

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

SARI ABOU AMRA,)	
)	
Petitioner,)	
)	
v.)	Case No. 25-3222-JWL
)	
SAM OLSON, Field Office Director for Enforcement and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security, and JACOB WELSH, Sheriff, Chase County Detention Center)	
)	
Respondents.)	
)	
)	
)	

RESPONSE TO § 2241 HABEAS PETITION AND ORDER TO SHOW CAUSE

This matter is before the Court on the petition of Sari Abou Amra (“Petitioner”) for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner, a noncitizen, alleges that he is being unlawfully detained in the Chase County Detention Center, pending removal from the United States. He seeks release from detention on the basis that his detention violates his rights to substantive and procedural due process and that his detention violates the Immigration and Nationality Act (INA) and the U.S. Constitution. In compliance with the Court’s Order to Show Cause, Doc. 5, Samuel Olson, Immigration and Customs Enforcement (“ICE”) Field Office Director, and Jacob Welsh, Sheriff, Chase County Detention Center (collectively “Respondents”) respectfully submit this response. The § 2241 habeas petition should be denied. Petitioner has been detained for less than six months making his detention presumptively reasonable. Moreover, Petitioner has been uncooperative during the removal process, thereby tolling the six-month

period. Even if he had been detained longer, Petitioner cannot provide a showing there is no significant likelihood of removal in the reasonably foreseeable future.

STATEMENT OF FACTS

The following facts are based on the declaration of Marissa Saenz, a Deportation Officer for ICE Enforcement and Removal Operations (“ERO”) of the United States Department of Homeland Security (“DHS”). Exhibit 1, Saenz Decl. ¶¶ 1-3. Petitioner is stateless. *Id.* ¶ 4. He was born in Libya and is of Palestinian decent. *Id.* Prior to arriving in the United States, Petitioner and his family lived in Qatar. *Id.* ¶ 5. Petitioner entered the United States at Chicago, Illinois on or about June 29, 2000 as a nonimmigrant visitor, with authorization to remain in the United States until December 28, 2000. *Id.* ¶ 6. Petitioner was listed as a derivative on an application for relief filed with U.S. Citizenship and Immigration Services (“USCIS”) on November 24, 2000. The application was denied by USCIS on February 8, 2001. *Id.* ¶ 7. On or about September 25, 2001, Petitioner was placed in removal proceedings through issuance of a Notice to Appear (“NTA”), charging him as removable from the United States pursuant to section 237(a)(1)(B) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1227(a)(1)(B), for having overstayed his visa. *Id.* ¶ 8. On or about November 19, 2002, an application for relief on which Petitioner was listed as a derivative was denied by the Immigration Judge. Petitioner, and his other family members included in the case, were granted voluntary departure and were required to depart the United States on or before January 19, 2003. An alternate order of removal to Qatar was ordered to take effect if the Petitioner and his family failed to depart under the Immigration Judge’s voluntary departure order. *Id.* ¶ 9. On or about December 11, 2002, an appeal of the Immigration Judge’s decision was filed with the Board of Immigration Appeals (“BIA”). *Id.* ¶ 10. On January 29, 2004, the BIA dismissed the appeal. *Id.* ¶ 11. On or about April 27, 2004, a motion to reopen

and reconsider was filed with the BIA. The motion was denied by the BIA on June 9, 2004. *Id.* ¶ 12. The Petitioner failed to depart the United States as required under the order of voluntary departure, turning the voluntary departure order into an order of removal. *Id.* ¶ 13. On or about April 1, 2005, Petitioner was placed on an order of supervision. *Id.* ¶ 14. On June 4, 2025, Petitioner was taken into custody. A Notice of Revocation of Release was issued stating that the prior order of supervision has been revoked. *Id.* ¶ 15.

