

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

PEYMAN HAGHNEJAD,

Petitioner,

v.

Case No. 3:26-cv-1-JEP-PDB

SCOTTY RHODEN, in his official capacity as Sheriff of Baker County, **CHARLES PARRA**, in his official capacity as Assistant Field Office Director, **GARRETT RIPA**, in his official capacity as Miami Field Office Director; **TODD LYONS**, in his official capacity as Acting Director, Immigration and Customs Enforcement; **KRISTI NOEM**, in her official capacity as U.S. Secretary of Homeland Security;

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Federal Respondents respond to Petitioner's Petition for Writ of Habeas Corpus and Request for Emergency Injunctive Relief (Doc. 1). The Court should deny Petitioner's writ because Petitioner's detention is lawful and Respondents believe that he will be removed in the reasonably foreseeable future.

Background

Petitioner, Peyman Haghnejad/Whaqnejad, is a 55-year-old male, who is a national and citizen of Iran. Doc. 1 at ¶ 11. On September 26, 1999, Petitioner received a B2 nonimmigrant visa for pleasure to enter the United States through March 26,

2000. Declaration of D.O. Christopher Fernandez (“Fernandez Decl.”) at ¶ 4. Petitioner over-stayed his B2 visa and remained in the United States, and was ordered removed by an Immigration Judge (“IJ”) on May 18, 2001. *Id.* at ¶¶ 4-5; Doc. 1 at ¶¶ 13-14. Petitioner’s appeal of the removal was dismissed by the Board of Immigration Appeals (“BIA”) on May 6, 2002, and became administratively final. Doc. 1 at ¶ 16.

On June 23, 2025, Petitioner’s Order of Supervision was revoked following a custody status review by the Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”) Office in Miramar, FL. Fernandez Decl. at ¶ 11. On December 31, 2025, ERO submitted a request for an electronic travel document to Headquarters Removal and International Operations for evaluation by the Detention and Deportation Officer responsible for Iran. *Id.* at ¶ 12. While this request remains pending, ERO has also made a formal request for travel documents from a third country being considered for removal on February 4, 2026. *Id.* at ¶¶ 13-15. At this time, ICE believes there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future. *Id.* at ¶ 16.

Discussion

I. Petitioner’s detention is lawful

Generally, this Court has jurisdiction to consider a challenge to a petitioner’s continued detention in habeas corpus proceedings. *See Zadvydas v. Davis*, 533 U.S. 678 (2001). The relevant detention provision governing Petitioner’s detention is § 241(a) of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. § 1231(a), which

covers detention following entry of a final removal order. This provision generally affords the Attorney General a ninety-day period to accomplish removal. *See* 8 U.S.C. § 1231(a)(1)(A) - (B). The statute provides that, in certain circumstances, the Attorney General may continue to detain an alien after expiration of the ninety-day removal period when:

An alien ordered removed who is inadmissible under [Immigration and Nationality Act] section 212, removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) 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).

8 U.S.C. § 1231(a)(6). Accordingly, Petitioner's continued detention has a basis in law because he is removable as charged under the INA.

Once an order of removal becomes final, ICE has a 90-day "removal period" in which to remove an alien from the United States. In *Zadvydas*, the Supreme Court held that 8 U.S.C. § 1231(a) permits the government to detain an alien during the 90-day removal period in § 1231(a)(1) and for an additional 90 days in order to effect the alien's removal from the United States. *Zadvydas*, 533 U.S. at 701. *See Clark v. Martinez*, 543 U.S. 371, 125 S. Ct 716 (2005). Further, "six months is a presumptively reasonable period to detain a removable alien awaiting deportation under such circumstances." *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002) (citing *Zadvydas*, 533 U.S. at 701). Thus, under *Zadvydas* and *Clark*, the government has at least six months, the 90-day removal period plus an additional 90 days, to effectuate an alien's removal.

