

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

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|-----------------------------|---|---------------------------------|
| HEITHEM MOHAMMAD |) | |
| ABDUL KHALIQ, |) | |
| |) | |
| Petitioner, |) | |
| |) | |
| v. |) | Case No. CIV-25-1154-SLP |
| |) | |
| KRISTI NOEM, et al., |) | |
| |) | |
| Respondents. |) | |

REPORT AND RECOMMENDATION

Petitioner Heithem Mohammad Abdul Khaliq, a noncitizen¹ and Jordanian national of Palestinian descent, filed a Petition for Writ of Habeas Corpus (“Petition”) challenging his detention by the U.S. Immigration and Customs Enforcement (“ICE”). Doc. 1. United States District Judge Patrick R. Wyrick referred this matter to the undersigned Magistrate Judge in accordance with 28 U.S.C. § 636(b)(1)(B)-(C).² Based on an expedited briefing scheduled set by the Court, Respondents filed a Response, Doc. 10, and Petitioner filed a Reply, Doc. 12. On November 4, 2025, after a status conference, the Court ordered supplemental briefing on certain factual disputes. Doc. 15. Both parties submitted supplemental briefs, Docs. 18, 20, and Petitioner responded to Respondents’ supplemental brief, Doc. 21. On December 1, 2025, Petitioner filed an Emergency Motion or Request

¹ Unless quoted, this Report and Recommendation “uses the term ‘noncitizen’ as equivalent to the statutory term ‘alien.’” *Nasrallah v. Barr*, 590 U.S. 573, 578 n.2 (2020) (citing 8 U.S.C. § 1101(a)(3)).

² Judge Wyrick subsequently recused himself and the case was reassigned to United States District Judge Scott L. Palk. Doc. 11.

for Expedited Handling Under 28 U.S.C. § 1657 (“Motion to Expedite”) to expedite a decision on the Petition and to shorten the period for any objections to a Report and Recommendation. Doc. 25. For the reasons set forth below, the undersigned recommends that the Court deny the Petition and deny Petitioner’s Motion to Expedite as moot.

I. Background

Petitioner was born in Saudi Arabia in 1974 and immigrated to the United States as a Lawful Permanent Resident in May 1990. Pet. at 4; Doc. 18 at 2. On January 23, 2018, he pleaded guilty to several state charges in the District Court of Oklahoma County, including driving under the influence, possession of a controlled dangerous substance, possession of drug paraphernalia, and driving while privilege revoked. Pet. at 4; Resp. at 2; Doc. 18-1 at ¶ 4. After these convictions, Petitioner entered ICE custody in April 2019, and an immigration judge ordered him removed to Saudi Arabia. Pet. at 4; Resp. at 2; Doc. 18-1 at ¶ 5. Petitioner’s appeal of his Order of Removal was dismissed on February 20, 2020. Pet. at 4. After the denial of Petitioner’s motion to reopen on July 16, 2020, his case was sent to ICE Enforcement and Removal Operations (“ERO”) for execution of the Order of Removal. Resp. at 2 n. 4.

On September 22, 2020, ERO sent a travel document request to Saudi Arabia seeking to effectuate Petitioner’s removal. Resp. at 2; Doc. 18-1 at ¶ 7. On December 9, 2020, the Consulate of Saudi Arabia notified ERO that Petitioner is not a Saudi citizen and advised of several other issues that would prevent his removal to Saudi Arabia. Resp. at 2; Doc. 18-1 at ¶ 8. Based on this information, ERO suspended efforts to remove Petitioner to Saudi Arabia. Doc. 18 at 3; Doc. 18-1 at ¶ 8.

On January 8, 2021, ERO requested assistance from the Jordanian consulate about Petitioner's country of birth and country of citizenship. Resp. at 2; Doc. 18-1 at ¶ 9. After investigation, ERO learned that Petitioner was born in Saudi Arabia and is of Palestinian descent. Doc. 18-1 at ¶ 10. In addition, ERO learned that Jordan issues passports to certain individuals of Palestinian descent, like Petitioner. *Id.* ERO also obtained Petitioner's temporary Jordanian passport, issued in 1989,³ which establishes Petitioner's identity and ties to Jordan as well as his Palestinian descent. *Id.*; Doc. 23 at 19-28. From the record, the undersigned discerns that ERO at this point determined to try to remove Petitioner to Jordan based on his ties to that country. On July 26, 2021, Respondents requested an update on Petitioner's travel request from the Embassy of Jordan. Doc. 18-1 at ¶ 11. There is no record that Jordan ever responded to this request. *Id.* On August 10, 2021, Petitioner was released from ICE custody on an Order of Supervision. Pet. at 4; Resp. at 2-3; Doc. 18-1 at ¶ 12.⁴