Pursuant to 8 U.S.C. § 1231(a)(1)(A), an alien who has been ordered removed, shall be removed from the United States within 90 days. At or near 90 days post removal order, if an alien has not been removed, ERO conducts a File Custody Review, also known as a Post-Order Custody Review (“POCR”), to determine the necessity of continued custody. When conducting a 90-day POCR, some factors that are considered are the following: a detained individual’s flight risk, any danger the individual may pose to his or her community, threat to national security, and whether there is significant likelihood of removal in the reasonably foreseeable future (“SLRRFF”). Based on this information, a recommendation will be made to management as to whether the individual should remain in custody. Those managers, including the Supervisory Deportation and Detention Officer, Assistant Field Office Director, Deputy Field Office Director and the Field Office Director, will either concur in the assessment to continue detention or request release of the alien. *Id.* ¶ 16.

In cases where an alien has been detained pursuant to a final order for 180 days, a Transfer Checklist will be completed with information related to follow-up actions taken to obtain a travel document after the initial 90-day POCR and every 90 days thereafter. The Transfer Checklist contains information, such as the alien’s biographical information, whether there is a judicial stay in effect, whether there is a habeas petition pending at the time of review, whether the particular

case is a national security case, whether the alien has medical or psychological issues, and whether and how often an Embassy person has been contacted for the status of a travel document. This checklist is then transferred to the ICE/ERO Headquarters POCR Unit, which makes the ultimate decision on the individual's continued detention beyond the 180 days, or every 90 days thereafter, based on the SLRRFF. *Id.* ¶ 17.

On or about June 19, 2025, ERO attempted to interview Petitioner to assess whether he has any ties to Libya, Egypt, or Qatar. Petitioner refused to answer any questions. *Id.* ¶ 18. On or about July 15, 2025, ICE confirmed that Petitioner still was not cooperating with removal efforts as he would not sign anything. *Id.* ¶ 19. On or about July 23, 2025, a travel document request was submitted to the Embassy of Libya. *Id.* ¶ 20. On or about July 25, 2025, the Embassy of Libya advised that Petitioner is not a citizen of Libya. *Id.* ¶ 21. On or about August 14, 2025, Petitioner filed a motion to reopen with the BIA. As of today's date, the motion remains pending. *Id.* ¶ 22.

On or about September 25, 2025, Petitioner was again interviewed and asked to complete a travel document application for the Palestinian Authority. After consulting with his attorney, Petitioner was advised not to complete the travel document application. ERO informed Petitioner that by refusing to fill out the travel document application, he has failed to comply with the Immigration Judge's removal order. *Id.* ¶ 23. On October 9, 2025, Petitioner was served with a Notice of Failure to Comply, advising Petitioner that continued actions to prevent removal may subject him to criminal prosecution under 8 U.S.C. § 1253(a). *Id.* ¶ 25. ICE intends to reach out to the Palestinian Authority despite Petitioner's noncooperation. *Id.* ¶ 27. On or about November 5, 2025, a travel document request was submitted to the Embassy of Qatar. *Id.* ¶ 26.

Petitioner filed his § 2241 petition on October 14, 2025. Doc. 2.

ARGUMENT

“The federal district courts have habeas corpus jurisdiction to consider the statutory and constitutional grounds for immigration detention that are unrelated to a final order of removal.” *Zhiriakov v. Barr*, No. 20-3141-JWL, 2020 WL 3960442, *6 (D. Kan. July 13, 2020). To obtain habeas corpus relief, a petitioner must demonstrate that “[h]e is in custody in violation of the Constitution or laws or treaties of the United States[.]” 28 U.S.C. § 2241(c)(3).

Petitioner is detained pursuant to the INA. Under the INA, an alien shall be removed if the alien is present in the United States in violation of the INA. 8 U.S.C. § 1227(a)(1)(B). Here, Petitioner violated the INA by remaining in the United States longer than permitted. Saenz Decl. ¶¶ 6-13. The Petitioner failed to depart the United States as required under the order of voluntary departure, turning the voluntary departure order into an order of removal. *Id.* ¶ 13. While previously being placed under an order of supervision, on June 4, 2025, Petitioner was taken into custody and a Notice of Revocation of Release was issued stating the supervision was revoked. *Id.* ¶¶ 14-15.

