IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

SARUN OUCH, Petitioner, v. KRISTI NOEM, Secretary, United States Department of Homeland Security, *et al.*, Respondents.	Case No. 1:25-cv-00870 District Judge Matthew W. McFarland Magistrate Judge Caroline H. Gentry

RETURN OF WRIT

The Court should deny and dismiss the Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241, filed by Petitioner Sarun Ouch. (Petition, ECF No. 1). Petitioner's detention is lawful and his removal from the United States to Cambodia is imminent. Further, the Court lacks subject matter jurisdiction to interfere with the discretionary decision to revoke release to execute the removal order, and Petitioner has made no verifiable claims that his removal will not happen in the reasonably foreseeable future. As such, Petitioner is lawfully detained pursuant to 8 U.S.C § 1231(a), and this Court should not enjoin action taken to remove the Petitioner from the United States. Therefore, this Court should dismiss the petition under Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and 12(b)(6) for failure to state a claim upon which relief can be granted.

I. FACTUAL BACKGROUND

The Petitioner, Sarun Ouch ("Petitioner"), brings this action as a petition for habeas corpus under 28 U.S.C. § 2241. (Petition, ECF 1, PageID 1). Petitioner is a

native and citizen of Cambodia, and was admitted into United States on January 25, 1983, as a refugee. (*Id.*, PageID 4; *see also* Declaration of Richard Tiruchelvam, at p.1, ¶¶2, 4, attached hereto and hereinafter referred to as Exhibit A, or "Tiruchelvam Decl."); United States Department of Justice, ("DOJ"), Immigration and Naturalization Service, Order to Show Cause and Notice of Hearing, "File No. A25 374 778, Dated August 8, 1994," at p.1, "2)," and "3)," attached hereto and hereinafter referred to as Exhibit B, or "Show Cause Order"). On June 12, 1985, Petitioner's "status was adjusted to that of a permanent resident." (Tiruchelvam Decl., Ex. A, at p. 2, ¶5; Show Cause Order, Ex. B, at p. 1, "5."). However, less than eight years later, on February 23, 1993, Petitioner was "convicted in the Court of Common Pleas of Franklin County, Ohio for the offense of Aggravated Burglary," for which "the term of imprisonment imposed was five (5) to twenty-five (25) years." (Tiruchelvam Decl., Ex. A, at p. 2, ¶6; Show Cause Order, Ex. B, at p. 1, "6," and "7."). Based on that conviction Petitioner was charged by DOJ as subject to deportation pursuant to the following provision of law:

> Section 241(a)(2)(A)(iii) of the Immigration and Nationality Act as amended, in that, at any time after entry, you have been convicted of an aggravated felony as defined in section 101(a)(43) of the Act, to wit: a crime of violence (as defined in section 16 of title 18, United States Code, not including a purely political offense), for which a term of imprisonment imposed was five years or more.

(Tiruchelvam Decl., Ex. A, at p. 2, ¶7; Show Cause Order, Ex. B, at p. 2).

As memorialized in an "Oral Decision of the Immigration Judge," pursuant to his deportation hearing, Petitioner admitted the truthfulness of the factual allegations contained in the Show Cause Order. (DOJ, Executive Office for Immigration Review, ("EOIR"), Immigration Court, In the Matter of Sarun Ouch,

Respondent, "In Deportation Proceedings," Charge: 241(a)(2)(A)(iii) – Conviction of an aggravated felony," Date: June 25, 1997, attached hereto and hereinafter referred to as Exhibit C, or "Order of Removal"). And upon Petitioner's "admissions and the evidence of record," Immigration Judge James R. Fujimoto, ("IJ"), adjudged that Petitioner's "deportability has been established clearly, convincingly and unequivocally" [and that] "Cambodia has been designated as the country to which deportation should be directed pursuant to Section 243(a)." (*Id.*, at p. 2).

This same Order of Removal likewise determined that Petitioner was ineligible for a waiver of inadmissibility, pursuant to his aggravated felony conviction, statutorily ineligible for asylum, and ineligible for withholding deportation, also because of his aggravated felony conviction. (*Id.*, at p. 2-3; Petition, ECF 1, PageID 4, ¶19). Upon issuance of an "Order of the Immigration Judge," Petitioner reserved the opportunity to appeal the IJ's Order of Removal. (DOJ, EOIR, Office of the IJ, "In the Matter of: Sarun Ouch, In Deportation Proceedings," "Order of the Immigration Judge," "6/25/97", attached hereto and hereinafter referred to as Exhibit D, or "Notice of Appeal to BIA"; Tiruchelvam Decl., Ex. A, at p. 2, ¶8).

