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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PAPE IBRA FALL,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of the Department of Homeland Security, TODD BLANCHE, Acting Attorney General, TODD M. LYONS, Acting Director, Immigration and Customs Enforcement, JESUS ROCHA, Acting Field Office Director, San Diego Field Office, JEREMY CASEY, Warden at Otay Mesa Detention Center,

Respondents.

CIVIL CASE NO.: '26CV2347 DMS BJW

Petition for Writ of Habeas Corpus

[Civil Immigration Habeas Petition Under 28 U.S.C. § 2241]

Introduction

Pape Ibra Fall entered the United States on January 10, 2025, and turned himself in to Border Patrol agents. On November 17, 2025, an immigration judge ordered him removed. Neither side appealed. Nearly six months later, Mr. Fall is still detained, and this Court should order him released because "there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Statement of Facts

Mr. Fall was born in Senegal but fled his country in 2023 because he feared for his life. *See* Exhibit A, Declaration of Pape Ibra Fall at ¶ 1. Mr. Fall was raised Muslim but then converted to Christianity and was threatened with death as a result. *Id.* at ¶ 1.

On January 10, 2025, Mr. Fall entered the United States by crossing the fence and asked to apply for asylum. *Id.* at ¶ 2. He was taken to a detention center and placed in removal proceedings before an immigration judge. *Id.* at ¶ 3. On November 17, 2025, the judge denied his application for asylum and ordered him removed. *Id.* at ¶ 3. He did not file an appeal. *Id.* at ¶ 3.

In the five months since he has been ordered removed, ICE has not been able to remove Mr. Fall. *Id.* at ¶ 4.

Claims for Relief

This Court should grant this petition and order Mr. Fall's immediate release. *Zadvydas v. Davis* holds that immigration statutes do not authorize the government to detain immigrants for whom there is "no significant likelihood of removal in the reasonably foreseeable future." 533 U.S. 678, 701 (2001).

I. Count One: Petitioner's detention violates *Zadvydas* and 8 U.S.C. § 1231.

A. Legal background

Mr. Fall's continued incarceration violates the statute authorizing detention, 8 U.S.C. § 1231(a)(6). In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court considered a problem affecting similarly situated people. Federal law requires ICE to detain an immigrant during the "removal period," which typically spans the first 90 days after the immigrant is ordered removed. 8 U.S.C. § 1231(a)(1)-(2). After that 90-day removal period expires, detention becomes discretionary—ICE may detain the migrant while continuing to try to remove them. *Id.* § 1231(a)(6). Ordinarily, this scheme would not lead to excessive detention, as removal happens within days or weeks. But some detainees cannot be removed quickly. Perhaps their removal "simply require[s] more time for processing," or they are "ordered removed to countries with whom the United States does not have a repatriation agreement," or their countries "refuse to take them," or they are "effectively 'stateless' because of their race and/or place of birth." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1104 (9th Cir. 2001). In these and other circumstances, detained immigrants can find themselves trapped in detention for months, years, decades, or even the rest of their lives.

If federal law were understood to allow for "indefinite, perhaps permanent, detention," it would pose "a serious constitutional threat." *Zadvydas*, 533 U.S. at 699. In *Zadvydas*, the Supreme Court avoided the constitutional concern by interpreting § 1231(a)(6) to incorporate implicit limits. *Id.* at 689.

As an initial matter, *Zadvydas* held that detention is "presumptively reasonable" for at least six months. *Id.* at 701. This acts as a kind of grace period for effectuating removals.

Following the six-month grace period, courts must use a burden-shifting framework to decide whether detention remains authorized. First, the petitioner

must make a prima facie case for relief: She must prove that there is "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Id.*

If she does so, the burden shifts to "the Government [to] respond with evidence sufficient to rebut that showing." *Id.* Ultimately, then, the burden of proof rests with the government: The government must prove that there is a "significant likelihood of removal in the reasonably foreseeable future," or the immigrant must be released. *Id.*

B. The six-month grace period is about to expire.

As an initial matter, the six-month grace period is about to expire for Mr. Fall. The *Zadvydas* grace period lasts for "*six months* after a final order of removal—that is, *three months* after the statutory removal period has ended." *Kim Ho Ma v. Ashcroft*, 257 F.3d 1095, 1102 n.5 (9th Cir. 2001). Here, Mr. Fall was ordered removed on November 17, 2025. Accordingly, his 90-day removal period began on that respective date and ended on February 17, 2025. 8 U.S.C. § 1231(a)(1)(B). The *Zadvydas* grace period will thus expire on May 17, 2026. The threshold requirement is therefore met.

