

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

AL SALAMEH AMMAR,	:	
	:	
Petitioner,	:	
	:	Case No. 4:26-CV-00014-CDL-AGH
v.	:	28 U.S.C. § 2241
	:	
WARDEN, STEWART DETENTION	:	
CENTER, <sup>1</sup>	:	
	:	
Respondent.	:	

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MOTION TO DISMISS

The Court received Petitioner’s application for habeas corpus relief (Petition) on January 5, 2026. ECF No. 1. Petitioner argues that his detention has become unreasonably prolonged, presumably under *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). *Id.* The same day, the Court ordered Respondent to respond to the Petition within twenty-one days, a deadline the Court extended to allow Respondent an additional two days. ECF Nos. 3, 5. For the reasons explained below, the Petition should be dismissed.

**BACKGROUND**

Petitioner is a native and citizen of Syria. Declaration of Deportation Officer Tartanger Stephens at ¶ 4 & Ex. A, Form I-213. On September 22, 2016, Petitioner was

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<sup>1</sup> In addition to the Warden of Stewart Detention Center, Petitioner names officials with the Department of Justice, Department of Homeland Security, and Immigration and Customs Enforcement as Respondents. “[T]he default rule [28 U.S.C. § 2241 petitions] is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.” *Rumsfeld v. Padilla*, 542 U.S. 426, 434-35 (2004) (citations omitted). Thus, Respondent has substituted the Warden of Stewart Detention Center as the sole appropriately named respondent in this action.

admitted into the United States at John F. Kennedy Airport in New York, New York. *Id.* On April 16, 2018, the Petitioner adjusted his status to that of a lawful permanent resident. *Id.*

On July 27, 2021, Petitioner was convicted in the North Carolina State District Court in Wake County, North Carolina, of Driving While Intoxicated and Going Armed to the Terror of the People and sentenced to a term of imprisonment of 36 days. *Id.* at ¶¶ 5-6 & Ex. A. On December 13, 2022, Petitioner was convicted in the North Carolina State Superior Court in Wake County, North Carolina, of Larceny of a Motor Vehicle, Larceny by Employee, and Possession of a Stolen Motor Vehicle and sentenced to a term of imprisonment of 9 months to 20 months. *Id.* at ¶¶ 7-9 and Ex. B, Judgment and Conviction Record for December 13, 2022 conviction. On January 5, 2023, Petitioner was convicted in the North Carolina State Superior Court in Wake County, North Carolina, of Eluding Arrest with a Motor Vehicle with Two Aggravating Factors, in violation of NCGS § 20-141.5(B) and sentenced to a term of imprisonment for 5 months to 21 months. *Id.* at ¶¶ 10-11 & Exs. A, C, Judgment and Conviction Record for January 5, 2023.

On May 19, 2023, Petitioner was encountered by ICE/ERO at the Alamance County Detention Center and entered ICE/ERO custody. *Id.* at ¶ 12. The same day, ICE/ERO served Petitioner with a Notice to Appear (NTA) dated May 19, 2023, charging him with being removable under the Immigration and Nationality Act (INA) § 237(a)(2)(A)(ii), in that, at any time after admission, he was convicted of two crimes involving moral turpitude not arising out of a single scheme of criminal misconduct. *Id.* at ¶ 13 & Ex. D, Notice to Appear dated May 19, 2023. The NTA initially scheduled his

master hearing for June 20, 2023, but the hearing was rescheduled for June 27, 2023. *Id.* at ¶ 14 & Ex. E, Hearing Notice dated June 8, 2023. On June 27, 2023, Petitioner appeared pro se for his first master calendar hearing at the Stewart Immigration Court in Lumpkin, Georgia. *Id.* at ¶ 15. Based on Petitioner's admissions, the Immigration Judge sustained the allegations and charge of removability under INA § 237(a)(2)(A)(ii). *Id.* On October 6, 2023, Petitioner appeared pro se for his individual hearing at the Stewart Immigration Court in Lumpkin, Georgia. *Id.* at ¶ 16. After a full and complete hearing, the Immigration Judge denied Petitioner's applications for relief and ordered him removed to Syria. *Id.* & Ex. F, Removal Order. Petitioner reserved his right to appeal and the deadline for his appeal was set for November 6, 2023. *Id.* Petitioner failed to file an appeal and, as such, his order of removal became final. *Id.* at ¶ 17.