Petitioner was re-detained by ICE on March 6, 2025. Pet. at 4; Resp. at 3; Doc. 18-1 at ¶ 14. On April 13, 2025, ERO sent a travel document request for Petitioner to the

³ Petitioner maintains that he does not have a *current* Jordanian passport but does not dispute that the expired passport was issued to him. Doc. 20 at 2-3.

⁴ Petitioner alleges he was released from detention because Respondents could not effectuate his removal. Pet. at 4. ERO asserts that Petitioner was released from custody because he had a validated COVID risk factor. Doc. 18 at 5; Doc. 18-1 at ¶ 12; *see also Fraihat v. U.S. Immigr. & Customs Enf't*, 445 F. Supp. 3d 709, 751 (C.D. Cal. 2020) (granting a preliminary injunction requiring ICE to make timely custody determinations for detainees with certain COVID risk factors), *vacated by* No. 19-CV-10546, 2022 WL 20212706 (C.D. Cal. Sep. 16, 2022). The reason for Petitioner's release does not impact the undersigned's analysis on whether he is currently entitled to release.

Embassy of Jordan, and that request included his Jordanian passport, his birth certificate, and pages from his parents' Jordanian passports. Resp. at 3; Doc. 18-1 at ¶¶ 15, 26; Doc. 23. On May 23 and May 26, 2025, ERO requested a status update from the Embassy of Jordan. Resp. at 3; Doc. 18-1 at ¶¶ 16-17. Respondents did not receive any response to these requests. Doc. 18-1 at ¶¶ 16-17. On June 2, 2025, ERO determined that Petitioner's detention should be continued given his criminal history and that his removal is "highly likely in the reasonably foreseeable future." Resp. at 3; Doc. 18-1 at ¶ 18.

On June 17, 2025, ERO requested another status update from the Embassy of Jordan. Doc. 18-1 at ¶ 19. The Embassy responded, stating that they were "still waiting on approval from the Government of Jordan to issue a travel document." *Id.*; *see also* Doc. 18 at 5. On July 23, 2025, ERO requested another status update from the Embassy of Jordan. Resp. at 3; Doc. 18-1 at ¶ 20. On July 31, 2025, the Embassy again stated it was "still waiting on approval from the Government of Jordan" to issue a travel document. Doc. 18-1 at ¶ 21; *see also* Doc. 18 at 5. On November 4, 2025, during this habeas proceeding, ERO requested another status update from the Embassy of Jordan. Doc. 18-1 at ¶ 23. On November 5, 2025, an officer from the Jordanian Embassy responded, stating that they would not be able to issue travel documents based on Petitioner's temporary Jordanian passport, but provided instructions for applying for a new passport. *Id.* ¶ 24. The Jordanian officer stated "the process could take some time as they would need to get approval from the Jordanian authorities since [Petitioner] is detained." *Id.*

ERO Officer Aaron Nation asserts that an application for a new Jordanian passport will be completed soon by Petitioner. *Id.* ¶ 26. Officer Nation further asserts that "because

the Jordanian Embassy has responded to our requests for updates on the travel document, and included instructions for a new passport, [he] believe[s] it is likely that they will renew his passport and issue travel documents.” *Id.* ¶ 27 (citation modified). “Based on Jordan’s acceptance of flights and the record of acceptance of individuals with Jordanian passports to Jordan,” Officer Nation believes that Petitioner’s “removal is significantly likely in the reasonably foreseeable future.” *Id.* ¶ 28.

Separately, on September 23, 2025, ERO sent documents to Petitioner for him to complete to request a travel document from Palestine. *Resp.* at 3; *Doc. 18-1* at ¶ 22. Respondents allege that Petitioner failed to complete these documents fully and filled out portions incorrectly. *Resp.* at 3; *Doc. 18* at 4; *Doc. 18-1* at ¶ 22. Petitioner asserts that there was confusion surrounding a Power of Attorney form, and that “his failure to understand the document and completing it incorrectly is not a refusal to comply with his removal.” *Doc. 20* at 4. Respondents claim that if the Jordanian Embassy does not issue a travel document for Petitioner, ERO intends to submit a travel document request to the Israeli Embassy for permission for Petitioner to travel to the West Bank based on evidence of Petitioner’s Palestinian nationality. *Resp.* at 3; *Doc. 18-1* at ¶ 30.

