UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI

IBRAHIMA CAMARA, Petitioner, vs. KEVIN RAYCRAFT,[1] Field Office Director for Enforcement and Removal Operations, United States Immigration and Customs Enforcement. Respondent.	Case No. 1:25-cv-740 District Judge Jeffrey P. Hopkins Magistrate Judge Peter B. Silvain, Jr.

PETITIONER'S REPLY TO RESPONDENT'S RETURN OF WRIT

Petitioner, Mr. Ibrahima Camara, by and through undersigned Counsel, respectfully submits this Reply to Respondent's Return of Writ.

INTRODUCTION

The record indicates that Ibrahima Camara (Petitioner) is a native and citizen of Mauritania. Petitioner fled Mauritania and entered the United States in 1998. Despite building a productive life in the United States with his U.S. citizen family members, he now is unlawfully detained. Contrary to the Government's characterization, this Petition is not a straightforward effort to challenge a final removal order. Instead, the Petition seeks to challenge post-order detention actions that violate statutory and constitutional protections.

[1] Robert K. Lynch is no longer the Field Office Director for ERO, ICE. Kevin Raycraft is currently the Acting Field Office Director for ERO, ICE.

Specifically, the Petition challenges the continued detention of Petitioner when removal is not reasonably foreseeable. There is no meaningful alternative to judicial review because Petitioner has exhausted administrative remedies. Thus, absent federal court review, Petitioner is at risk of indefinite detention.

As such, this Court is the only venue that can address the issues raised in Petitioner's case and has authority to address these issues and order the requested relief. This includes review of whether the Government's post-order detention violates the Petitioner's constitutional and statutory rights.

FACTUAL BACKGROUND

Ibrahima Camara (Petitioner or Mr. Camara) is 55 years old. The government asserts that he is a citizen of Mauritania. (Petition, ECF 1, PageID 2; Declaration of Suha Peng, ECF 9-1, PageID 47, ¶ 2). Petitioner is effectively stateless as Mauritania has refused to issue Petitioner identity and travel documents. Petitioner fled Mauritania and entered the United States on or around August 13, 1998. (Peng Decl., ECF 9-1, PageID 47, ¶ 2). Petitioner affirmatively applied for asylum with the Immigration and Naturalization Services (INS) on February 25, 1999. (*Id.* at ¶ 5). The INS issued a Notice to Appear (NTA) and referred Petitioner's case to the Immigration Court on May 19, 1999. (*Id.* at ¶ 6). On November 28, 2000, the Immigration Judge ordered removal to Mauritania. (Petition, ECF 1, PageID 4, ¶ 13; Peng Decl., ECF 9-1, PageID 48, ¶ 7). It is unclear whether the Immigration Judge designated an alternative country for removal.

Petitioner timely appealed the decision of the Immigration Judge to the Board of Immigration Appeals (BIA). (Petition, ECF 1, PageID 4, ¶ 13; Peng Decl., ECF 9-1, PageID 48, ¶ 8). The BIA dismissed the appeal on February 11, 2003. (Petition, ECF 1, PageID 4, ¶ 13; Peng Decl., ECF 9-1, PageID 48, ¶ 9). Petitioner filed a petition for judicial review to the U.S. Court

of Appeals for the Sixth Circuit on March 7, 2003. (Peng Decl., ECF 9-1, PageID 48, ¶ 10). The Sixth Circuit denied the petition for review on June 23, 2004. (*Id.* at ¶ 11; *see also*, Camara v. Ashcroft, 102 Fed. Appx. 950, 952 (6th Cir. 2004)).

In 2007, Petitioner was placed on an Order of Supervision (OSUP). (Peng Decl., ECF 9-1, PageID 48, ¶ 12). On January 2, 2014, ICE issued Form I-220B to Petitioner. (Order of Supervision, **Exhibit A**). Petitioner reported to the Columbus ERO Office of ICE on March 6, 2014 and March 5, 2015. (*Id.*). In August 2016, Petitioner requested travel documents from Mauritania. (Travel Document Request #1, **Exhibit B**). In September 2017, Petitioner requested travel documents from Mauritania again. (Travel Document Request #2, **Exhibit C**). On March 19, 2018, the Embassy of the Islamic Republic of Mauritania confirmed that Petitioner applied for a Mauritanian passport, but the Embassy could not deliver any official document to him. (Response to Travel Document Request, **Exhibit D**).