In an Order issued February 6, 1988, the three-person Board of Immigration Appeals, ("BIA"), dismissed the Petitioner's appeal. (DOJ, EOIR, BIA, "In re: Sarun Ouch, In Deportation Proceedings," "Order," "Date: Feb – 6 1998," attached hereto and hereinafter referred to as Exhibit E, or "BIA Order dismissing Appeal of IJ"; *see also* Petition, ECF 1, PageID 1, 4, ¶¶1, 19; Tiruchelvam Decl., Ex. A, at p. 2, ¶9).

Petitioner does not allege having filed a Petition for Review of the foregoing BIA Order dismissing Appeal of IJ with the U.S. Court of Appeals for the Sixth

Circuit. He was placed on an Order of Supervision ("OSUP") on June 3, 1999. (Tiruchelvam Decl., Ex. A, at p. 2, ¶11).

Petitioner alleges that he is "detained in civil immigration custody at Butler County Correctional Complex," [] "since or about November 6, 2025," without "an individualized bond hearing before an immigration judge." (Petition, ECF 1, PageID 1, 2, ¶¶1, 4). ICE ERO took Petitioner into custody pursuant to his final order of removal. (Tiruchelvam Decl., Ex. A, at p. 2, ¶12). Petitioner makes no allegation of requesting a bond hearing at any time, and the "Prayer for Relief" in this action in habeas makes no such plea for relief (ex. ...or, in the alternative, provide Mr. Ouch with a bond hearing within [number] days.) (*Id.*, PageID 8, "Prayer for Relief" ¶¶ (1)-(5)).

On December 3, 2025, Petitioner was personally served Form I-229(a), citing Section 243(a) of the Immigration and Nationality Act, charging Petitioner for having failed to depart the United States within a period of 90 days from the date of the final order of removal, willfully failing to make application for travel documents to so depart, or taking action designed to prevent or hamper his departure from the United States. (U.S. Department of Homeland Security, ("DHS"), Immigration and Customs Enforcement, ("ICE"), "Warning for Failure to Depart," "Date Order Final: February 6, 1998," Record of Personal Service "Date: December 3, 2025," attached hereto and hereinafter referred to as Exhibit F; *see also* Petition, ECF 1, PageID 2-3, ¶9; Tiruchelvam Decl., Ex. A, at p. 2, ¶14).

On December 10, 2025, Petitioner was hand-delivered a "Notice to Alien of File Custody Review," advising him that his "custody status will be reviewed on our about:

2/5/2026." (DHS, ICE, Office of Enforcement and Removal Operations Detroit Field Office, "Notice to Alien of File Custody Review," "Date 12/10/25," attached hereto and hereinafter referred to as Exhibit G, or "Notice of 2/5/2026 Custody Review").

At the time of the filing of this Return of Writ, the Petitioner had been detained just over two months—to be precise, 65 days. (Petition, ECF 1, PageID 1, 4, ¶¶1, 4).

On November 6, 2025, a travel document was requested for Petitioner from the government of Cambodia, and on January 5, 2026, the government of Cambodia issued a travel document for the Petitioner. (Tiruchelvam Decl., Ex. A, at p. 2-3, ¶¶13, 15). Petitioner is scheduled to be removed from the United States to Cambodia imminently, in mid-January 2026. (*Id.*, at p. 3, ¶16). Further, ICE is unaware of any institutional barriers that would prevent the Petitioner's removal from occurring in the reasonably foreseeable future. (*Id.*, ¶17).

This Petition was filed on November 25, 2025, alleging that Petitioner's anticipated indeterminate detention violates the Due Process Clause of the Fifth Amendment to the United States Constitution, and likewise violates 8 U.S.C. § 1231(a)(6) of the Immigration and Nationality Act (INA), and the United States Supreme Court decision in *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001), for the fact that Petitioner's removal to Cambodia is not reasonably foreseeable. (Petition, ECF 1, PageID 7-8).

II. LEGAL AND STATUTORY BACKGROUND

"The Immigration and Nationality Act (INA) establishes procedures for removing aliens living unlawfully in the United States." *Johnson v. Guzman Chavez*, 594 U.S. 523, 527 (2021). "If the immigration judge decides that the alien is

inadmissible or deportable and that the alien is not entitled to any of the relief or protection that he requested, the immigration judge will issue an order of removal." *Id.* at 528 (citing 8 U.S.C. § 1229a(c)(5)).

