UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VADIM IGOREVICH KARGUIN,	§	
	§	
Petitioner,	§	
	§	
v.	§	Civil Action No. 4:25-CV-05472
	§	
RAYMOND THOMPSON, *et al.*,	§	
	§	
Respondents.	§	

FEDERAL RESPONDENTS' MOTION FOR SUMMARY JUDGMENT
PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 56

Respondents Bret Bradford, Houston Field Office Director, Todd Lyons, Director, U.S. Immigrations and Customs Enforcement, and Kristi Noem, U.S. Secretary of Homeland Security, (hereinafter the "Federal Respondents") hereby request that the Court deny Petitioner's habeas petition and grant summary judgment in the Government's favor, in accordance with Federal Rule of Civil Procedure 56.[1]

INTRODUCTION AND SUMMARY OF THE ARGUMENT

The Court should reject Petitioner Vadim Igorevich Karguin's habeas petition because the factual record in this case does not support the legal theories that he relies on. First, Karguin has been in detention for approximately four months, less than the six-month detention period presumed to be reasonable under *Zadvydas*. The burden of proof belongs to

[1] Petitioner alleges that he is being detained at the Montgomery Detention Center in Conroe, Texas. Dkt. No. 1 ¶ 7. This facility operates under the direction of the Federal Government; as such, it is the Federal Respondents, not the named warden in this case, who makes the custodial decisions regarding aliens detained in immigration custody under Title 8 of the United States Code. Therefore, the Federal Respondents are the real party in interest and respond herein.

Karguin to show that there is no significant likelihood of removal in the foreseeable future. Karguin has not met his burden. Second, there have been no procedural due process violations as ICE properly adhered to the applicable federal regulations regarding custody review assessments.

I. BACKGROUND

Petitioner Vadim Igorevich Karguin is a Russian national with an extensive criminal history detained pursuant to a final order of removal. Exhibit 1, Declaration of Assistant Field Office Director John D. Linscott. Between 2007 through 2016, he was convicted of the following crimes: possession of a forged instrument and driving while intoxicated on two separate occasions, including once while out on immigration bond, and criminal trespass. Ex. 1, ¶ ¶ 13-20. He was ordered removed in August 2016, and his removal order became final in June 2017. Dkt. No. 1-1, ¶ ¶ 1, 30; Ex. 1, ¶¶ 21-23.

By letter dated June 17, 2025, Immigration and Customs Enforcement demanded that Karguin appear at an ICE Field Office in New York. Dkt. 1-3; Ex. 1, ¶ 28. On July 21, 2025, after appearing at an ICE Field Office, he was taken into custody by ICE. Dkt. No. 1-1, ¶ ¶ 2-3; Ex. 1, ¶ 27. About a week later, he was transferred to the Montgomery Processing Center in Conroe, Texas where he remains today pending the execution of his removal order. Dkt. No. 1-1, ¶ ¶ 2-3; Ex. 1, ¶ 29.

On September 09, 2025, ICE-ERO Houston completed a 90-Day Post-Order Custody Review and determined that continued detention was warranted based on Karguin's criminal history and the significant likelihood the Department of Homeland Security would be able to execute his removal order in the imminent future. Ex. 1, ¶ 30. DHS served Karguin a copy of

the Notice of File Custody Review and Form I-229a, Warning for Failure to Depart, the same day. Ex. 1, ¶ 30.

On September 13, 2025, ICE directed Karguin to complete a travel document application, which remains pending. Ex. 1, ¶ 30.

II. LEGAL STANDARD ON SUMMARY JUDGMENT

Generally, summary judgment is proper when there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). If the moving party meets is burden of demonstrating the absence of a genuine factual dispute, the non-movant must then come forward with specific facts showing there is a genuine issue for trial. Fed. R. Civ. P. 56(c); *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586–87, 106 S.Ct. 1348, 89 L.Ed.2d 538 (1986). The non-movant must "go beyond the pleadings and by [the nonmovant's] own affidavits, or by the depositions, answers to interrogatories, and admissions on file, designate specific facts showing that there is a genuine issue for trial." *Nola Spice Designs, LLC v. Haydel Enters., Inc.*, 783 F.3d 527, 536 (5th Cir. 2015). The non-movant's burden "will not be satisfied by 'some metaphysical doubt as to the material facts, by conclusory allegations, by unsubstantiated assertions, or by only a scintilla of evidence.'" *Boudreaux v. Swift Transp. Co.*, 402 F.3d 536, 540 (5th Cir. 2005) (quoting *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc) (per curiam)).