On September 3, 2025, Petitioner reported to ICE and Respondent subsequently revoked his OSUP. (Petition, ECF 1, PageID 4, ¶ 15; Peng Decl., ECF 9-1, PageID 47-48, ¶¶ 3, 13). On September 17, 2025, ICE requested travel documents from Mauritania. (Peng Decl., ECF 9-1, PageID 48, ¶ 14). As of November 26, 2025, Petitioner has been detained for nearly three (3) months. On October 14, 2025, Petitioner filed a Petition for a Writ of Habeas Corpus. (Petition, ECF 1). Petitioner challenges his detention as unlawful because Respondents cannot remove him in the reasonably foreseeable future. (Petition, ECF 1, PageID 4-5, ¶ 16). Petitioner seeks release from ICE custody under appropriate supervision pursuant to 8 U.S.C. § 1231(a)(3). (*Id.* at PageID 15).

ARGUMENT

I. THIS COURT HAS JURISDICTION TO REVIEW PETITIONER'S CLAIMS

The Government fundamentally mischaracterizes Petitioner's claim. Petitioner does not challenge his years-old removal order to Mauritania. Rather, he challenges Respondent's post-proceeding actions, including detention where removal is not reasonably foreseeable. This distinction is not semantic but jurisdictional.

A. 8 U.S.C. § 1252(g) Does Not Preclude Review of Petitioner's Claims

Section 1252(g) does not preclude district court habeas review of ICE detention because its plain text confines jurisdictional stripping claims "arising from any decision or action … to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). The REAL ID Act of 2005 does not preclude the use of the writ of habeas corpus to challenge detention by ICE. REAL ID Act of 2005, Pub. L. 109-13, 119 Stat. 231 (May 11, 2005), Title I, Section 106(c), amending INA §§ 242(a)(2)(A), (B), (C) and § 242(g).

Moreover, the Sixth Circuit has held that the REAL ID Act only deprives the district court of habeas jurisdiction to review orders of removal, not challenges to detention. *Kellici v. Gonzales*, 472 F.3d 416, 419-20 (6th Cir. 2006) ("Where a habeas case does not address the final order, it is not covered by the plain language of the Act."); see also *INS v. St. Cyr*, 533 U.S. 289, 305 (2001) ("The writ of habeas corpus has always been available to review the legality of executive detention.").

Petitioner submits a detention-based claim because removal is not reasonably foreseeable. Accordingly, Section 1252(g) and the REAL ID Act do not strip the district courts of jurisdiction to review the claim and this Court should exercise jurisdiction to review Petitioner's detention.

B. 8 U.S.C. § 1252(g) Does Not Bar Review of Unlawful Removal Procedures

The Government's reliance on § 1252(g) fails because Petitioner challenges the lawfulness of post-proceeding actions, not discretionary execution decisions. Specifically, Petitioner challenges the lawfulness of Respondent's scheme to deprive him of his statutory and constitutional rights by detaining him when removal is not reasonably foreseeable.

Petitioner's claims are distinct from DHS's discretionary authority regarding the execution of removal orders, because Petitioner is not challenging the execution of his removal order; rather, he is challenging Respondent's efforts to continue to detain him when removal is not reasonably foreseeable. Petitioner was ordered removed on November 28, 2000, and the order became administratively final on February 11, 2003. After the 90-day removal period, Petitioner was placed on an order of supervision. As of today, it has been 8,325 days since Petitioner's removal order became administratively final; DHS has not been able to obtain travel documents and execute his removal.

