has most recently been detained post-final order of removal pursuant to 8 U.S.C. § 1231(a) since February 5, 2025. Guerra Decl. ¶¶ 4, 9, 13.

On or about August 28, 1991, Petitioner entered the United States as a refugee. *Id.* ¶ 4 & Exs. A, C. On June 9, 1993, he adjusted status to lawful permanent resident. *Id.* ¶ 4 & Exs. A, C. On September 9, 2015, Petitioner was convicted of second-degree assault and second-degree theft

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.

of property in the Circuit Court of Franklin County, Alabama. *Id.* ¶ 5 & Ex. B. He was sentenced to 120 months imprisonment on each count and ordered to pay restitution. *Id.* ¶ 5 & Ex. B.

On or about September 30, 2019, Immigration and Customs Enforcement (“ICE”), Enforcement and Removal Operations (“ERO”) encountered Petitioner at the Oakdale Federal Detention Center in Oakdale, Louisiana. *Id.* ¶ 6. On the same day, ICE/ERO served Petitioner with a Notice to Appear (“NTA”) charging him with removability pursuant to (1) Immigration Nationality Act (“INA”) § 237(a)(2)(A)(iii), 8 U.S.C. § 1227(a)(2)(A)(iii), based on his commission of an aggravated felony, specifically a crime of violence within the meaning of INA § 101(a)(43)(F), 8 U.S.C. § 1101(a)(43)(f), and (2) INA § 237(a)(2)(A)(iii), 8 U.S.C. § 1227(a)(2)(A)(iii), based on his commission of an aggravated felony, specifically a theft or burglary offense within the meaning of INA § 101(a)(43)(G), 8 U.S.C. § 1227(a)(43)(G). Guerra Decl. ¶ 6 & Ex. C.

On or about October 7, 2019, Petitioner entered ICE/ERO custody for the first time at the Central Louisiana ICE Processing Center in Jena, Louisiana. *Id.* ¶ 7. On October 25, 2019, Petitioner appeared *pro se* before an immigration judge (“IJ”) for his initial master hearing, and the IJ reset the case to November 13, 2019 to allow Petitioner to seek counsel. *Id.* ¶ 8. On November 13, 2019, Petitioner appeared *pro se* for the rescheduled hearing and admitted and conceded the allegations and charges in the NTA. *Id.* ¶ 9. The IJ offered Petitioner the opportunity to apply for relief from removal, and Petitioner declined. *Id.* The IJ therefore ordered Petitioner removed to Eritrea on the same day. *Id.* ¶ 9 & Ex. D. Petitioner failed to appeal the removal order to the Board of Immigration Appeals within the allotted time period of thirty days, and the removal order therefore became final on December 13, 2019. Guerra Decl. ¶ 9; *see* 8 C.F.R. § 1003.38(b) (requiring appeal of a removal order to the BIA within thirty days of the issuance of the order); 8

C.F.R. § 1241.1(c) (providing that a removal order becomes final, *inter alia*, “[u]pon expiration of the time allotted for an appeal”).

On or about November 19, 2019, Petitioner was transferred to Lasalle Correctional Center in Olla, Louisiana. Guerra Decl. ¶ 10. On or about the same day, ICE/ERO began asking Petitioner to complete forms necessary for ICE/ERO to submit a travel document request to the Eritrean Embassy. *Id.* ¶ 11. Petitioner repeatedly failed to comply with this request and did not assist ICE/ERO in obtaining a travel document. *Id.* As a result of these failures, ICE/ERO served Petitioner with Notices of Failure to Comply with removal efforts on January 7, 2020, November 6, 2020, December 21, 2020, and January 28, 2021. *Id.* ¶ 11 & Ex. E.

On or about October 29, 2020, Petitioner was transferred to Adams County Correctional Center in Natchez, Mississippi. *Id.* ¶ 12. On or about April 5, 2021, Petitioner was released from ICE/ERO custody under an order of supervision (“OSUP”). *Id.* ¶ 12. Following his release, however, Petitioner continued refusing to assist ICE/ERO in obtaining a travel document. Guerra Decl. ¶ 12.