Upon the entry of a final removal order, “the Attorney General ‘shall detain the alien’ during the 90-day removal period established under 8 U.S.C. § 1231(a)(2).” *Zhiriakov*, 2020 WL 3960442, at *8 (citations omitted). “Generally, the government is required to remove the alien held in its custody within the 90-day removal period.” *Garcia Uranga v. Barr*, No. 20-3162-JWL, 2020 WL 4334999, *4 (D. Kan. July 27, 2020) (citing 8 U.S.C. § 1231(a)(1)(A)-(B)). Nevertheless, “[i]f removal cannot be carried out within the removal period, inadmissible aliens may be detained beyond the removal period under certain circumstances.” *Id.* (citing 8 U.S.C. § 1231(a)(6)).

Specifically, “the detention of an alien subject to a final order of removal for up to six months is presumptively reasonable in view of the time required to accomplish removal.”

Zhiriakov, 2020 WL 3960442, at *8 (citing *Zadvydas v. Davis*, 533 U.S. 678, 701 (2001)). “Beyond that period, if the alien shows that there is ‘no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.’” *Garcia Uranga*, 2020 WL 4334999, at *4 (quoting *Zadvydas*, 533 U.S. at 701). “The six-month presumption” thus “does not mean that every alien must be released after that time, but rather an alien may be detained ‘until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.’” *Zhiriakov*, 2020 WL 3960442, at *8 (quoting *Zadvydas*, 533 U.S. at 701).

While Petitioner invokes procedural and substantive due process claims in his Petition, his claims must be analyzed under the *Zadvydas* framework. See *Al-Shewaily v. Mukasey*, No. CIV-07-0946-HE, 2007 WL 4480773, at *6 (W.D. Okla. Dec. 18, 2007) (“Petitioner fails to elaborate on the details of any procedural due process claim; rather, he appears to base such claim on an entitlement to release pursuant to *Zadvydas*, which has already been rejected in addressing his statutory claim.”); see also *Nasr v. Larocca*, No. CV 16-1673-VBF(E), 2016 WL 3710200, at *5 (C.D. Cal. June 1, 2016) (“[W]here Petitioner has failed to meet his burden to show there is no significant likelihood of removal in the reasonably foreseeable future under *Zadvydas*, Petitioner also has failed to prove that his continued detention violates due process.”) (citation modified); *Dusabe v. Jones*, No. CIV-24-464-SLP, 2024 WL 5465749, at *5-6 (W.D. Okla. Aug. 27, 2024) (“Courts, including this one, have held that a petitioner’s failure to establish that his detention violates *Zadvydas* negates a substantive due process claim.”), *adopted*, 2025 WL 486679, at *1-4 (W.D. Okla. Feb. 13, 2025); *Singh v. Barr*, No. 19-CV-732, 2019 WL 4415152, at *3 (W.D.N.Y. Sept. 16, 2019) (“Conversely, if detention is valid under *Zadvydas*, it cannot violate substantive due process.”); *Jovel-Jovel v. Contreras*, No. H-18-1833, 2018 WL 11473467, at *4 (S.D. Tex.

Oct. 30, 2018) (“[I]f detention is no longer than reasonably necessary to effectuate removal, it will comport with § 1231(a)(6), *Zadvydas*[,] as well as substantive due process protections.”) (citation modified).

Here, Petitioner’s claims should be denied for at least three reasons. First, the claim is being asserted too soon. Petitioner was taken into custody on June 4, 2025.¹ *See supra* Statement of Facts (“SOF”). Six months will not have passed from that date until December 4, 2025. Thus, Petitioner’s detention is presumptively reasonable under *Zadvydas*. Petitioner asserts that because his detention has exceeded ninety days, his constitutional rights have been violated. Doc. 2 at 2, 5. The law in this District does not support Petitioner’s position. *See Reyna-Salgado v. Noem*, No. 25-3138-JWL, 2025 WL 2550346, at *1 (D. Kan. Aug. 11, 2025) (“Petitioner’s removal order became final on February 21, 2025, less than six months ago, and therefore petitioner’s detention remains presumptively reasonable Thus, this petition is premature.”) (citation modified); *Zhiriakov*, 2020 WL 3960442, at *9 (“The order for Petitioner’s removal became administratively final on April 17, 2020, when the BIA dismissed his appeal of the removal order. Petitioner has not been detained in excess of the presumptively reasonable six-month period.”). Other cases likewise undermine Petitioner’s request. *See, e.g., Akinwale v. Ashcroft*, 287 F.3d 1050, 1051-52 (11th Cir. 2002) (affirming dismissal because the six-month period “must have expired” before the filing of a habeas petition “in order to state a claim under *Zadvydas*”).