Thus, Petitioner's claims do not fall within the narrow confines of Section 1252(g)'s jurisdiction stripping provisions, which are limited to claims "arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). The Supreme Court has "narrow[ly]" construed this provision to apply only to these "three discrete actions." *Reno v. Am-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); see also *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018) (plurality opinion) ("Section 1252(g) does not sweep broadly. It reaches only these three specific actions, not everything that arises out of them.").

Moreover, the Sixth Circuit has explained that 8 U.S.C. § 1252(g) does not suspend habeas review as to challenging the "authority to indefinitely detain a non-citizen following the execution of a removal order." *Moussa v. Jenifer*, 389 F.3d 550, 554 (6th Cir. 2004) (citing Zadvydas v. Davis, 533 U.S. 678 (2001)); see also *Al Shimary v. Rayborn*, No. 2:24-CV-11646, 2024 WL 3625169, at *2 (E.D. Mich. July 31, 2024) (denying stay of removal on jurisdictional grounds but allowing detention-based claims to proceed); *Mingrone v. Adducci*, No. 2:17-CV-11685, 2017 WL 4909591, at *8 (E.D. Mich. July 5, 2017) (addressing merits of detention-based claim because petitioner "could be released and ICE could still proceed to remove him").

C. Sections 1252(a)(5) and (b)(9) Apply Only to Challenges to Removal Orders

The Government's invocation of §§ 1252(a)(5) and (b)(9) fails for a simple reason: Petitioner does not challenge his removal order, but rather is seeking to challenge unlawful post-proceeding actions taken by DHS. Section 1252(a)(5) channels "judicial review of a removal order" to the court of appeals, while § 1252(b)(9) consolidates review of questions "arising from any action taken or proceeding brought to remove an alien." 8 U.S.C. §§ 1252(a)(5), (b)(9).

As the statute is written, section 1252 applies to judicial review of the decisions made by Immigration Judges and the Board of Immigration Appeals in removal proceedings. It is not designated to apply to collateral decisions made by administrative officials outside the context of removal proceedings. Accordingly, 8 U.S.C. §§ 1252(a)(5) and (b)(9) do not reach post-proceeding decisions.

The Western District of Washington found jurisdiction despite 1225(a)(5) because the petitioner's "claims are independent of his removal order" since he "does not challenge the IJ's determination that he is removable or claim any deficiency in the removal order itself." *See Aden v. Nielson*, 409 F. Supp. 3d 998, 1006 (W.D. Wash. 2019).

Ultimately, Petitioner is not requesting a review of his removal order nor is he seeking judicial intervention to determine whether he is more likely than not to experience persecution or torture if ultimately returned to Mauritania. Instead, Petitioner is seeking a determination that, based on evidence, that his removal is not reasonably foreseeable, and that Petitioner is entitled to release from detention pursuant to *Zadvydas*.

D. Administrative Remedies Are Inadequate

There is no statutory requirement for exhaustion of administrative remedies under 28 U.S.C. § 2241. Courts within the Sixth Circuit have questioned whether there exists a statutory exhaustion requirement for *Zadvydas* relief. See *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018), *vacated on other grounds*, *Hamama v. Adducci*, 946 F.3d 875 (6th Cir. 2020); Shurney v. I.N.S., , 201 F. Supp. 2d 783,788 (N.D. Ohio 2001) ("Under the INA, exhaustion of administrative remedies is only required for appeals of final orders of removal." (citing 8 U.S.C. § 1252(d)(1)); *Nassar v. Clausen*, No. 1:07-cv-1066, 2008 WL 314698, at *1 (W.D. Mich. Feb. 4, 2008) ("[t]here is no administrative exhaustion requirement as to this kind of habeas challenge." (citation omitted)).

However, exhaustion may be judicially required as a prudential matter unless specific exceptions apply. An alien detained seeking habeas corpus jurisdiction must first exhaust all administrative remedies prior to requesting relief in federal court "unless exhaustion is excused". *See Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

District courts may waive prudential exhaustion if "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *See Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).