The INA provides a statutory scheme for the civil detention of aliens pending a decision during removal proceedings as well as once a final order of removal has been entered. *See generally* 8 U.S.C. §§ 1225, 1226, 1231. The time and circumstances of entry, as well as the stage of the removal process, determines where an alien falls within this scheme and whether detention of the alien is discretionary or mandatory.

The statute referring to a 90-day removal period, 8 U.S.C. § 1231(a)(1)(A), holds: "Except as otherwise provided in this section, when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days (in this section referred to as the 'removal period')." *Martinez v. Larose*, 968 F.3d 555, 559 (6th Cir. 2020).

"The removal period is defined as beginning on the latest of three events: (1) "[t]he date the order of removal becomes administratively final"; (2) "[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the alien, the date of the court's final order"; or (3) "[i]f the alien is detained or confined (except under an immigration process), the date the alien is released from detention or confinement." *Id.* at 559–60 (citing 8 U.S.C. § 1231(a)(1)(B)).

Regarding detaining an alien beyond the 90-day period, 8 U.S.C. § 1231(a)(6) states:

> An alien ordered removed who is inadmissible under section 1182 of this title, removable under section 1227(a)(1)(C), 1227(a)(2), or 1227(a)(4) of this title or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal,

> may be detained beyond the removal period and, if released, shall be subject to the terms of supervision in paragraph (3).

"§ 1231(a)(3) allows for supervised release after the 90-day removal period expires '[i]f the alien does not leave or is not removed' during that time period." *Johnson v. Guzman Chavez*, 594 U.S. 523, 538 (2021).

Once the 90-day removal period has elapsed, the alien becomes subject to 8 U.S.C. § 1231(a)(6) which makes detention discretionary. *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 639 (D. Mass. 2018). "Continued detention under this provision creates the 'post-removal-period.'" *Id.* "[I]n enacting § 1231, Congress and the President anticipated that not all aliens ordered removed would be deported during the removal period. *See* § 1231(a)(3) (referring to 'an alien' who 'does not leave ... within the removal period')." *Jimenez v. Cronen*, 317 F. Supp. 3d at 651. Thus, 8 U.S.C. § 1231 expressly anticipates detention beyond the 90-day removal period.

III. LAW AND ARGUMENT

Petitioner seeks declaratory relief and release from detention. Despite having a valid final order of removal, Petitioner argues that he is unlawfully detained under 8 U.S.C. § 1231(a)(6) as his "removal is not reasonably foreseeable . . . ." (Petition, ECF 1, PageID 7-8, ¶¶34, 30-37). Petitioner concedes, however, that individuals may be detained beyond the removal period pursuant to 8 U.S.C. § 1231(a)(6), if they are unlikely to comply with the order of removal, found to be a risk to the community, or likely to be removed in the reasonably foreseeable future. (*Id.*, PageID 5, ¶ 24). He claims that his removal to Cambodia "is not reasonably foreseeable, as the Petitioner is from a country with which the United States does not have relations, Petitioner is stateless, because Cambodia is not a country the Petitioner can be removed to." (*Id.*,

PageID 1, ¶ 2). Without evidence, reference to evidence, or context regarding the relevance of the United States "does not have relations" with Cambodia, Petitioner's imagined "statelessness", or why "Cambodia is not a country the Petitioner can be removed to," Petitioner alleges additional facts alluding to evidence or even explanation, but fails to do so each time; for example, "Petitioner has no birth certificate from Cambodia or anywhere else," "Petitioner has no family ties and nowhere to be removed to in Cambodia according to the Cambodian embassy." (*Id.*, PageID 3-4, ¶¶ 17-18). Needless to say, this Petition has no attachments whatsoever, relying entirely upon Petitioner's counsels' wordsmithing as a veil in the absence of evidence or authenticity to prop his allegations.

In sum, there is no authority supporting the Petitioner's assertions. Petitioner is asking this Court to stop his removal, which this Court has no jurisdiction to do. Thus, the Court should deny and dismiss his Petition.

