

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

AIUB UMAROV,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action No. 5:25-cv-212
	)	
WARDEN, FOLKSTON ICE	)	
PROCESSING CENTER, ET AL.,	)	
	)	
Respondents.	)	

RESPONDENT'S ANSWER

Warden-Respondent respectfully submits that Petitioner Aiub Umarov (A243-151-215) is a native and citizen of Russia 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 Dwayne Maurice ("Maurice Decl.") at ¶¶ 5-6, 17.

Justiciability

Petitioner's 28 U.S.C. § 2241 Petition asserts a *Zadvydas* claim that his detention is unlawful because he has been held "for more than six months without a bond hearing or justification while asylum proceedings are pending." [Doc. 1, p.2]. 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 expanded the

¹ INA § 235(b)(1), referenced in the Maurice 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"

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 (“IJ”) and are transcribed if an IJ’s decision is appealed to the Board of Immigration Appeals (“BIA”). Immigration Court Practice Manual § 4.10(a), (b).³ Master calendar and merits hearing 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 IJs 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 hearings in the underlying immigration proceedings and learned the following hearings were recorded:

³ *See* Immigration Court Practice Manual, Chapter 4, § 4.10 - Record, <https://www.justice.gov/eoir/reference-materials/ic/chapter-4/10> (accessed December 16, 2025).

⁴ *See* Immigration Court Practice Manual, Chapter 9, § 9.3 – Bond Proceedings, <https://www.justice.gov/eoir/reference-materials/ic/chapter-9/3> (accessed December 16, 2025).

- 8/16/24 – Credible Fear Review
- 10/18/24 – Initial Master Calendar hearing
- 11/8/24 – Master Calendar hearing
- 12/13/24 – Master Calendar hearing
- 4/11/25 – Individual Merits hearing
- 9/17/25 – Individual Merits hearing
- 10/30/25 – 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 was encountered by Customs and Border Protection ("CBP") on July 15, 2024, at the DeConcini Port of Entry in Nogales, Arizona, following his unlawful entry into the United States. *See* Maurice Decl. at ¶ 5. On the same date, Petitioner was placed into expedited removal proceedings pursuant to INA § 235(b)(1) through service of a Form I-860, Notice and Order of Expedited Removal. *Id.* at ¶ 6. Petitioner entered DHS/ICE custody on July 16, 2024. *Id.* at ¶ 7. 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

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

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 identification card, or other valid entry 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 ¶¶ 9, 11.

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* Maurice Decl. at ¶¶ 5-6. Detention is mandatory under this provision. *See* § 1225(b)(1)(B)(iii)(IV).

Petitioner claimed relief from expedited removal and appeared pro se at a master calendar hearing on October 18, 2024, in immigration court, during which the case was continued to November 8, 2024. Maurice Decl. at ¶¶ 8, 10. At the November 8, 2024 hearing, Petitioner appeared with an attorney and requested a continuance; the case was continued until December 13, 2024. Maurice Decl. at ¶ 12. On December 13, 2024, Petitioner appeared with an attorney and conceded the charge of removability; the case was set for an individual merits hearing on April 11, 2025. *Id.* at ¶ 13. On April 11, 2025, September 17, 2025, and October 30, 2025, the IJ conducted full hearings on the merits and on December 10, 2025, the IJ denied

Petitioner's applications for relief from removal and ordered Petitioner removed to Russia. *Id.* at ¶¶ 14-15. Petitioner has reserved appeal, and the time in which his appeal must be submitted to the BIA has not yet expired. *Id.* at ¶¶ 16. Any delays in the adjudication of Petitioner's removal proceedings are due to his own requests for continuances, withholding of expedited removal, and the reservation of appeal to the BIA.

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 asserts that his detention in excess of six months is unlawful, has not asserted a proper *Zadvydas* claim as he is not yet subject to a final order of removal while his time to file a BIA appeal is pending. *See* 8 C.F.R. § 1241.1(c) (explaining that an order of removal made by an immigration judge becomes final after time to file an appeal expires).

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 16th day of December, 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 December 16, 2025, I caused to be sent by United States mail the foregoing documents to the following non-CM/ECF participants:

Aiub Umarov # 
Folkston ICE Processing Center
P.O. Box 248
3026 Hwy 252 East
Folkston, GA 31537

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