Petitioner filed his Petition on October 3, 2025, approximately seven months after being detained and four months after ERO determined his removal was highly likely in the reasonably foreseeable future. *Pet.* at 9. When he filed his Petition, Petitioner was detained at Cimarron Correctional Facility in Cushing, Oklahoma. *Id.* at 3. He remains detained at that ICE facility. *See ICE Online Detainee Locator System, at* <https://locator.ice.gov/odls/#/results> (last visited Dec. 2, 2025).

II. Petitioner's Claims

Petitioner asserts two counts in his Petition:

- **Count I: Violation of Fifth Amendment Right to Due Process.** Petitioner alleges that his ongoing detention is not likely to end in the reasonably foreseeable future and, therefore, violates his right to Due Process. Pet. at 8.
- **Count II: Violation of 8 U.S.C. § 1231(a).** Petitioner alleges that his removal is not reasonably foreseeable, does not effectuate the purpose of the statute, and is accordingly not authorized by § 1231(a). Pet. at 8-9.

Petitioner seeks a writ of habeas corpus “ordering Respondents to release Petitioner immediately.” *Id.* at 9. In addition, he seeks a declaration that his ongoing detention violates the Due Process Clause and 8 U.S.C. § 1231(a). Pet. at 9.⁵

III. Standard of Review

To obtain habeas corpus relief, Petitioner must show that he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3). “Challenges to immigration detention are properly brought directly through habeas.” *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (citing *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001)).

Petitioner asserts that his continued detention violates 8 U.S.C. § 1231(a). Pet. at 8-9. Under this statute, “when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days.” *Id.* § 1231(a)(1)(A). The 90-day period is known as the “removal period.” *Id.* After the removal period, ICE

⁵ Petitioner also requests oral argument. Pet. at 1. Oral argument would not materially assist in determining these issues and is unnecessary for preparing this Report and Recommendation. LCvR78.1.

has discretion to detain inadmissible or criminal aliens. *Id.* § 1231(a)(6). However, detention of an alien subject to a final order of removal may not be indefinite and is presumptively reasonable for only six months beyond the removal period. *See Zadvydas*, 533 U.S. at 701; *see also Morales-Fernandez v. INS*, 418 F.3d 1116, 1123 (10th Cir. 2005) (reiterating that “the reasonable period of post-removal detention is presumptively six months”). After that, a detainee may bring a habeas action to challenge his detention. *Zadvydas*, 533 U.S. at 688. “This 6-month presumption, of course, does not mean that every alien not removed must be released after six months. To 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.” *Id.* at 701.

To obtain habeas relief, a petitioner has the initial burden to show the post-removal-order detention has surpassed six months and to “provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Id.*; *see also Soberanes*, 388 F.3d at 1311 (“If removal is not reasonably foreseeable, the court should hold continued detention unreasonable.” (citation modified)). “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.” *Zadvydas*, 533 U.S. at 701. Further, “for detention to remain reasonable, as the period of prior postremoval confinement grows, what counts as the ‘reasonably foreseeable future’ conversely would have to shrink.” *Id.*

IV. Analysis

A. **Petitioner's continued detention is lawful under 8 U.S.C. § 1231(a).**⁶

1. **Petitioner has not met his initial burden.**

It is undisputed that Petitioner has been re-detained since March 2025, beyond a presumptively reasonable period of six months. *See* Pet. at 4; Resp. at 3. It is also undisputed that Petitioner's order of removal is to Saudi Arabia and that ERO is not attempting to remove him to Saudi Arabia. Pet. at 1-2; Doc. 18 at 3; *see also* Doc. 18-1 at ¶ 8 (discussing that ERO suspended efforts to remove Petitioner to Saudi Arabia). Petitioner, though, has not "provide[d] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. "To meet the burden of establishing this, Petitioner must demonstrate the existence of either institutional barriers to repatriation or obstacles particular to his removal." *Dusabe v. Jones*, No. CIV-24-464-SLP, 2024 WL 5465749, at *3 (W.D. Okla. Aug. 27, 2024) (R&R), *adopted*, 2025 WL 486679 (W.D. Okla. Feb. 13, 2025). Further, a noncitizen "subject to an order of removal must present something beyond speculation and