IV. STANDARD OF REVIEW

This Court should begin its analysis with the threshold issue of "whether this the Court has subject matter jurisdiction." *See e.g., Zhen v. Doe*, Case No. 3:25-cv-01507, 2025 WL 2258586 (N.D. Ohio Aug. 7, 2025) (citing *Karki v. Jones*, Case No. 1:25-cv-281, 2025 WL 1638070, at *3 (S.D. Ohio June 9, 2025) ("The fundamental question of subject matter jurisdiction must precede any analysis of the merits on this matter."). The jurisdiction of the federal courts is presumptively limited. *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). Federal courts are courts with limited jurisdiction and may only hear cases that are "authorized by Constitution and statute." *Id.* If at any time, the court determines that it lacks subject-matter

jurisdiction, that court must dismiss the action in front of them. *Mich. Emp't Sec. Comm'n v. Wolverine Radio Co.*, 930 F.2d 1132 (6th Cir. 1991).

The Court should deny the Petition because this Court lacks subject-matter jurisdiction over his claims because 8 U.S.C. § 1252, *et seq.*, precludes the review. Even if the Court had jurisdiction, however, Petitioner still fail to plead plausible claims for relief.

V. THIS COURT LACKS JURISDICTION

A. This Court Lacks Jurisdiction Pursuant to 8 U.S.C. § 1252.

Petitioner's challenge to his detention challenges his imminent removal. The Court lacks jurisdiction to hear a challenge to Petitioner's removal under 8 U.S.C. § 1252. As such, this Court should deny the Petition and dismiss this action for lack of subject matter jurisdiction. In enacting the REAL ID Act, Congress limited the jurisdiction of federal courts through 8 U.S.C. § 1252(g) as follows:

> Except as provided in this section and notwithstanding any other provision of law (statutory or nonstatutory), *including section 2241 of title 28,* or any other habeas corpus provision, and sections 1361 and 1651 of such title, 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 under this chapter.

8 U.S.C. § 1252(g) (emphasis added). "In the REAL ID Act, Congress decided that, as a matter of public policy, [federal courts] do not have jurisdiction to decide claims that arise from the decision of the Executive Branch to execute a removal order." *Rranxburgaj v. Wolf,* 825 F. App'x 278, 283 (6th Cir. 2020). This holds true "whether or not [federal courts] agree with ICE's decision to execute [a petitioner's] removal order." *Id.*

These types of claims are barred under 8 U.S.C. §1252(g). This statute bars claims arising from the three discrete actions identified in § 1252(g), including, as relevant here, the decision or action to "execute removal orders." Congress spoke clearly, emphatically, and repeatedly, providing that "no court" has jurisdiction over "any cause or claim" arising from the execution of removal orders, "notwithstanding any other provision of law," whether "statutory or nonstatutory," including habeas, mandamus, or the All Writs Act. 8 U.S.C. § 1252(g). Accordingly, by its terms, this jurisdiction-stripping provision precludes habeas review under 28 U.S.C. § 2241 (as well as review pursuant to the All Writs Act and Administrative Procedure Act) of claims arising from a decision or action to "execute" a final order of removal. *See Reno v. American-Arab Anti-Discrimination Comm. ("AADC")*, 525 U.S. 471, 482 (1999).

The Sixth Circuit, and including other Courts of Appeals, have consistently held that similar petitioners' challenges to removal are barred by § 1252(g). *Hamama v. Adducci*, 912 F.3d 869, 874–77 (6th Cir. 2018) (vacating district court's injunction staying removal, concluding that § 1252(g) stripped district court of jurisdiction over removal-based claims and remanding with instructions to dismiss those claims); *see also Rauda v. Jennings*, 55 F.4th 773, 778 (9th Cir. 2022); *Camarena v. Dir., ICE*, 988 F.3d 1268, 1274 (11th Cir. 2021) ("[W]e do not have jurisdiction to consider 'any' cause or claim brought by an alien arising from the government's decision to execute a removal order. If we held otherwise, any petitioner could frame his or her claim as an attack on the government's authority to execute a removal order rather than its execution of a removal order."); *E.F.L. v. Prim*, 986 F.3d 959, 964-65 (7th Cir. 2021) (rejecting the argument that jurisdiction remained in similar circumstances because

petitioner was challenging, DHS's legal authority as opposed to its "discretionary decisions"); *Tazu v. Att'y Gen., U.S.*, 975 F.3d 292, 297 (3d Cir. 2020) (observing that "the discretion to decide *whether* to execute a removal order includes the discretion to decide *when* to do it" and that "[b]oth are covered by the statute") (emphasis in original); *Silva v. United States*, 866 F.3d 938, 941 (8th Cir. 2017) (Section 1252(g) applies to constitutional claims arising from the execution of a final order of removal, and language barring "any cause or claim" made it "unnecessary for Congress to enumerate every possible cause or claim").