On February 5, 2025, ICE/ERO terminated Petitioner’s OSUP, and he re-entered ICE/ERO custody. *Id.* ¶ 13 & Ex. A. On or about May 21, 2025, ICE/ERO submitted a travel document request to the Eritrean Embassy despite Petitioner’s refusal to assist with the process. *Id.* ¶ 14. On or about June 30, 2025, ICE Headquarters (“HQ”), Removal and International Operations (“RIO”) received a travel document for Petitioner from the Eritrean Embassy. *Id.* ¶ 15 & Ex. F. The travel document remains valid through December 22, 2025. *Id.* ¶ 15 & Ex. F. Ethiopia is open for international travel, and ICE/ERO is currently removing non-citizens to Eritrea. *Id.* ¶ 17. ICE/ERO has scheduled Petitioner for removal on a flight to Eritrea in the coming weeks. Guerra Decl. ¶ 16.

LEGAL FRAMEWORK

Since 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 v. Davis*, 533 U.S. 678 (2001), 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. 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 claims that his detention violates due process under *Zadvydas* and requests release from custody.² Pet. 3-4. Petitioner cannot meet his evidentiary burden and is not entitled to relief under *Zadvydas* because there is a significant likelihood of removal in the reasonably foreseeable future. Accordingly, 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 attempts to meet his burden on three bases. First, Petitioner claim that he is entitled to relief under *Zadvydas* because

² Respondent addresses Petitioner’s due process claims together because Petitioner primarily seeks relief for alleged prolonged post-final order detention under *Zadvydas*. Pet. 3-4; *see, e.g., Linares v. Dep’t of Homeland Sec.*, 598 F. App’x 885, 887 (11th Cir. 2015) (evaluating the petitioner’s claims together because the “procedural and substantive due process claims were both grounded in the government’s alleged violation under *Zadvydas*[]”).

Petitioner also states that his detention violates due process because he has been denied a bond hearing pursuant to *Demore v. Kim*, 538 U.S. 510 (2003). Pet. 4. However, *Demore* concerns only *pre*-final order of removal detention whereas Petitioner is detained *post*-final order of removal. Because those standards are inapplicable to Petitioner’s current detention, Respondent addresses Petitioner’s due process claims only under *Zadvydas*. This Court has done the same in similar circumstances. *See, e.g., Piton v. Warden, Folkston ICE Processing Ctr.*, No. 7:16-CV-162-HL-MSH, 2018 WL 2056575, at *1 (M.D. Ga. Jan. 26, 2018), *recommendation adopted*, 2018 WL 2056563 (M.D. Ga. Feb. 26, 2018); *Garcon v. Warden, Irwin Cnty. Det. Ctr.*, No. 7:16-CV-158-WLS-MSH, 2017 WL 9250368, at *1 (M.D. Ga. Aug. 30, 2017), *recommendation adopted*, 2018 WL 2056562 (M.D. Ga. Aug. 30, 2017). Further, the Supreme Court has held that 8 U.S.C. § 1231(a)(6)—Petitioner’s present detention authority—cannot be interpreted to require bond hearings. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 581-82 (2022). To the extent that the Court interprets Petitioner’s claims for relief differently, Respondents respectfully request an opportunity to amend this Response.

he has not yet been removed despite his purported cooperation with ICE/ERO's efforts to secure a travel document.³ Pet. 2-4. 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)). This Court should similarly find that Petitioner’s assertions regarding purported delay of his removal are insufficient to warrant relief under *Zadvydas*.

Second, Petitioner claims that ICE/ERO will have difficulty securing a travel document because “Eritrea . . . has little to no dealings with the United States.” Pet. 3-4. This assertion is both conclusory and disproven by the record. ICE/ERO has secured a travel document for Petitioner from the Eritrean Embassy, and that travel document remains valid through December 22, 2025. Guerra Decl. ¶ 15 & Ex. F.

Third, Petitioner simply restates the relevant standard, repeatedly alleging without supporting evidence that “there is no significant likelihood that Petitioner[’s] removal will occur in the reasonably foreseeable future.” Pet. 3-4. Petitioner’s conclusory statements that he is unlikely to be removed in the near future are insufficient to state a claim under *Zadvydas*. *See*

³ Despite Petitioner’s assertion that he “has fully cooperated with all and any requests from ICE,” Pet. 3, he repeatedly refused to complete forms related to ICE/ERO’s travel document request and was issued four Notices of Failure to Comply as a result, Guerra Decl. ¶ 11 & Ex. E.