III. ARGUMENT

A. APPLICABLE LAW

In a petition for a writ of habeas corpus, the petitioner is challenging the legality of the restraint or imprisonment. *See* 28 U.S.C. § 2241. The burden is on the petitioner to show the

confinement is unlawful. *See, e.g., Walker v. Johnston*, 312 U.S. 275, 286, 61 S.Ct. 574, 85 L.Ed. 830 (1941). As set forth in the INA, an alien must be held in custody after entry of a final removal order and during the 90-day removal period. 8 U.S.C. § 1231(a)(2). After this period, the INA nevertheless contemplates continued detention. *Id.* § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001), the Supreme Court addressed "whether aliens that the Government finds itself unable to remove are to be condemned to an indefinite term of imprisonment within the United States." *Id.* at 695. It held that post-removal detention is presumptively lawful up to six months, after which the detention may still be reasonable and lawful until "the alien provides good reason" to "determine that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. With this backdrop in mind, the Federal Respondents proceed to the legality of Karguin's post-removal detention.

Karguin asserts three unlawful detention claims: (1) his detention violates 8 U.S.C. § 1231(a)(3); (2) his post-removal period detention is unconstitutional under *Zadvydas*; and (3) the Government did not follow the requisite procedures in detaining him, including the proper custody review. *See* Dkt. No. 1 at 40–51. Each argument is unavailing.

B. There is no legal basis for Petitioner's argument that he had to be removed by September 2017.

Petitioner's first argument that Section 1231(a)(1) disallows his detention is an unreasonable interpretation of the statute. He argues that this statute requires him to be removed within 90 days of the final order of removal, and that the six-month detention period established by *Zadvydas* begins after the expiration of the 90 days—regardless of whether he was detained. *See* Dkt. No. 1, ¶ 41-43. In other words, according to Karguin, he had to be removed by December 27, 2017.

But Section 1231(a)(6) explicitly contradicts this already-tenuous argument, as it states that removable aliens "*may be detained beyond the removal period* and, if released, shall be subject to the terms of supervision in paragraph (3)." 8 U.S.C. § 1231(a)(6) (emphasis added). As the Supreme Court has noted, including in *Zadvydas* itself, "the post-removal-period statute provides that the Government may continue to detain an alien" subsequent to the removal period. 533 U.S. at 683 (cleaned up); *see also Johnson v. Guzman Chavez*, 594 U.S. 523, 546, 141 S.Ct. 2271, 210 L.Ed.2d 656 (2021) ("§ 1231 expressly authorizes DHS to release under supervision *or continue the detention of aliens* if removal cannot be effectuated within the 90 days." (emphasis added) (citing 8 U.S.C. § 1231(a)(3), (6)).

Moreover, courts have held that only the time that an alien is detained counts toward the *Zadvydas* six-month presumption. *See Mahmoud v. Cangemi*, 2006 WL 1174214 at *3 (D. Minn. May 1, 2006) (holding that a petitioner had failed to show that the conditions of an order of supervision constituted a "constructive detention"); *cf. Riley v. I.N.S.*, 310 F.3d 1253 (10th Cir. 2002) (holding that an alien's supervised release from extended detention to which he was subject following entry of a final order of deportation mooted his *Zadvyda*s challenge); *Dogra v. I.C.E.*, No. 09–CV–065A, 2009 WL 2878459, at *2 n. 2 (W.D.N.Y. Sept. 2, 2009) (calculating length of detention as of petitioner's second time in ICE custody); *Phean v. Holder*, No. 11–CV–0535, 2011 WL 1257389, at *2 (M.D. Pa. Mar. 30, 2011) ("[T]he presumptively reasonable six month period began running on September 21, 2010, the date he was taken back into custody."). Otherwise, Zhu's creative reading of this statute would lead to an "anomalous outcome" resulting in her ability to avoid removal and detention as long as ICE does not detain her within the nine-month period following her removal order. *Zamel v. Stith*,

No. CIV.A.07-4453(SDW), 2007 WL 3349495, at *3 (D.N.J. Nov. 9, 2007) (rejecting petitioner's argument that the six-month period commenced when he accepted voluntary removal).