Petitioner is unable to access administrative remedies because his removal order was finalized over 22 years ago. Moreover, Petitioner is challenging post-proceeding detention-based decisions. Accordingly, Petitioner is unable pursue alternative avenues for relief, and this court should not require Petitioner to exhaust administrative remedies.

II. PETITIONER IS ENTITLED TO RELIEF

A. Petitioner Is Unlawfully Detained

Petitioner is unlawfully detained because removal is not reasonably foreseeable. Post-order immigration detention must be reasonably related to a legitimate purpose, such as effectuating removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-91 (2001).

The removal period begins on the date the order of removal becomes administratively final. 8 U.S.C. § 1231(a)(1)(B)(i). Once the removal period begins, DHS has 90 days to obtain travel documents and execute the final order of removal. If the individual is not removed by the end of the 90-day removal period, then they shall be released subject to supervision. 8 U.S.C. § 1231(a)(3). Detention beyond the statutory 90-day removal period is only permitted where removal is reasonably foreseeable and justified. 8 U.S.C. § 1231(a)(2), (a)(6); *Zadvydas*, 533 U.S. at 699.

Section 1231(a)(6) permits the detention of certain aliens beyond the initial 90-day statutory "removal period" in order to effectuate removal. Rather than authorizing "indefinite detention," this statute has been read to "limit[] an alien's post-removal-period detention to a period reasonably necessary to bring about that alien's removal." *Zadvydas*, 533 U.S. at 689.

The District Court of New Jersey applied *Zadvydas* and ordered release where ICE re-detained the petitioner years after proceedings ended. *See Munoz-Saucedo v. Pittman*, 2025 WL 1750346, Case 25-2258, *9 (D.N.J. June 24, 2025). Despite the petitioner's detention being

under 180 days, the court granted the writ of habeas corpus and ordered supervised release, reaffirming that prolonged detention without a viable removal plan could not be justified. *Id.* at *6 ("[T]he Court rejects Respondents' argument that Zadvydas precludes Petitioner from challenging his detention prior to the six-month mark.").

In the present case, Petitioner was detained by ICE over 22 years after his final removal order. In the 8,325 days since Petitioner's removal order became administratively final, the government has not been able to obtain travel documents or been able to effectuate removal to Mauritania.

Under these circumstances, continued detention violates 8 U.S.C. § 1231, as well as constitutional safeguards recognized in *Zadvydas* and reaffirmed by district courts. Petitioner must be released under appropriate conditions of supervision. Removal is not reasonably foreseeable. Detaining Petitioner without a lawful removal plan or individualized danger finding violates both the INA and the Due Process Clause. *See Zadvydas*, 533 U.S. at 699.

Respondent contends that *Zadvydas* does not apply to Petitioner's case because Petitioner has, amongst others, been detained for less than the 6-month cutoff of presumptive reasonableness. Petitioner, in response, contends that the 6-month presumption of reasonableness established in *Zadvydas* should not apply to the circumstances of this case because Petitioner was detained over 22 years after his final removal order and Respondent has not shown that removal is reasonably foreseeable. *Munoz-Saucedo v. Pittman*, No. 25-cv-2258, 2025 WL 1750346 (D.N.J. June 24, 2025); see also *Nguyen v. Hyde*, No. 25-cv-11470, 2025 WL 1725791 (D. Mass. June 20, 2025) (finding *Zadvydas* 6-month presumption not applicable where alien is "detained" after having been on supervised release and where respondents failed to meet their burden to show a substantial likelihood of removal is now reasonably foreseeable); *Tadros v. Noem*, No.

25-cv-4108, 2025 WL 1678501 (D. N.J. June 13, 2025) (finding 6-month presumption had long lapsed while petitioner was on supervised release and it is respondent's burden to show removal is now likely in the reasonably foreseeable future)).

On or around September 3, 2025, ICE arrested and detained Petitioner during a routine ICE check-in. Accordingly, the *Zadvydas* six-month presumption does not apply, as (1) Petitioner - like the aliens in *Nguyen and Tadros* - was on supervised release and detained years after his initial removal order; and (2) Respondent has failed to meet their burden to show a substantial likelihood that removal is now reasonably foreseeable.