Although *Zadvydas* held that detention of six months is presumptively

reasonable, the Supreme Court hastened to add that the six-month presumption did not mean that every alien not removed in this timeframe must be released after six months. *Zadvydas*, 533 U.S. at 701. The Supreme Court explained, “[t]o 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.* Further, the Eleventh Circuit concluded that “in order to state a claim under *Zadvydas* the alien must *not only* 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) (emphasis added). Therefore, the burden is on Petitioner to demonstrate: (1) post-removal order detention over six months; and (2) good reason to believe that there was no significant likelihood of removal in foreseeable future. *Id.*

While Petitioner has been detained for longer than the presumptively reasonable period, ICE contends that his detention is still lawful because there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future. D.O. Fernandez asserts that there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future because ERO has submitted a request for travel documents for Petitioner to Headquarters Removal and International Operations to remove Petitioner to Iran. D.O. Fernandez further asserts that a formal request for travel documents to a third country to accept Petitioner has also been made. Accordingly, ICE believes that there is a significant likelihood that Petitioner will be removed in the reasonably foreseeable future.

II. Avoiding a transfer to another facility is not a cognizable claim for available in 8 U.S.C. § 2241.

Petitioner seeks to enjoin ICE from transferring him to any facility other than Baker County Detention Center, where he is currently detained. Doc. 1 at ¶¶ 33-41. Petitioner alleges, without any supporting facts or legal support, that transferring Petitioner from Baker County Detention Center would deprive him of access to counsel and his day in court. However, Petitioner's claims are unfounded and based only on his own conclusory statements. Further, Petitioner's requested relief is not available under §2241. *Greenhill v. Menifee*, 202 F. App'x 799, 800 (5th Cir. 2006) (affirming denial of claim as not cognizable under § 2241 "because prisoners lack a constitutionally protected interest in where they are incarcerated"); *Zapata v. United States*, 264 F. App'x 242, 243-44 (3d Cir. 2008) (district court lacked jurisdiction over a § 2241 petition that challenged a transfer).

Further, the Attorney General is tasked with determining where aliens will be detained. See 8 U.S.C. §1231(g)(1) ("The Attorney General shall arrange for appropriate places of detention for aliens detained pending removal or a decision on removal."). Petitioner "does not have a right to be housed in any particular facility, nor does this court have the authority to order the ICE to house [him] in any particular facility." *Rathod*, 2020 WL 1492790, at *2; *see also Woldegiorgise v. ICE*, 1:12 CV-02778, 2013 WL 664160, at *2 (W.D. La. Jan.23, 2013) (denying request to enjoin ICE from transferring detainee because a detainee "does not have a right to be housed in any particular facility, nor does this court have the authority to order the ICE to house [the

detainee] in any particular facility”), report and recommendation adopted, 2013 WL 672388 (W.D. La. Feb. 22, 2013); *Sasso v. Milhollan*, 735 F. Supp. 1045, 1047 (S.D. Fla. 1990) (denying motion for preliminary injunction to enjoin ICE from transferring the petitioner).

Additionally, even if Petitioner were transferred to another facility, this Court would still maintain jurisdiction over this action because “[j]urisdiction attaches upon the initial filing of the § 2241 petition and will not be destroyed by a petitioner’s subsequent Government-effectuated transfer and accompanying change in physical custodian.” *Major v. Warden, FCC Coleman - Low*, No. 5:18-CV-269-OC-02PRL, 2019 WL 4194673, at *1 (M.D. Fla. Sept. 4, 2019).

III. The Order of Removal does not limit the Department of Homeland Security’s ability to remove Petitioner to another country as permitted by 8 U.S.C. § 1231(b).

Petitioner incorrectly claims that ICE must reopen his removal proceedings to remove him to a country other than what was designated in his removal order. Doc. 1 at ¶¶ 61-63. Contrary to Petitioner’s assertion, “[b]oth the immigration court and the Department of Homeland Security (“DHS”), which includes ICE, have authority to select a country of removal pursuant to §1231(b)(1) and (b)(2).” *Ibarra-Perez v. United States*, 154 4th 989, 995 (9th Cir. 2025). While the immigration court is responsible for selecting a country or countries to which Petitioner should be removed in the first instance, once “immigration proceedings have ended, ‘DHS retains the authority to remove the alien to any other country authorized by the statute.’” *Id. quoting Johnson v. Guzman Chavez*, 594 U.S. 523, 536 (2021). Thus, “[i]f DHS is unable to remove the

alien to the specified or alternate country or countries, the order of the IJ does not limit the authority of DHS to remove the alien to any other country as permitted by §1231(b).” *Ibarra-Perez* at 995. (internal quotation alteration marks omitted).

Conclusion

For those reasons, Federal Respondents request the Court deny this Petition.

Date: February 12, 2026

Respectfully submitted,

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