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*, and the Petition should be denied.

Even assuming Petitioner offered evidence sufficient to shift the burden to Respondent to show a likelihood of removal—which he has not—Respondent meets his burden. ICE/ERO has now secured a travel document to facilitate Petitioner’s removal to Eritrea, and the travel document remains valid through December 22, 2025. Guerra Decl. ¶ 15 & Ex. F. ICE/ERO will be able to execute Petitioner’s removal to Eritrea using this travel document because Eritrea is open for international travel, and ICE/ERO is presently removing non-citizens to Eritrea. *Id.* ¶ 17. Indeed, ICE/ERO has already scheduled Petitioner’s removal on a flight to Eritrea in the coming weeks. *Id.* ¶ 16.

Cases addressing analogous circumstances show that there is a significant likelihood of removal in the reasonably foreseeable future where ICE/ERO’s need to secure a removal flight is the sole reason for continued detention. For example, in *Chardey v. Gonzales*, No. H-07-0053, 2007 WL 1256623 (S.D. Tex. Apr. 30, 2007), ICE/ERO secured a travel document—but not a valid passport—for a Togolese non-citizen but “had difficulty booking a flight . . . because most flights to Togo [were] directed through France,” which required valid passports for transit through

the country. *Chardey*, 2007 WL 1256623, at *1. ICE/ERO attempted to arrange alternative flight routes, but the non-citizen's travel document expired in the interim. *Id.* However, the Court held that there was a significant likelihood of removal in the reasonably foreseeable future because ICE/ERO identified another possible flight route and anticipated that Togo would issue another travel document within approximately three months. *Id.* at *1-2.

Similarly, in both *Shah v. Wolf*, No. 3:20-CV-994-C-BH, 2020 WL 4456530 (N.D. Tex. July 13, 2020), and *Deqa M.Y. v. Barr*, No. 20-cv-1091, 2020 WL 4928321 (D. Minn. June 16, 2020), ICE/ERO possessed travel documents for the non-citizens but had difficulty securing removal flights because countries suspended air travel due to the COVID-19 pandemic. *Shah*, 2020 WL 4456530, at *2-4; *Deqa M.Y.*, 2020 WL 4928321, at *1, 4, 6. In both cases, however, ICE/ERO submitted declarations indicating that it anticipated securing flights for the non-citizens in the near future. *Shah*, 2020 WL 4456530, at *4; *Deqa M.Y.*, 2020 WL 4928321, at *6. Based on this evidence, the courts concluded that there remained a significant likelihood of removal in the reasonably foreseeable future and denied the non-citizens' *Zadvydas* claims. *Shah*, 2020 WL 4456530, at *4; *Deqa M.Y.*, 2020 WL 4928321, at *6. Other courts in the Eleventh Circuit have reached this same conclusion. *See Ortiz*, 2021 WL 6280186, at *1, 4-5; *Guilarte v. Barr*, No. 4:20-cv-401, 2020 WL 8084169, at *1-2, 4 (N.D. Fla. Dec. 3, 2020), *recommendation adopted*, 2021 WL 75763 (N.D. Fla. Jan. 8, 2021).

The Court should similarly deny the Petition here. As explained above, delays resulting from the scheduling of a removal flight are insufficient to warrant relief under *Zadvydas*. And here, ICE/ERO has secured a travel document to facilitate Petitioner's removal and has now scheduled a removal flight to Eritrea pursuant to that travel document. For these reasons, there is a significant

likelihood of Petitioner's 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 is not entitled to relief under *Zadvydas* because he fails to meet his evidentiary burden and because there is a significant likelihood of removal in the reasonably foreseeable future. For these reasons, Respondent respectfully requests that the Court deny the Petition.

Respectfully submitted this 14th day of October, 2025.

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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:

Mebratu Mehur
A# 
Stewart Detention Center
P.O. Box 248
Lumpkin, GA 31815

This 14th day of October, 2025.

BY: s/ Roger C. Grantham, Jr.
ROGER C. GRANTHAM, JR.
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