⁶ *Zadvydas* applies here, though the undersigned acknowledges that in *Zadvydas* the petitioners sought relief from their *original* detention by ICE whereas Petitioner seeks relief from his *re-detention*. First, Respondents rely upon their statutory authority under § 1231(a)(6) to detain Petitioner. Second, all parties focus their briefing on whether Petitioner's detention is constitutional under *Zadvydas* alone. Finally, courts recently addressing this issue have ruled that *Zadvydas* applies to re-detention cases. *See, e.g., Momennia v. Bondi*, No. CIV-25-1067-J, 2025 WL 3006045, at *2 (W.D. Okla. Oct. 27, 2025) (applying *Zadvydas* to petitioner released from detention on an Order of Supervision "for over twenty years" and then re-detained by ICE in early 2025); *Qui v. Carter*, No. 25-3131, 2025 WL 2770502, at *4 (D. Kan. Sept. 26, 2025) (finding "petitioner's release [from re-detention] is warranted under the Supreme Court's *Zadvydas* framework").

conjecture” to carry his burden. *Al-Shewaily v. Mukasey*, No. CIV-07-0946-HE, 2007 WL 4480773, at *5 (W.D. Okla. Dec. 18, 2007) (citation modified).

The undersigned concludes there are not “obstacles particular to [Petitioner’s] removal” that demonstrate he will not be removed to a third country—Jordan—in the reasonably foreseeable future.⁷ See *Dusabe*, 2024 WL 5465749, at *3. First, Petitioner was previously issued a passport by the Government of Jordan. Doc. 23 at 18-28; see also Doc. 20 at 3 (acknowledging that the expired Jordanian passport was issued by the Government of Jordan to Petitioner). While the Embassy of Jordan has informed ERO that “they would not be able to issue emergency travel documents based on [Petitioner’s] temporary [and expired] passport,” the Embassy “gave instructions for submitting an application for a new passport.” Doc. 18-1 at ¶ 24. Petitioner has not provided any reason that Jordan would not or should not issue him a new passport. Nor has he alleged why the Government of Jordan would have issued him a passport in 1989 but will not do so in 2025. Second, ERO submitted additional evidence of Petitioner’s ties to Jordan, including Jordanian passports of both of his parents and his brother’s birth certificate from Jordan. Doc. 23 at 14, 29-32. Petitioner has not disputed this evidence or explained why it would not support ERO’s request to Jordan to issue him a new passport, which, in turn, would allow for his removal to Jordan.

⁷ Petitioner alleges that he is “essentially stateless” because he was born in Saudi Arabia to non-Saudi citizen parents. Pet. at 1. Petitioner, though, has sufficient ties to Jordan to show he is not “essentially stateless” like the *Zadvydas* petitioners.

As such, Petitioner has “failed to present any facts indicating that ICE is incapable of executing his removal to [Jordan] and that his detention will, therefore, be of an indefinite nature.” *Al-Shewaily*, 2007 WL 4480773, at *5; see *Santiago-Gomez v. Chertoff*, No. Civ. 05-2899, 2006 WL 572379, at *6 (D.N.J. Mar. 8, 2006) (rejecting petitioner’s claim of no significant likelihood of removal because once immigration officials transmit petitioner’s correct biographical information to Spain, “it is entirely possible” that Spanish officials “will agree to issue a passport for [p]etitioner” (citation modified));⁸ cf. *Alic v. Dep’t of Homeland Sec’y/Immigr. Customs Enf’t*, No. 25-CV-01749, 2025 WL 2799679, at *2-3 (S.D. Cal. Sep. 30, 2025) (granting petitioner’s habeas petition because respondents could not show why a renewed request for travel documents would have a different outcome when the same country had previously denied petitioner’s travel document request and “no additional documentation was provided with the renewed request”).

