

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

SEDIK MOHAMMED ABUBAKARI,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 5:25-cv-123
)	
WARDEN, FOLKSTON ICE)	
PROCESSING CENTER, ET AL.,)	
)	
Respondents.)	

RESPONDENT’S ANSWER

Warden-Respondent respectfully submits that Petitioner Sedik Mohammed Abubakari (A ) is a native and citizen of Ghana who is lawfully detained by Immigration and Customs Enforcement (“ICE”) at the Folkston ICE Processing Center under the authority of 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).¹ See Exhibit 1, Declaration of Erica Pensack (“Pensack Decl.”) at ¶¶ 3-4.

Justiciability

Petitioner’s 28 U.S.C. § 2241 petition appears to claim that the Immigration Judge (“IJ”) abused his discretion in considering Petitioner’s application for relief from removal and has violated Petitioner’s rights, resulting in his unlawful detention. [Doc. 1, p.10]. Petitioner’s claims, as they relate to the IJ’s decisions regarding relief and removal, are procedurally barred by 8 U.S.C. § 1252(g).² The REAL ID Act

¹ INA § 235(b)(1), referenced in the Pensack Decl., is codified at 8 U.S.C. § 1225(b)(1).

² 8 U.S.C. § 1252(g) provides, in part, “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien arising from the decision or action by the Attorney General to commence proceedings, adjudicate cases, or execute removal orders against any alien”

expanded the jurisdiction of federal courts of appeal to review errors in removal cases, but it precludes habeas relief under 28 U.S.C. § 2241 in federal district courts. *Fagan v. United States*, No. 21-13524, 2023 WL 2663239, at *2 (11th Cir. Mar. 28, 2023); *Balogun v. U.S. Atty. Gen.*, 425 F.3d 1356, 1360 (11th Cir. 2005) (“The provisions of 28 U.S.C. § 2241(a) no longer play any role in immigration cases”).

Hearing Transcripts/Recordings

Neither the Warden of the Folkston ICE Processing Center nor the Department of Homeland Security possesses or has access to transcripts or recordings of the underlying immigration proceedings. Immigration hearings are recorded electronically by the Immigration Judge and are transcribed if an Immigration Judge’s decision is appealed to the Board of Immigration Appeals. Immigration Court Practice Manual § 4.10(a), (b).³ Master calendar, merits hearings, and detention reviews following a final order of removal are recorded as a matter of course. Arguments made in support of motions or applications, such as a motion for redetermination of bond status, however, are not required to be recorded, although Immigration Judges may record them at their discretion. *See* 8 C.F.R. § 1240.9; Immigration Court Practice Manual § 9.3(e)(3).⁴ Undersigned counsel contacted the Executive Office of Immigration Review regarding whether any recordings exist of

³ *See* Immigration Court Practice Manual, Chapter 4, Section 4.10 - Record, <https://www.justice.gov/eoir/reference-materials/ic/chapter-4/10> (accessed October 30, 2025).

⁴ *See* Immigration Court Practice Manual, Chapter 9, Section 9.3 – Bond Proceedings, <https://www.justice.gov/eoir/reference-materials/ic/chapter-9/3> (accessed October 30, 2025).

hearings in the underlying immigration proceedings and learned the following hearings were recorded:

- 3/20/25 – Detained Master Calendar hearing
- 4/24/25 – Master Calendar hearing
- 8/8/25 – Individual Merits hearing

No Evidentiary Hearing Is Necessary

Respondent submits there is no need for the Court to hold an evidentiary hearing. This § 2241 petition presents a legal dispute concerning a question of statutory interpretation that can and should be resolved absent an evidentiary hearing.

Petitioner's Detention Is Lawful

Petitioner is lawfully detained. He entered the United States on January 14, 2025, near Lukeville, Arizona and was encountered by U.S. Border Patrol on the same day, following his unlawful entry into the United State. *See Pensack Decl.* at ¶ 5. Petitioner entered DHS/ICE custody on January 14, 2025, when encountered. *See id.* at ¶ 4. Petitioner has been charged as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i),⁵ as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General, and under 8 U.S.C. § 1182(a)(7)(A)(i), as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry

⁵ INA § 212, referenced in the Pensack Decl., is codified at 8 U.S.C. § 1182.

document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General. *See id.* at ¶ 6.

Petitioner is an “arriving alien” to the United States under 8 U.S.C. § 1225(b)(1), because he entered the country illegally and lacks valid documentation that would allow him entry into the United States. § 1225(b)(1). Upon being encountered, Petitioner was subject to the expedited removal provisions of § 1225(b)(1). *See* [Doc. 1, p.10]. Detention is mandatory under this provision. *See* § 1225(b)(1)(B)(iii)(IV).

Petitioner requested a continuance on March 20, 2025, in order to file application for relief, and the case was continued until April 24, 2025. *See* Pensack Decl. at ¶ 7. On June 6, 2025, an attorney entered a notice of appearance on behalf of Petitioner and filed a Motion to Continue. *Id.* at ¶ 9. The IJ granted the Motion to Continue and reset the final hearing for August 8, 2025. *Id.* at ¶ 10. On August 8, 2025, the IJ conducted a full hearing and denied all relief and ordered Petitioner removed. *Id.* at ¶ 11. On September 5, 2025, Petitioner filed an appeal with the BIA and on October 30, 2025, the BIA issued a briefing schedule with briefs due by November 20, 2025. *Id.* at ¶¶ 12-13. Currently, the BIA appeal remains pending. *Id.* at ¶ 14. If the Petitioner’s appeal is dismissed, removal to Ghana is likely to occur in the reasonably foreseeable future, as Ghana is open for international travel, is issuing travel documents to facilitate removals, and ICE/ERO is currently removing non-citizens to Ghana. *Id.* at ¶ 15. Any delays in the adjudication of Petitioner’s

removal proceedings are due to his own requests for continuances and the filing of an appeal.

To state a *Zadvydas* claim, an 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.” *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002). Petitioner, who cites to *Zadvydas* in asserting that his detention is unlawful, has not asserted a proper *Zadvydas* claim as (1) he is not yet subject to a final order of removal while his BIA appeal is pending, and (2) removal to Ghana is reasonably foreseeable should the order of removal become final upon the issuance of BIA’s decision.

Consequently, Petitioner’s detention during the pendency of his removal proceedings and consideration of his application for relief is lawful and in accordance with the INA.

Respondent reserves all available defenses in this matter to be asserted in a forthcoming motion to dismiss.

Respectfully submitted, this 6th day of November, 2025.

MARGARET E. HEAP
UNITED STATES ATTORNEY

/s/ Jason W. Blanchard
Georgia Bar No. 105620
Assistant United States Attorney
U.S. Attorney’s Office
P.O. Box 2017
Augusta, Georgia 30903
(706) 724-0517
Jason.Blanchard@usdoj.gov

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2025, I have caused to be sent by United States mail the documents to the following non-CM/ECF participants:

Sedik Mohammed Abubakari



Folkston ICE Processing Center
PO Box 248
3026 Hwy 252 East
Folkston, GA 31537

/s/ Jason W. Blanchard
Jason W. Blanchard
Assistant United States Attorney