Title 8 U.S.C. § 1252(g) therefore limits jurisdiction as it relates to claims arising from such execution of removal orders—even if federal question jurisdiction would otherwise be proper. *See Elgharib v. Napolitano,* 600 F.3d 597, 607 (6th Cir. 2010). By its terms, this statutory limitation also applies to habeas relief under 28 U.S.C. § 2241, which would typically provide jurisdiction over cases where an alien is held in custody in violation of the Constitution or the laws of the United States. *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001).

B. Sections 1252(a)(5) and (b)(9) Bar Review of the Petitioner's Claims.

This Court also lacks jurisdiction over the Petitioner's claims concerning removal orders issued under section 1229a given 8 U.S.C. § 1252(a)(5) and (b)(9). Section 1252(b)(9) provides:

> Judicial review of all questions of law and fact, including interpretation and application of constitutional and statutory provisions, arising from any action taken or proceeding brought to remove an alien from the United States under this subchapter shall be available only in judicial review of a final order under this section. Except as otherwise provided in this section, no court shall have jurisdiction, by habeas corpus under section 2241 of Title 28 or any other habeas corpus provision, by section

> 1361 or 1651 of such title, or by any other provision of law (statutory or nonstatutory), to review such an order or such questions of law or fact.

8 U.S.C. § 1252(b)(9). Section 1252(a)(5) provides that [n]otwithstanding any other provision of law (statutory or nonstatutory) . . . or any other habeas corpus provision . . . a petition for review filed with an appropriate court of appeals in accordance with this section shall be the sole and exclusive means for judicial review of an order of removal . . . ."

In relation to Section 1252(a)(9), the Sixth Circuit has explained that district courts "are prohibited from reviewing and vacating a removal order." *Hamdi v. Napolitano*, 620 F.3d 615, 625 (6th Cir. 2010); *see also Lopez-Meija v. Lynch*, Case No. 1:16-cv-549, 2017 WL 25501, at *5 (S.D. Ohio Jan. 3, 2017). In fact, the First Circuit has noted that § 1252(b)(9)'s "expanse is breathtaking." *Aguilar v. U.S. Immigration & Customs Enf't Div. of the Dep't of Homeland Sec.*, 510 F.3d 1, 9-12 (1st Cir. 2007).

The Petitioner could have appealed his removal order pursuant to the administrative process, 8 U.S.C. § 1229a(c)(7); 8 C.F.R. § 1003.2(c), or seek an emergency stay of removal as a part of the administrative process. *See generally* 8 C.F.R. § 1003.2(f), 1003.23(b)(v). Because the Petitioner requested relief arises from and "action taken . . . brought to remove" the Petitioner "from the United States" and is a petition for habeas corpus, this Court lacks jurisdiction. § 1252(b)(9).

Thus, to obtain habeas relief, the Petitioner must not merely show that he is "in custody," but rather 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); *see also Dickerson v. United States*, 530 U.S. 428, 439, n.3 (2000) ("Habeas corpus proceedings are available only for claims that a person 'is in custody in violation of the Constitution or laws or

treaties of the United States,'" quoting 28 U.S.C. § 2254(a)). The Petitioner does not meet that burden. Therefore, this Court lacks jurisdiction to consider the Petitioner's challenge to his detention and pending removal. Thus, the Petition should be denied and dismissed.

VI. THE PETITIONER'S DETENTION PENDING REMOVAL IS LAWFUL.

The Petitioner does not contest the fact that he has valid removal order. He also does not contest that he is inadmissible under 8 U.S.C. § 1182. He claims his removal is not significantly likely to occur in the reasonably foreseeable future because no country will take him, and, therefore, "violates due process." (Petition, ECF 1, at PageID 7, ¶34). However, the government of Cambodia issued a travel document for the Petitioner on January 5, 2026, and his removal to Cambodia is imminent. (Tiruchelvam Decl., Ex. A, at 3, ¶¶15-17). Accordingly, the Petitioner's argument that travel documents cannot be obtained, and no significant likelihood of removal in the reasonably foreseeable future exists, is without merit.