Petitioner contends that based on the timing of Respondents’ travel document requests and responses from Jordan, his removal is not significantly likely in the reasonably foreseeable future. Doc. 21 at 2-3. However, Respondents are correct that “a mere delay in receiving travel documents does not trigger the inference that an alien will not be removed in the reasonably foreseeable future because the reasonableness of detentions

⁸ The petitioner in *Santiago-Gomez* subsequently filed a second successful habeas petition less than a year later, alleging that his removal was not significantly likely because even after receiving the correct biographical information Spain had refused to issue him a passport. *Santiago-Gomez v. Chertoff*, No. CIV A 06-3608, 2007 WL 316454, at *6 (D.N.J. Jan. 30, 2007). Likewise, if Petitioner’s passport application to Jordan is denied or other circumstances materially change, he may file a new habeas petition at that time if there is no significant likelihood of his removal in the reasonably foreseeable future.

pending deportation cannot be divorced from the reality of bureaucratic delays that almost always attend such removals.” Resp. at 9 (quoting *Head v. Keisler*, No. 07-402-F, 2007 WL 4208709, at *4 (W.D. Okla. Nov. 26, 2007)) (citation modified); see also *Manjulaben v. Ice*, No. 25-CV-02252, 2025 WL 2977713, at *2 (N.D. Ohio Oct. 22, 2025) (“Courts have uniformly held that mere delay by the foreign government in issuing travel documents, despite reasonable efforts by United States authorities to secure them, does not satisfy a detainee’s burden under *Zadvydas* to provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” (citation modified)).

Consistent with this principle, Petitioner cannot meet his burden only by showing a delay in the issuance of necessary travel documents by the country to which ICE is seeking to remove him. See *Dusabe*, 2024 WL 5465749, at *4 (finding petitioner failed to sustain his burden by alleging delay when the delay was “a result of Rwanda’s slow machinations and not a denial or refusal to accept him”); see also *Manjulaben*, 2025 WL 2977713, at *3 (finding petitioner has not met his burden in part because he “provides no indication that the Indian consulate would not procure travel documents”); *Atikurraheman v. Garland*, No. C24-262, 2024 WL 2819242, at *4 (W.D. Wash. May 10, 2024) (denying habeas relief where petitioner had been held past six months but continued detention appeared to be caused by the “nationality verification in India being a slow process, which does not undermine the conclusion that removal remains foreseeable”); *Derrick v. Barr*, No. C19-117, 2019 WL 3997505, at *2-3 (W.D. Wash. May 22, 2019) (finding a significant likelihood that petitioner would be removed in the reasonably foreseeable future, given his

passport application was still pending and both parties were actively addressing outstanding issues) (R&R), *adopted*, 2019 WL 3996849 (W.D. Wash. Aug. 23, 2019); *Komlanvi v. Sessions*, No. CV H-18-1058, 2018 WL 3348886, at *2 (S.D. Tex. July 9, 2018) (finding petitioner had not “met his initial burden of showing that there is no significant likelihood of removal in the foreseeable future,” despite being detained for more than a year, because “immigration officials are working with the government of Togo to procure the necessary travel documents”).

Further, the fact that a foreign government has not yet issued travel documents to a petitioner with a pending request and ties to that country does not mean that his removal is not significantly likely in the reasonably foreseeable future. *See, e.g., Tawfik v. Garland*, No. CV H-24-2823, 2024 WL 4534747, at *3 (S.D. Tex. Oct. 21, 2024) (finding allegations of “a lack of visible progress” because petitioner’s native country had not issued travel documents for him with no additional specifics about circumstances that would make petitioner’s removal unforeseeable were not sufficient to meet petitioner’s burden); *Edwin A. v. U.S. Immigr. & Customs Enf’t*, No. 24-CV-1363, 2024 WL 4654396, at *3 (N.D. Tex. Oct. 10, 2024) (finding petitioner had not met his burden because “ICE has presented strong evidence of [petitioner’s] nationality to the Ghana Embassy and the Embassy is now attempting to verify that information” and “ICE has taken affirmative steps to obtain travel documents—and the Ghana Embassy has not denied the request”) (R&R), *adopted*, 2024 WL 4654449 (N.D. Tex. Nov. 1, 2024); *Truong v. US Immigr. & Customs Enf’t*, No. 24-CV-00397, 2024 WL 3155909, at *1 (W.D. La. May 17, 2024) (finding petitioner did not meet his burden by making conclusory claims “that his removal was unlikely to occur in