¹ Although not explicitly argued in the Petition, to the extent Petitioner argues that his six-month removal period began in 2004 when his voluntary departure order converted into an order of removal, he is incorrect. In *Abedi v. Carter*, Case No. 25-3141-JWL, this Court found that the six-month presumptively-reasonable period of detention under *Zadvydas* restarts upon detention of an alien previously released on an order of supervision. *See Doc. 11, p. 3* (October 6, 2025).

Petitioner's behavior further supports a ruling that his habeas petition is premature. Petitioner has, on multiple occasions, failed to cooperate with ICE officials. Specifically, he refused to answer questions about ties to Libya, Egypt or Qatar; more recently he would not complete travel documentation for the Palestinian Authority. *See supra* SOF. The law provides that "[t]he removal period shall be extended beyond a period of 90 days and the alien may remain in detention during such extended period" if the alien "conspires or acts to prevent the alien's removal subject to an order of removal." 8 U.S.C. § 1231(a)(1)(C); *see also Madej v. Garland*, No. 22-3303-JWL, 2023 WL 1396195, at *2 (D. Kan. Jan. 31, 2023) (invoking § 1231(a)(1)(C) where the petitioner "repeatedly refused to sign documents and complete applications" to obtain a passport). As recently as September 25, 2025, Petitioner refused to fill out the travel document application for the Palestinian Authority. The *Zadvydas* time period should be tolled until at least this date.

Second, Petitioner has not demonstrated "good reason to believe" that there is no significant likelihood of removal in the reasonably foreseeable future. Here, Petitioner was taken into custody on June 4, 2025. Saenz Decl. ¶ 15. Once Petitioner was detained, ICE began taking active steps to have Petitioner removed from the United States. *See id.* ¶¶ 18-27. Within weeks of Petitioner's detention, ICE attempted to interview him to assess ties to Libya, Egypt or Qatar but Petitioner did not cooperate. *Id.* at ¶ 18. ICE sent a travel document request to Libya shortly thereafter. *Id.* at ¶ 20. On September 25, 2025, Petitioner refused to complete travel documents for the Palestinian Authority; regardless, ICE plans to send paperwork in the coming days. *Id.* at ¶¶ 23, 27. On or about November 5, 2025, a travel document request was submitted to the Embassy of Qatar. *Id.* at ¶ 26.

Third, even if Petitioner had shifted the burden under *Zadvydas* (which he has not), the facts discussed above easily satisfy Respondent’s rebuttal obligation. *See Soudom v. Warden*, No. 25-3063-JWL, 2025 WL 1594822, at *2 (D. Kan. May 23, 2025) (finding the respondents “sufficiently rebutted” any initial showing, in part because “immigration officials have diligently sought the necessary travel documentation for petitioner from South Africa since his detention”); *Drame v. Gonzales*, No. 16-3257-JWL, 2017 WL 978120, at *3 (D. Kan. Mar. 14, 2017) (finding the respondents met their burden “by showing that the Senegal Embassy now has issued the necessary travel document and that a tentative travel plan is in place to remove petitioner within this month”). Petitioner’s claims should be summarily denied. Under *Zadvydas*, he has been denied neither substantive nor procedural due process. Likewise, his rights under the INA and the Constitution remain intact.

CONCLUSION

For the foregoing reasons, the Court should enter judgment against Petitioner on his § 2241 habeas petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on November 12, 2025, the foregoing was electronically filed with the Clerk of the Court by using the CM/ECF system, which will provide notice to all registered parties.

/s/ Christopher Allman
Christopher Allman