On January 5, 2024, ICE/ERO released Petitioner from custody on an Order of Supervision. *Id.* at ¶ 18 & Ex. G, Order of Supervision. On February 10, 2025, Petitioner was convicted in North Carolina State Superior Court in Wake County, North Carolina, of Larceny after Breaking and Entering in violation of NCGS § 14-72B2 and of Obtaining Property Under False Pretenses in violation of NCGS § 14-100 and was sentenced to a term of imprisonment of 9 months to 20 months. *Id.* at ¶ 19 & Ex. H, Judgement and Conviction Record for February 10, 2025 conviction.

On May 19, 2025, Petitioner was encountered by ICE/ERO at the Craven Correctional Institution in Vanceboro, North Carolina, and entered ICE/ERO custody. *Id.* at ¶ 20. On June 4, 2025, ERO HQ advised that Petitioner was added to a list of cases being reviewed and verified by the Syrian Mission for travel document issuance. *Id.* at ¶

21. On October 1, 2025, a travel document request was sent to ERO HQ. *Id.* at ¶ 22. On January 5, 2026, ERO HQ advised that, at the time, the Syrian government was not conducting interviews but added that ERO HQ was in discussions with a different United States agency to facilitate having Petitioner interviewed. *Id.* at ¶ 23. That same day, a deportation officer spoke with Petitioner and requested any identity documents pertinent to his Syrian citizenship; Petitioner advised that he does not possess any documents but that he would speak with family members to assist him. *Id.* at ¶ 24. Petitioner remains in ICE/ERO custody at Stewart Detention Center in Lumpkin, Georgia, under the authority of INA § 241, 8 U.S.C. § 1231. *Id.* at ¶ 26.

#### LEGAL FRAMEWORK

Since Petitioner is detained post-final order of removal, his detention is governed by 8 U.S.C. § 1231. Congress provided in § 1231(a)(1) that ICE/ERO shall remove an alien within ninety (90) days of the latest of: (1) the date the order of removal becomes administratively final; (2) if a removal is stayed pending judicial review of the removal order, the date of the reviewing court's final order; or (3) the date the alien is released from criminal confinement. *See* 8 U.S.C. § 1231(a)(1)(A)-(B). During this ninety-day time frame, known as the "removal period," detention is mandatory. *See id.* at § 1231(a)(2).

If ICE/ERO does not remove an alien within ninety days, detention may continue if it is "reasonably necessary" to effectuate removal. *See Zadvydas v. Davis*, 533 U.S. at 689; 8 U.S.C. § 1231(a)(6) (providing that an alien who is subject to mandatory detention, inadmissible, or who has been determined to be a risk to the community or a flight risk, "may be detained beyond the removal period"). In *Zadvydas v. Davis*, 533 U.S. 678 (2001),

the Supreme Court determined that, under the Fifth Amendment, detention for six months is presumptively reasonable. 533 U.S. at 700. “After this 6-month period, once the alien provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.* at 701 (emphasis added); *see also* 8 C.F.R. § 241.13. Where there is no significant likelihood of removal in the reasonably foreseeable future, the alien should be released from confinement. *Id.*

In *Akinwale v. Ashcroft*, 287 F.3d 1050 (11th Cir. 2002), the Eleventh Circuit further elaborated on the framework announced by the Supreme Court in *Zadvydas*, stating that “in order to state a claim under *Zadvydas* the 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.” 287 F.3d at 1052. Thus, the burden is on Petitioner to demonstrate: (1) post-removal order detention lasting more than six months; and (2) “evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009) (per curiam) (quoting *Akinwale*, 287 F.3d at 1051-52) (internal quotations omitted).

## ARGUMENT

### I. Petitioner fails to state a claim pursuant to *Zadvydas*.

Petitioner argues that his continued detention is wrongful because he’s been detained for eight months. Pet. at 6. The Petition should be denied. Petitioner is not entitled to relief under *Zadvydas* because he fails to meet his burden to “provide evidence

of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Akinwale*, 287 F.3d at 1052.