Even assuming *arguendo* that the six-month presumption applies, Petitioner's claim is not precluded. While *Zadvydas* established a presumptively reasonable period of six months for post-removal-order detention, 533 U.S. at 701, this presumption is rebuttable and does not create an absolute bar to habeas relief for those detained less than six months. See *Ali v. Dep 't of Homeland Sec.*, 451 F. Supp. 3d 703, 706-07 (S.D. Tex. 2020) ("This six-month presumption is not a bright line, ... and *Zadyvdas* did not automatically authorize all detention until it reaches constitutional limits."); *Hoang Trinh v. Homan*, 333 F. Supp. 3d 894, 994 (C.D. Cal. 2018) ("The six-month *Zadyvdas* presumption is just that - a presumption ... not a prohibition on claims challenging detention less than six months." (internal quotations omitted)); *Cesar v. Achim,* 542 F. Supp. 2d 897, 903 (E.D. Wisc. 2008) ("*The Zadyvdas* Court did not say that the presumption is irrebuttable.").

Here, Respondent incorrectly contends that *Zadvydas* does not apply to Petitioner's case because Petitioner has, amongst others, been detained for less than the 6-month cutoff of presumptive reasonableness. The Court described the six-month mark as a "guide", not a rigid threshold. *Zadyvdas,* 533 U.S. at 701; see also, *Munoz-Saucedo v. Pittman*, 2025 WL 1750346,

Case 25-2258, *9 (D.N.J June 24, 2025) ("[A]s the period of post removal confinement grows, what counts as the reasonably foreseeable future conversely concurrently shrinks."). Accordingly, Petitioner's claim for habeas relief under *Zadyvdas* is not barred merely because Petitioner has been detained for less than 6 months.

B. Removal is not reasonably foreseeable

Ahmed v. Brott, No. CIV. 14-5000, 2015 WL 1542131, at *4 (D. Minn. Mar. 17, 2015), report and recommendation adopted, No. CIV. 14-5000, 2015 WL 1542155 (D. Minn. Apr. 7, 2015) (collecting cases), stipulated that a court should find a significant likelihood that removal is not reasonably foreseeable in the future (1) where the detainee's country of origin refuses to issue a travel document; and (2) where the detainee is stateless and no country will accept him.

Here, the record reflects that Petitioner is a citizen of Mauritania. (Petition, ECF 1, PageID 2; Declaration of Suha Peng, ECF 9-1, PageID 47, ¶ 2). In August 2016, Petitioner requested travel documents from Mauritania. (Travel Document Request #1, **Exhibit B**). In September 2017, Petitioner requested travel documents from Mauritania again. (Travel Document Request #2, **Exhibit C**). None of these requests by Petitioner were granted by Mauritania. On March 19, 2018, the Embassy of the Islamic Republic of Mauritania confirmed that Petitioner applied for a Mauritanian passport, but the Embassy could not deliver any official document to him. (Response to Travel Document Request, **Exhibit D**). Petitioner's previous requests for travel documents and the denial of those requests is cogent proof that Respondent is unlikely to procure travel documents to facilitate Petitioner's removal. Accordingly, this court should find that there is a significant likelihood that Petitioner's removal is **not** reasonably foreseeable in the future.

Moreover, Petitioner is effectively stateless because Mauritania has refused to issue travel documents to him. The travel document requested by Petitioner constitutes evidence of his nationality and identity. There is no evidence on record that any other country is willing to accept Petitioner. As a result, this court should find that Petitioner is stateless and there is a significant likelihood that Petitioner's removal is **not** reasonably foreseeable in the future.

CONCLUSION

For the foregoing reasons, the Court should grant the Petition for Writ of Habeas Corpus, and order the requested relief pursuant to 28 U.S.C. § 2241, including declaring that Respondents' actions violate statutory and constitutional protections and order Petitioner's immediate release from ICE custody.

Respectfully submitted,

11/26/2025

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