There is no question that ICE has authority to detain the Petitioner during the removal process. "Detention during removal proceedings is a constitutionally permissible part of [the removal] process." *Demore v. Kim*, 538 U.S. 510, 531 (2003). Further, immigration officials retain discretion not to execute a final order of removal within 90 days. *Arizona v. Biden*, 40 F.4th 375, 391 (6th Cir. 2022). "Immigration authorities, as the Supreme Court has made clear, have considerable discretion over whom to arrest and remove." *Id.* (citing *Arizona v. U.S.*, 567 U.S. 387, 396 (2012)). Just because immigration authorities did not remove the Petitioner within 90 days of

his removal order, does not mean they cannot remove him now. His final order of removal remains valid.

As best as Respondents can discern, the Petitioner claims that the language in 8 U.S.C. § 1231 limits the removal period to 90 days. (Petition, ECF 1, PageID 8, ¶37). § 1231(a)(1)(A) provides that, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." The Sixth Circuit addressed this issue and explained:

> "Except as otherwise provided," it says that, "when an alien is ordered removed, the Attorney General shall remove the alien from the United States within a period of 90 days." *Id.* But Congress itself appreciated that removal would not always occur within 90 days. It permitted supervised release—release from custody—"[i]f the alien does not leave or is not removed within the removal period." *Id.* § 1231(a)(3). Combined with the basic principle that "[a]t each stage" of the removal process, "the Executive has discretion to abandon the endeavor" to remove someone, *Reno*, 525 U.S. at 483, 119 S.Ct. 936, *all of this means that immigration officials retain some discretion not to execute a final order of removal within 90 days.*

Arizona, 40 F.4th at 391 (emphasis added). Indeed, "the use of 'shall' does not automatically create a judicially enforceable mandate, especially when criminal or civil law enforcement is at issue." *Id.* citing *Town of Castle Rock v. Gonzales*, 545 U.S. 748, 761–62, (2005).

In *Zadvydas v. Davis*, the Supreme Court interpreted Section 1231(a)(6), the provision that allows for detention beyond the removal period, to limit post-removal-period detention to a period "reasonably necessary to bring about the alien's removal from the United States." 533 U.S. 678, 689 (2001). The Court held that post-removal-order detention for six months is "presumptively reasonable." *Id.* at 701. Continued detention beyond six months is not authorized by statute, if removal is no longer

reasonably foreseeable. *Id.* at 699. Importantly, the burden is on the petitioner to show that his removal is unlikely, as an alien may be detained beyond six months unless the "alien provides good reason to conclude there is no significant likelihood of removal in the reasonably foreseeable future." *Id.* at 701. If an alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future in a habeas corpus petition, the government must respond with evidence sufficient to rebut that showing. *Id.*

Petitioner has not, and cannot, provided a good reason to believe that his removal from the United States is not significantly likely to occur in the reasonably foreseeable future. Indeed, Petitioner's detention, which began on November 6, 2025, is less than three months, less than the six-month presumptively reasonable time period under *Zadvydas*. Indeed, his short detention does not violate due process because *Zadvydas* analysis only applies, in cases unlike this one, where there is a "danger of indefinite detention [with] no significant likelihood of removal in the reasonably foreseeable future." *Jiang Lu v. U.S. ICE*, 22 F.Supp.3d 839, 843 (N.D. Ohio 2014); *see also Zadyvdas v. Davis*, 533 U.S. 678, 689-90 (2001).

Because ICE ERO has (1) obtained a travel document[1] for Petitioner to be removed from the United States to Cambodia; and (2) his removal is imminent;

[1] A travel document is not required under *Zadvydas* to demonstrate that a petitioner's removal is significantly likely to occur in the reasonably foreseeable future. In fact, judges of this district to consider the issue, have repeatedly observed 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." *See e.g., Woldeghergish v. Lynch*, No. 1:25-CV-461, ECF 24 (S.D. Ohio Oct. 27, 2025) (Litkovitz, M.J.), *rept. and recomm. adopted*, 2026 WL 71290, at *1 (S.D. Ohio Jan. 9, 2026) (Dlott, J.); *see also Boachie-Danquah v. U.S. Att'y Gen.*, No. 1:17-cv-641, 2018 WL 868769 (S.D. Ohio Feb. 14, 2018) (Bowman, Mag. J.), *rept. and recomm. adopted*, 2018

(Tiruchelvam Decl., Ex. A, at 3, ¶¶15-17), his detention is not indefinite and potentially permanent. As a result, *Zadvydas* does not apply to the Petitioner's case.

VII. CONCLUSION

The Petitioner's detention pending removal is lawful. This Court lacks jurisdiction to enjoin action taken to execute Petitioner's removal to Cambodia. Therefore, this Court must deny and dismiss the Petition.

Respectfully submitted,

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