the reasonably foreseeable future because Vietnam had not yet issued travel documents”) (R&R), *adopted*, 2024 WL 3155834 (W.D. La. June 24, 2024); *Salim v. Sessions*, No. CV H-18-2287, 2019 WL 13218806, at *6-7 (S.D. Tex. Sep. 4, 2019) (“The mere fact that the Pakistan Consulate has not yet responded to the request for travel documents does not mean it will not do so in the future” because “the Government has taken affirmative steps to obtain travel documents—none of which have been presently denied” (citation modified)); *cf. Nibkakhsh-Tali v. Mukasey*, No. CV 07-1526, 2008 WL 2328354, at *7 (D. Ariz. June 4, 2008) (“In light of the two denial letters, and [ICE’s] inability to even speculate as to when travel documents might be forthcoming, [r]espondent[s] have not come forth with evidence establishing that it is clear that there is a significant likelihood of removal, much less in the reasonably foreseeable future.”).

Finally, the Jordanian Embassy’s indication that the process “could take some time” alone does not impact the analysis because it is only when “the delays are so extraordinarily long as to trigger an inference that travel documents will likely never issue at all.” *Chen v. Banieke*, No. CIV-15-2188, 2015 WL 4919889, at *4 (D. Minn. Aug. 11, 2015) (finding allegations that ICE had not been able to obtain travel documents to petitioner’s native country for nine months or “provide a definite indication as to when it expects to obtain a travel document” were not sufficient to meet petitioner’s burden); *see also Diouf v. Mukasey*, 542 F.3d 1222, 1233 (9th Cir. 2008) (“That the detention did not have a certain end date does not change the analysis.”); *Joseph v. United States*, 127 F. App’x 79, 81-82 (3d Cir. 2005) (holding petitioner failed to meet his burden by merely showing a lengthy delay in the issuance of travel documents, but noting that “at some point

in time the inability to procure travel documents may provide good reason to believe that removal is unlikely to be carried out” where it suggests more than “a case of bureaucratic inertia and [that] the documents will be issued in due course” (citation modified)).

Accordingly, Petitioner has failed to meet his burden to prove that his removal is not significantly likely in the reasonably foreseeable future.

2. Even if Petitioner had met his burden, Respondents have sufficiently met their burden in response.

When a petitioner meets his burden and establishes “good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,” the burden then shifts to the Government to “respond with evidence sufficient to rebut that showing.” *Zadvydas*, 533 U.S. at 701. Even if Petitioner had met his burden, Respondents have satisfied their burden in response.

Here, Respondents have indicated the Jordanian Embassy has provided instructions for applying for a new passport for Petitioner and that “the process could take some time.” Doc. 18-1 at ¶ 24. As discussed above, mere delay on the part of the receiving country is not sufficient to prove that removal is not significantly likely in the reasonably foreseeable future. Accordingly, even if Petitioner had met his burden, Respondents have sufficiently rebutted any showing with evidence that Petitioner’s removal is likely to occur and merely delayed while Jordan processes the travel request. *See Jarrett v. U.S. Att’y Gen.*, No. 23-20790-CIV, 2024 WL 4165273, at *3 (S.D. Fla. Feb. 7, 2024) (“Respondent has rebutted [petitioner’s] contention [that his removal is not reasonably foreseeable] by showing that it is actively pursuing travel documentation and the Jamaican Consulate has not indicated

that the travel document request will be denied.”); *Zavier v. Barr*, No. 20cv245, 2020 WL 12188699, at *4 (N.D. Fla. Sep. 2, 2020) (finding that if the consulate is processing petitioner’s passport application and the process is advancing, then “the petition should be denied because removal is significantly likely to occur,” notwithstanding “the fact that a specific date cannot be provided”); *Yaro v. Mukasey*, No. 08-cv-593, 2008 WL 4816657, at *3 (W.D. Tex. Oct. 30, 2008) (finding respondents met their burden to show petitioner’s removal is likely in the reasonably foreseeable future where his native country had not refused to issue travel documents or failed to respond to ICE, but acknowledged receipt of key documents and provided a general timeline for a decision) (R&R); *Jaiteh v. Gonzales*, No. CIV-07-1727, 2008 WL 2097592, at *3 (D. Minn. Apr. 28, 2008) (finding respondents met their burden “where a foreign country ordinarily accepts repatriation, and that country is acting on an application for travel documents,” and a delay of more than 14 months is not long enough to show that travel documents are not forthcoming) (R&R), *adopted*, 2008 WL 2074163 (D. Minn. May 14, 2008).