Thus, Petitioner's argument that the six-month removal period expired in 2017 is without support.

C. Petitioner's *Zadvydas* challenge also fails because he has been detained for less than six months and has not otherwise shown removal is not significantly likely.

Petitioner's challenge to his detention under *Zadvydas* also fails because (1) the six-month period has not passed and (2) he has failed to show that there is no significant likelihood of removal in the foreseeable future. Under Section 1231, a petitioner may challenge continued detention under the framework established by the U.S. Supreme Court in *Zadvydas v. Davis*. 533 U.S. at 701. In a challenge to detention under *Zadvydas*, the petitioner must "provide[] good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* The six-month presumption does not mean that every alien not removed must be released after six months. *Id.* "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.*

Where the petitioner, like Karguin, fails to come forward with an initial offer of proof, the petition is ripe for dismissal. *Andrade v. Gonzalez*, 459 F.3d 538 (5th Cir. 2006) (acknowledging the petitioner's initial burden of proof where claim under *Zadvydas* was without merit because it offered nothing beyond the petitioner's conclusory statements suggesting that removal was not foreseeable). His allegations in support of any contention that removal is not significantly likely is based on conclusory assertions that are devoid of plausible,

supporting factual allegations. Specifically, he concludes without underlying facts that "he does not have any document that would allow him to be repatriated to Russia", "no other country has agreed to accept him" and "Petitioner would be entitled to apply for protection from removal to that country, a process that would take many months if not years to complete". Dkt. No. 1, ¶ 44. These speculative allegations and conclusions do not lead to a reasonable inference that he has no significant likelihood of removal.

Moreover, courts have denied petitions based on such bare conclusions or facts. *See e.g.*, *Tawfik v. Garland*, 2024 WL 4534747, at *3 (S.D.Tex. 2024) (denying a petition that argued a "lack of visible progress" toward removal); *Gonzalez v. Bureau of Immigr. & Customs Enf't*, No. 1:03-cv-178-C, 2004 WL 839654 (N.D. Tex. Apr. 20, 2004) (holding that conclusory allegations that the government was not doing enough to effect the petitioner's removal were insufficient to meet petitioner's burden of proof); *and Apau v. Ashcroft*, No. 3:02-cv-2652-D, 2003 WL 21801154 (N.D. Tex. June 17, 2003) (the "bare fact" that Ghana had not yet issued travel documents was not sufficient to carry the petitioner's burden under *Zadvydas*).

Thus, Petitioner has not satisfied his burden of proof by showing that there is no significant likelihood of removal in the reasonably foreseeable future. Thus, his detention pending removal is consistent with the law and is outside the scope of *Zadvydas*.

D. Petitioner's Due Process claim is unsupported.

Failing to show an unlawful detention under the statutory and *Zadvydas* frameworks, the Petition further fails to otherwise show any Due Process violation. Procedural due process protects an individual's right to be heard prior to deprivation of life, liberty or property. *See Matthews v. Eldridge*, 424 U.S. 319, 332-333 (1976). In the instant case, detention beyond the

removal period may be maintained upon compliance with applicable process. *See* 8 C.F.R. § 241. There is no showing that procedural due process rights have been violated. *See* Ex. 1, ¶ 30. Based on Karguin's extensive criminal history and the likelihood of his removal, DHS determined that continued detention was warranted. Ex. 1, ¶ 30. Further, the threshold question in assessing substantive due process is "whether the behavior of the governmental officer is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience." *County of Sacramento v. Lewis*, 523 U.S. 833, 847 n. 8 (1998). The Petition does not suggest that any immigration officer involved in this case acted in a manner that could be characterized as egregious or that would shock the conscience. Thus, the Due Process claim fails to show a material fact issue.

IV. CONCLUSION

For the foregoing reasons, the Federal Respondents respectfully request that the Court grant their motion and enter judgment as a matter of law finding that Petitioner is not entitled to habeas relief and dismiss this lawsuit.

Dated: December 1, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on December 1, 2025, the foregoing was filed and served on counsel for Petitioner via the Court's CM/ECF service.

/s/ Lisa Luz Parker
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