C. There is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.

Because the six-month grace period is about to expire, this Court must evaluate Petitioner's *Zadvydas* claim using the burden-shifting framework. At the first stage of the framework, there must be "good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. This standard can be broken down into three parts.

"Good reason to believe." The "good reason to believe" standard is a relatively forgiving one. "A petitioner need not establish that there exists no possibility of removal." *Freeman v. Watkins*, No. CV B:09-160, 2009 WL 10714999, at *3 (S.D. Tex. Dec. 22, 2009). Nor does "'[g]ood reason to

believe' . . . place a burden upon the detainee to demonstrate no reasonably foreseeable, significant likelihood of removal or show that his detention is indefinite; it is something less than that." *Rual v. Barr*, No. 6:20-CV-06215 EAW, 2020 WL 3972319, at *3 (W.D.N.Y. July 14, 2020) (quoting *Senor v. Barr*, 401 F. Supp. 3d 420, 430 (W.D.N.Y. 2019)). In short, the standard means what it says: Petitioner need only give a "good reason"—not prove anything to a certainty.

"No significant likelihood of removal." This component focuses on *whether* Petitioner will likely be removed: Continued detention is permissible only if it is "significant[ly] like[ly]" that ICE will be able to remove him. *Zadvydas*, 533 U.S. at 701. This inquiry targets "not only the *existence* of untapped possibilities, but also [the] probability of *success* in such possibilities." *Elashi v. Sabol*, 714 F. Supp. 2d 502, 506 (M.D. Pa. 2010) (second emphasis added). In other words, even if "there remains *some* possibility of removal," a petitioner can still meet its burden if there is good reason to believe that successful removal is not significantly likely. *Kacanic v. Elwood*, No. CIV.A. 02-8019, 2002 WL 31520362, at *4 (E.D. Pa. Nov. 8, 2002) (emphasis added).

"In the reasonably foreseeable future." This component of the test focuses on when Petitioner will likely be removed: Continued detention is permissible only if removal is likely to happen "in the reasonably foreseeable future." *Zadvydas*, 533 U.S. at 701. This inquiry places a time limit on ICE's removal efforts. If the Court has "no idea of when it might reasonably expect [Petitioner] to be repatriated, this Court certainly cannot conclude that his removal is likely to occur—or even that it might occur—in the reasonably foreseeable future." *Palma v. Gillis*, No. 5:19-CV-112-DCB-MTP, 2020 WL 4880158, at *3 (S.D. Miss. July 7, 2020), *report and recommendation adopted*, 2020 WL 4876859 (S.D. Miss. Aug. 19, 2020) (quoting *Singh v. Whitaker*, 362 F. Supp. 3d 93, 102 (W.D.N.Y. 2019)). Thus, even if this Court concludes that the Petitioner "would *eventually* receive" a travel document, he can still meet his burden by

giving good reason to anticipate sufficiently lengthy delays. *Younes v. Lynch*, 2016 WL 6679830, at *2 (E.D. Mich. Nov. 14, 2016).

Mr. Fall has good reason to think that ICE cannot remove him, since six months of effort have borne no fruit. Thus, he has met his initial burden.

II. This Court must hold an evidentiary hearing on any disputed facts.

Resolution of a prolonged-detention habeas petition may require an evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Petitioner hereby requests such a hearing on any material, disputed facts.

III. Prayer for relief

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Order Respondents to immediately release Petitioner from custody;
2. Enjoin Respondents from re-detaining Petitioner unless and until ICE obtains a travel document for his removal; and
3. Order all other relief that the Court deems just and proper.

Respectfully submitted,

Dated: April 13, 2026

/s/ Kara Hartzler

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PROOF OF SERVICE

I, the undersigned, will cause the attached Petition for a Writ of Habeas Corpus to be emailed to the U.S. Attorney's Office for the Southern District of California at USACAS.Habeas2241@usdoj.gov when I receive the court-stamped copy.

Date: April 13, 2026

/s/ *Kara Hartzler*
Kara Hartzler