He argues that he is entitled to release because he has been in detention for more than six months and his removal has not yet occurred. Pet. at 6. But Petitioner misapprehends the relevant standard, which places the initial burden of production upon the petitioner to show that removal is not significantly likely in the reasonably foreseeable future. *Akinwale*, 287 F.3d at 1051-52. Petitioner cannot meet his *Zadvydas* burden by simply noting that his removal has not yet occurred. See *Ortiz v. Barr*, No. 20-CV-22449, 2021 WL 6280186, at \*5 (S.D. Fla. Feb. 1, 2021) (“[T]he mere existence of a delay of Petitioner’s deportation is not enough for Petitioner to meet his burden.” (citations omitted)), *recommendation adopted*, 2022 WL 44632 (S.D. Fla. Jan. 5, 2022); *Ming Hui Lu v. Lynch*, No. 1:15-cv-1100, 2016 WL 375053, at \*7 (E.D. Va. Jan. 29, 2016) (“[A] mere delay does not trigger the inference that an alien will not be removed in the foreseeable future.” (internal quotations and citations omitted)); *Newell v. Holder*, 983 F. Supp. 241, 248 (W.D.N.Y. 2013) (“[T]he habeas petitioner’s assertion as to the unforeseeability of removal, supported only by the mere passage of time [is] insufficient to meet the petitioner’s initial burden . . . .” (collecting cases)). Petitioner’s summary statement he has not yet been removed is insufficient.

Petitioner argues in conclusory fashion that he’s “still here” and that he’s supposed to either be “deported or [released] . . . within 6 months.” Pet. at 6. But as courts in the Eleventh Circuit—including this Court—have recognized, such conclusory assertions are insufficient to state a claim under *Zadvydas*. See *Novikov v. Gartland*, No.

5:17-cv-164, 2018 WL 4100694, at \*2 (S.D. Ga. Aug. 28, 2018), *recommendation adopted*, 2018 WL 4688733 (S.D. Ga. Sept. 28, 2018); *Gueye v. Sessions*, No. 17-62232-Civ, 2018 WL 11447946, at \*4 (S.D. Fla. Jan. 24, 2018); *Rosales-Rubio v. Att’y Gen. of United States*, No. 4:17-cv-83-CDL-MSH, 2018 WL 493295, at \*3 (M.D. Ga. Jan. 19, 2018), *recommendation adopted*, 2018 WL 5290094 (M.D. Ga. Feb. 8, 2018). Rather, Petitioner must provide “*evidence* of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Gozo*, 309 F. App’x at 346 (internal quotations omitted) (emphasis added). Further, as this Court has repeatedly held, the “focus [for *Zadvydas*] is on *today*[.]” *Meskini v. Atty. Gen. of U.S.*, No. 4:14-CV-42, 2018 WL 1321576, at \*3 (M.D. Ga. Mar. 14, 2018). Because Petitioner provides no *evidence* to show he cannot be removed under the current circumstances, he cannot meet his burden under *Zadvydas*. Because Petitioner fails to meet his burden to present evidence that there is no significant likelihood of removal in the reasonably foreseeable future, the Petition should be denied.

### CONCLUSION

For the foregoing reasons, Respondent respectfully requests that the Court dismiss the Petition.

Respectfully submitted this 28th day of January, 2026.

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UNITED STATES ATTORNEY

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CERTIFICATE OF SERVICE

This is to certify that I have this date filed Respondent's Motion to Dismiss with the Clerk of the United States District Court using the CM/ECF system, which will send notification of such filing to the following:

N/A

I further certify that, due to the time of filing, on January 29, 2026, a copy of the Motion to Dismiss will be mailed by United States Postal Service to the following non-CM/ECF participants:

Al Salameh Ammar  
A#   
Stewart Detention Center  
P.O. Box 248  
Lumpkin, GA 31815

Respectfully submitted this 28th day of January, 2026.

WILLIAM R. KEYES  
UNITED STATES ATTORNEY

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