

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION

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EHIGIE HENSHAW ISIBOR,

Petitioner,

v.

WARDEN, BLUEBONNET DETENTION  
CENTER,

Respondent.

Civil Action No. 1:25-CV-00196-H

**RESPONSE IN OPPOSITION TO PETITIONER'S PETITION FOR WRIT OF  
HABEAS CORPUS**

Petitioner, Ehigie Henshaw Isibor, filed a writ of habeas corpus under 28 U.S.C. § 2241 alleging that he has been detained beyond the time limit allowed by *Zadvydas v. Davis*, 533 U.S. 678 (2001), and that his removal is not likely in the reasonably foreseeable future. He is wrong on both claims. The Court should dismiss the petition.

**I. Procedural History**

Petitioner is a native and citizen of Nigeria. App. p. 39. Petitioner entered the United States at or near Houston, Texas on March 2, 2016, as a B1/B2 visa holder. *Id.* Petitioner subsequently applied for an adjustment of status to lawful permanent resident (IR-6) on March 24, 2017. Thereafter, Petitioner was admitted into the United States on December 18, 2018, as an IR-6, lawful permanent resident. App. p. 3.

On September 21, 2022, Petitioner was convicted in the United States District Court, Northern District of Texas, Dallas, Texas for the offense of “Use of a False Passport,” in violation of 18 U.S.C. § 1543, and “Conspiracy to Commit Money Laundering,” in violation of 18 U.S.C. §§ 1956(a)(1)(B)(i), 1956(h), and 1957, and was sentenced to 60 months of imprisonment. *Id.* On February 2, 2023, Petitioner was placed into removal proceedings through issuance of a Notice to Appear and was charged as removable under INA § 237(a)(2)(A)(iii) (Aggravated Felony Conviction). App. p. 39. Petitioner subsequently filed an I-589, Application for Asylum, Withholding of Removal and Convention Against Torture on October 12, 2023, and then supplemented this Application on November 19, 2024, November 22, 2024, and January 17, 2025. App. pp. 43-50. On February 22, 2024, Petitioner was transferred to ICE custody and was booked into Bluebonnet Detention Facility, where he remains currently detained. App. p. 3.

On April 21, 2025, Petitioner was ordered removed to Nigeria by Written Decision and Order of the Immigration Court. App. p. 60. On May 23, 2025, Petitioner filed a Notice of Appeal from a Decision of an Immigration Judge. and on September 19, 2025, the Board of Immigration Appeals dismissed Petitioner’s appeal and denied Petitioner’s motion to remand. App. pp. 51-54. Thereafter, on November 13, 2025, a formal request for a travel document was mailed to the Consulate General of Nigeria, Atlanta office. App. pp. 57-58. On November 18, 2025, an Electronic Nationality Verification request was submitted to the Consulate General of Nigeria. ERO’s Headquarters Office is currently working with the Consulate General of Nigeria for Petitioner’s removal to

Nigeria in this case.

**II. Petitioner's challenge to his post-order detention is premature, and ICE has plans to remove him in the near future anyway.**

Petitioner claims that his period in immigration custody is indefinite and therefore violates *Zadvydas v. Davis*, 533 U.S. 678 (2001), 8 U.S.C. § 1226(c), and the due process clause of the United States Constitution. He seeks release from detention on bond or on an order for an individualized bond hearing. But Petitioner is incorrect on all accounts and is not entitled to release.

Petitioner's removal order became final on September 19, 2025, when the Board of Immigration Appeals dismissed Petitioner's appeal of his Order of Removal. 8 U.S.C. §§ 1101(a)(47)(B)(ii), 1231(a)(1)(B)(i); 8 C.F.R. § 1003.39. At that point, his detention transformed from "pre-order" detention under 8 U.S.C. § 1226(c) (pending the conclusion of proceedings) to "post-order" detention under 8 U.S.C. § 1231(a) (after a final order of removal has been entered and before the actual removal is executed). *Andrade v. Gonzales*, 459 F.3d 538, 542–43 (5th Cir. 2006); *Jabri v. Vellegas*, No. 3:14-CV-1050-L-BK, 2014 WL 6663636, at \*2–3 (N.D. Tex. Nov. 24, 2014). Any challenge his petition purports to attempt to raise relating to his pre-order detention under section 1226(c) is therefore moot, and the Court should instead analyze his claims as relevant to his current, post-order detention under section 1231 and *Zadvydas*. *Triumph v. Holder*, 314 F. App'x 719, 720 (5th Cir. 2009).

Section 1231 affords the government a 90-day period within which to remove an alien from the United States following the entry of a final order of removal. 8 U.S.C.

§ 1231(a)(1)(A). The Supreme Court in *Zadvydas* held that, if an alien is subject to mandatory detention under 8 U.S.C. § 1231(a)(6), as Petitioner is, the alien's post-order detention is presumptively reasonable—and therefore constitutional—beyond that 90-day period, for up to a period of six months. 533 U.S. at 689–701. After that point, the alien may seek habeas relief but is not necessarily entitled to release. *See id.* at 701. Under *Zadvydas*, therefore, a mandatorily detained alien cannot establish a *prima facie* claim for habeas relief from post-order detention until he has been in post-order custody for more than six months at the time the habeas petition is filed. *Apau v. Ashcroft*, 3:02-CV-2652- D, 2003 WL 21801154, at \*2 (N.D. Tex. June 17, 2003) (citing *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002)). This period begins to run on the date that the removal order becomes administratively final. 8 U.S.C. § 1231(a)(1)(B)(i); *Agyei-Kodie v. Holder*, 418 F. App'x 317, 318 (5th Cir. 2011). Besides meeting the six-month threshold, a *prima facie* claim under *Zadvydas* also requires that the alien provide a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future. *Apau*, 2003 WL 21801154, at \*2–3.

At the time he filed his habeas petition, Petitioner had been in post-order detention for one week. Even as of the date of this filing, he has been in post-order detention for only two months. His removal is likely to occur soon, as a travel request has already been submitted to Nigeria. As such, he not only fails to meet the six-month threshold outlined in *Zadvydas* (or even the statutory 90-day removal period), but he also has not

shown that his removal is not reasonably foreseeable. *Apau*, 2003 WL 21801154, at \*2–

3. His habeas claim must be dismissed.

### III. Conclusion

Petitioner has not been detained for an unreasonable amount of time. He is not entitled to the relief he seeks. The petition should be dismissed.

Respectfully submitted,

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Attorneys for Respondent

### CERTIFICATE OF SERVICE

On December 1, 2025, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Northern District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all parties electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Ann E. Cruce-Haag  
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