Respondents have shown that ERO has taken numerous steps to secure travel documents and effectuate Petitioner’s removal, including multiple communications with the Embassy of Jordan to obtain the proper documents for Petitioner’s removal to Jordan. *See, e.g.*, Resp. at 10 (describing actions taken by Officer Nation to effectual Petitioner’s removal); *see also Tawfik*, 2024 WL 4534747, at *4 (finding respondents sufficiently rebutted petitioner’s showing because “ICE has been actively working on securing [petitioner’s] removal since the removal order became final”); *McAulay v. Taylor*, No. CIV-17-3290, 2017 WL 4842375, at *3 (D.N.J. Oct. 25, 2017) (finding respondents

rebutted petitioner's claim that his removal was not likely in the reasonably foreseeable future because during petitioner's year-long detention the government had been in direct contact with and provided requested documents to the United Kingdom Consulate and passport office, and his "removal awaits only the issuance of a travel document"). Accordingly, Respondents have provided sufficient evidence to show Petitioner's removal is likely in the reasonably foreseeable future. Thus, even assuming Petitioner met his initial burden, Respondents have sufficiently demonstrated that his removal to Jordan is significantly likely in the reasonably foreseeable future.⁹

The undersigned is mindful that "as the period of prior postremoval confinement grows, what counts as the 'reasonably foreseeable future' conversely would have to shrink," *Zadvydas*, 533 U.S. at 701, and recognizes that Petitioner has been detained post-removal for nearly nine months this year. But the government is making reasonably substantial efforts to remove him, and Jordan appears to be cooperating with those efforts. Based on the current record, Petitioner is substantially likely be removed in the reasonably foreseeable future. The undersigned notes, however, that this may change in the future, and Petitioner is not precluded from filing another habeas petition if removal to Jordan is no longer significantly likely to occur in the reasonably foreseeable future.

⁹ Respondents assert that if the Jordanian Embassy does not issue a travel document for Petitioner, ERO intends to submit a travel document request to the Israeli Embassy for permission for Petitioner to travel to the West Bank based on evidence of his Palestinian nationality. Resp. at 3; Doc. 18-1 at ¶ 30. Because the undersigned concludes that Petitioner's removal to Jordan is significantly likely in the reasonably foreseeable future, this Report and Recommendation does not address Respondents' alternative removal plan of Petitioner to Palestine through Israel.

B. Petitioner’s continued detention does not violate his due process rights under the Fifth Amendment.

“A petitioner’s failure to establish that his detention violates *Zadvydas* negates a substantive due process claim.” *Dusabe*, 2024 WL 5465749, at *6 (citation modified); *see also Mafukidze v. Gonzales*, No. CIV-07-871-W, 2008 WL 395411, at *4 (W.D. Okla. Feb. 11, 2008) (“Without providing good reason to believe there is no significant likelihood of his removal in the reasonably foreseeable future, [p]etitioner cannot prevail on a substantive due process claim based upon his continued detention.”). The Court should therefore deny any substantive due process claim raised by Petitioner.

V. Petitioner’s Motion to Expedite

After the Petition was fully briefed, Petitioner filed a Motion to Expedite asking the undersigned to (1) expedite his decision on the merits of the Petition and (2) shorten the timeline for objecting to any Report and Recommendation from 14 days to five days. Doc. 25. Because this Report and Recommendation addresses the merits of the Petition, the undersigned recommends that the Court deny the Motion to Expedite as moot. To the extent Petitioner seeks a shorter timeline for objecting to this Report and Recommendation, the undersigned has already shortened the objection period to seven days as a matter of course with habeas cases like this.

VI. Recommendation and Notice of Right to Object

For the foregoing reasons, the undersigned recommends that the Court **DENY** the Petition, Doc. 1, and **DENY** as moot the Motion to Expedite, Doc. 25. The parties are advised of their right to object to this Report and Recommendation. *See* 28 U.S.C. § 636.

Any objection must be filed with the Clerk of Court not later than **December 9, 2025**. *See id.* § 636(b)(1); Fed. R. Civ. P. 72(b)(2). If a party wishes to respond to the other party's objections, such response must be filed not later than **December 12, 2025**. *See* Fed. R. Civ. P. 72(b)(2). Failure to object timely waives the right to appellate review of the factual and legal issues addressed in this Report and Recommendation. *See Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in this matter.

ENTERED this 2nd day of December, 2025.


CHRIS M. STEPHENS
UNITED STATES MAGISTRATE JUDGE